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FIGHTING SENIOR POVERTY THROUGH LAW

Medicare for Florida's Low-Income Seniors: Hot Topics & Opportunities

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Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on fighting for people who have been marginalized and excluded from justice, such as women, people of color, LGBTQ individuals, and people with limited English proficiency.

Diversity, Equity, and Inclusion

To achieve Justice in Aging, we must:

- Acknowledge systemic racism and discrimination
- Address the enduring negative effects of racism and differential treatment
- Promote access and equity in economic security, health care, and the courts for our nation's low-income older adults
- Recruit, support, and retain a diverse staff and board, including race, ethnicity, gender, gender identity and presentation, sexual orientation, disability, age, economic class

Today's Presentation

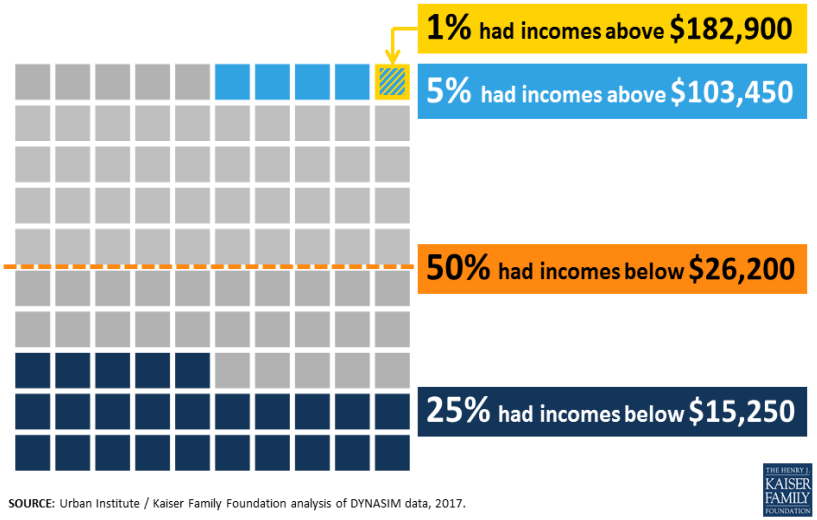
- The Medicare Population
- Medicare for Low-Income Beneficiaries
- Duals & Navigating Services
- Medicare Advantage & Duals Special Needs Plans

The Medicare Population

Most Medicare Beneficiaries have very limited income & assets

Figure 1

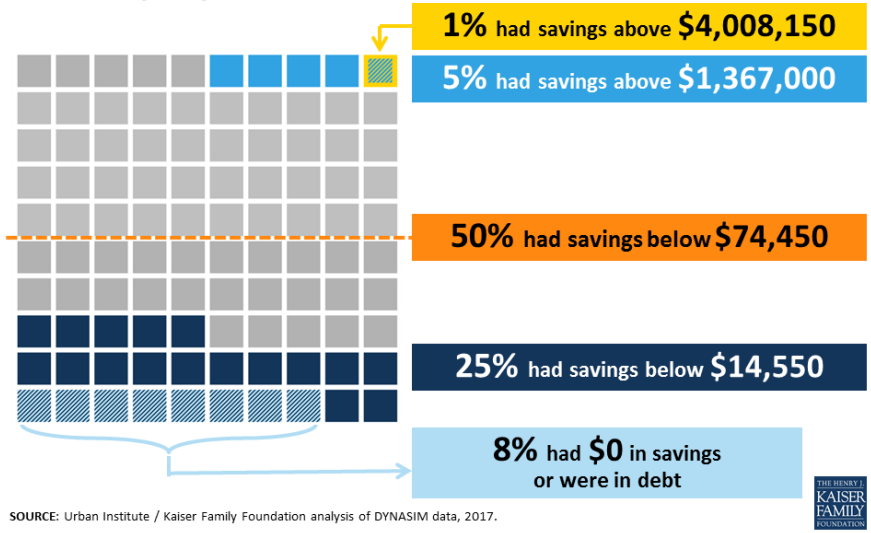
Half of all Medicare beneficiaries had incomes below $26,200 per person in 2016



SOURCE: Urban Institute / Kaiser Family Foundation analysis of DYNASIM data, 2017.

Figure 5

Half of all Medicare beneficiaries had savings below $74,450 per person in 2016



SOURCE: Urban Institute / Kaiser Family Foundation analysis of DYNASIM data, 2017.

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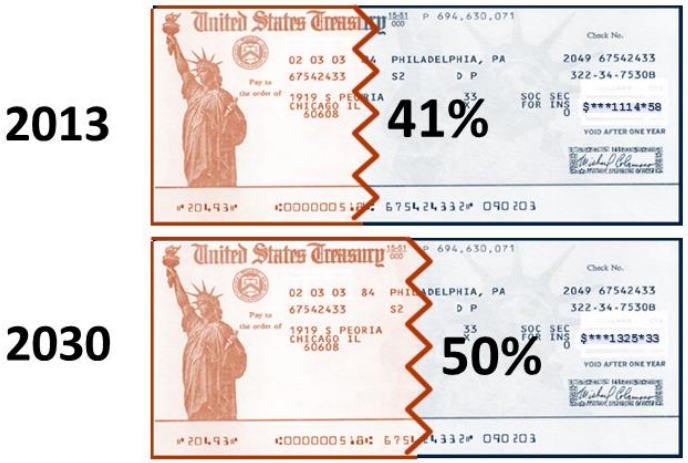
Even with Medicare, beneficiaries spend almost half of Social Security income on out-of-pocket health care costs

Figure 1

Medicare beneficiaries' average out-of-pocket health care spending as a share of average per capita Social Security income is projected to rise from 41% in 2013 to 50% in 2030



NOTE: Estimates based on spending and income amounts in 2016 dollars. Includes Medicare Advantage enrollees, and institutionalized and non-institutionalized beneficiaries. Total out-of-pocket health care spending includes spending on services and premiums for Medicare and private health insurance premiums. Per capita income for married couples is income for the couple divided by two.
SOURCE: Kaiser Family Foundation analysis based on CMS Medicare Current Beneficiary Survey 2013 Cost and Use file and The Urban Institute's DYNASIM3.

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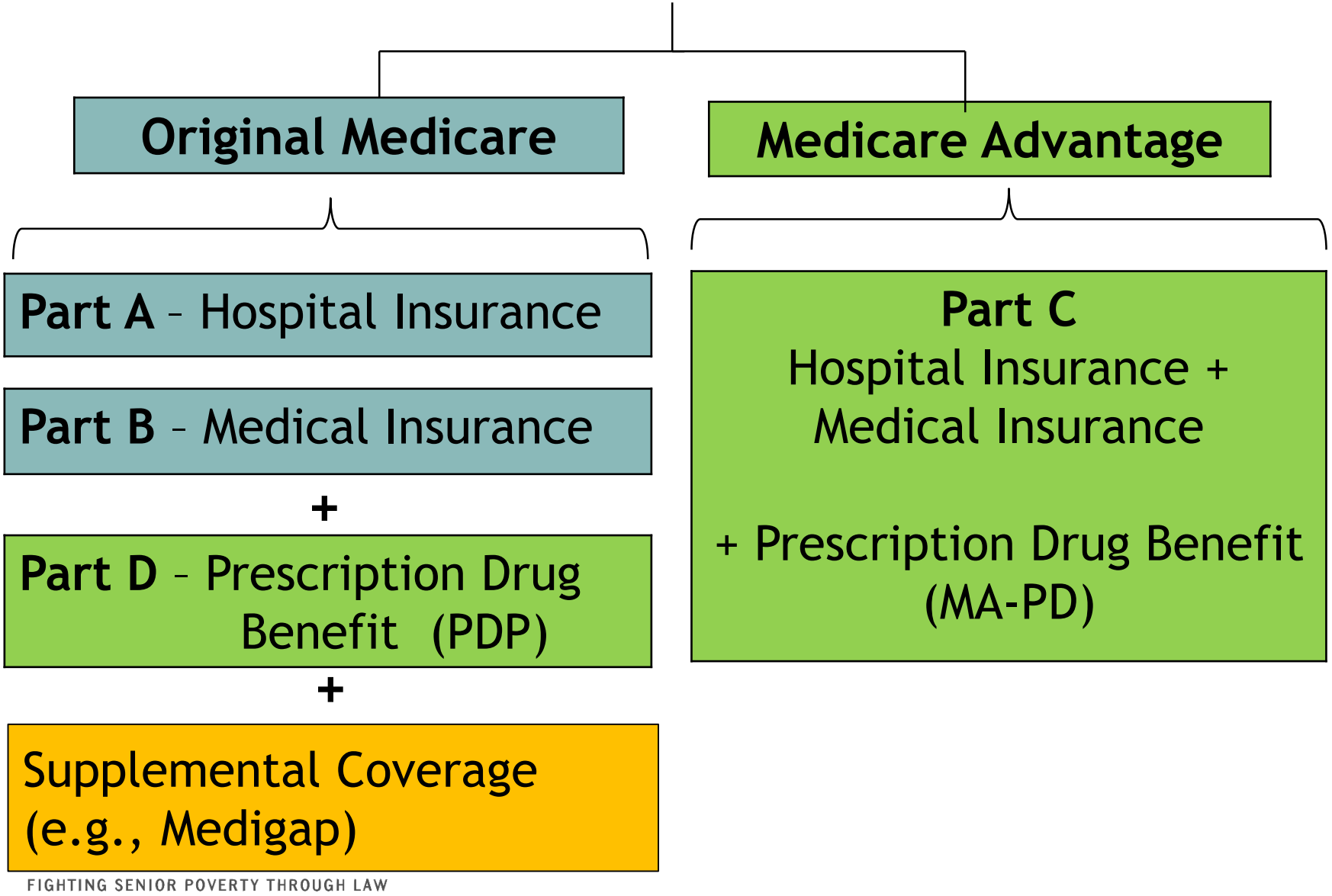
Medicare for Low-Income Beneficiaries

Parts of Medicare



Medicare Costs

- Part A is free for most people (need 40 quarters of work history for individual or spouse)
  - Others can pay to enroll in Part A
  - For QMBs, Medicaid pays Part A if not eligible for free
- Most individuals pay Part B premiums
  - Medicaid pays Part B premiums for all full dual beneficiaries, whether or not they are QMB
  - Medicaid pays Part B premiums for all QMB, SLMB, QI
- Most people pay a Part D premium
  - Duals get “Extra Help”/ Low-Income Subsidy (LIS)
- Immigrant Eligibility Rules

MEDICAID for Medicare Beneficiaries

Medicaid covers 6 Million Older Adults

1 in 5 Medicare Beneficiaries

- ✓ LTSS
- ✓ Medicare Premiums & Co-pays
- ✓ Vision, Dental

Low-Income Medicare Beneficiaries account for 33% of Medicaid spending

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Who is a dual eligible?

- A person who has both Medicare & Medicaid
- Two types:

1. "Full Duals" are individuals who receive full Medicaid benefits (e.g., "QMB plus")
2. "Partial Duals" only receive assistance with Medicare premiums and/or cost sharing through Medicare Savings Programs (e.g., "SLMB only")

Four Medicare Savings Programs

- Qualified Medicare Beneficiary (QMB)
- Specified Low-Income Medicare Beneficiary (SLMB)
- Qualified Individual Program (QI)
- Qualified Disabled Working Individual (QDWI)

Names may vary from state to state.

Medicare Savings Programs

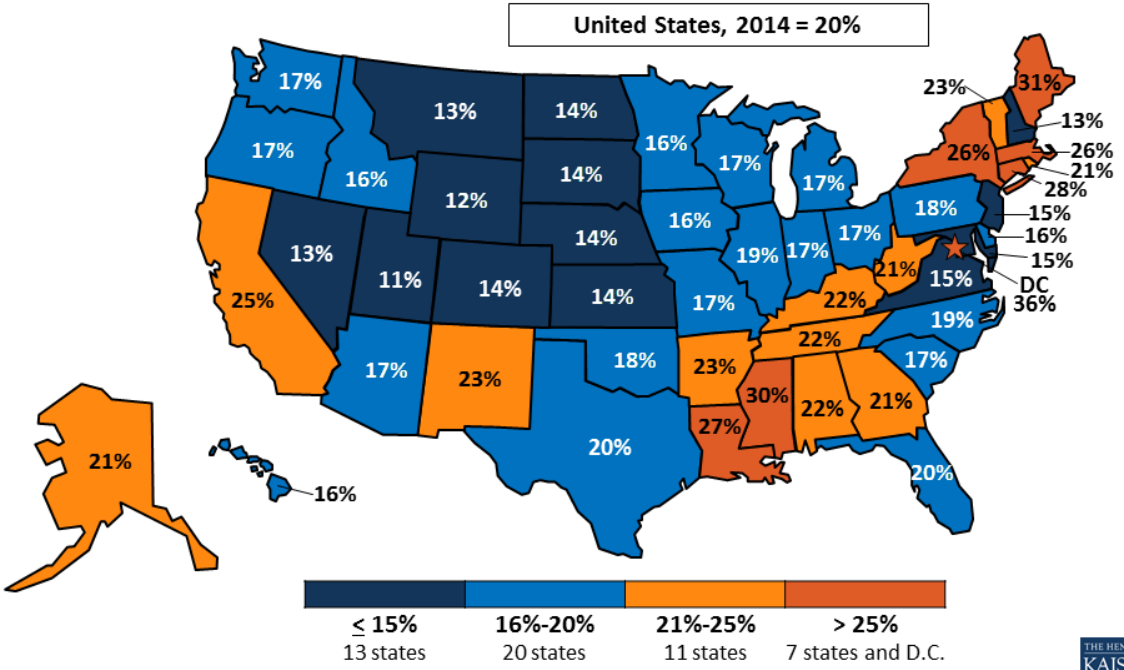
Medicare Savings Program	Income Limit/ Resource Limit	Financial Assistance
Qualified Medicare Beneficiary	**100% FPL**/ $7,730 (single) or $11,600 (couple)	Medicare Part A and B premiums, deductibles, and co-payments
Specified Low-Income Medicare Beneficiary	**120% FPL**/ $7,730 (single) or $11,600 (couple)	Medicare Part B premiums
Qualified Individual	**135% FPL**/ $7,730 (single) or $11,600 (couple)	Medicare Part B premiums
Qualified Working Disabled Individual	**200% FPL**/ $7,730 (single) or $11,600 (couple)	Medicare Part A premiums

About 800,000 Medicare Beneficiaries in Florida are dually eligible for Medicaid

Figure 1

One in five people on Medicare receive assistance from Medicaid

Dual Eligible Beneficiaries as a Share of Medicare Enrollees, by State



SOURCE: Kaiser Family Foundation analysis of Chronic Conditions Warehouse 2014 data.

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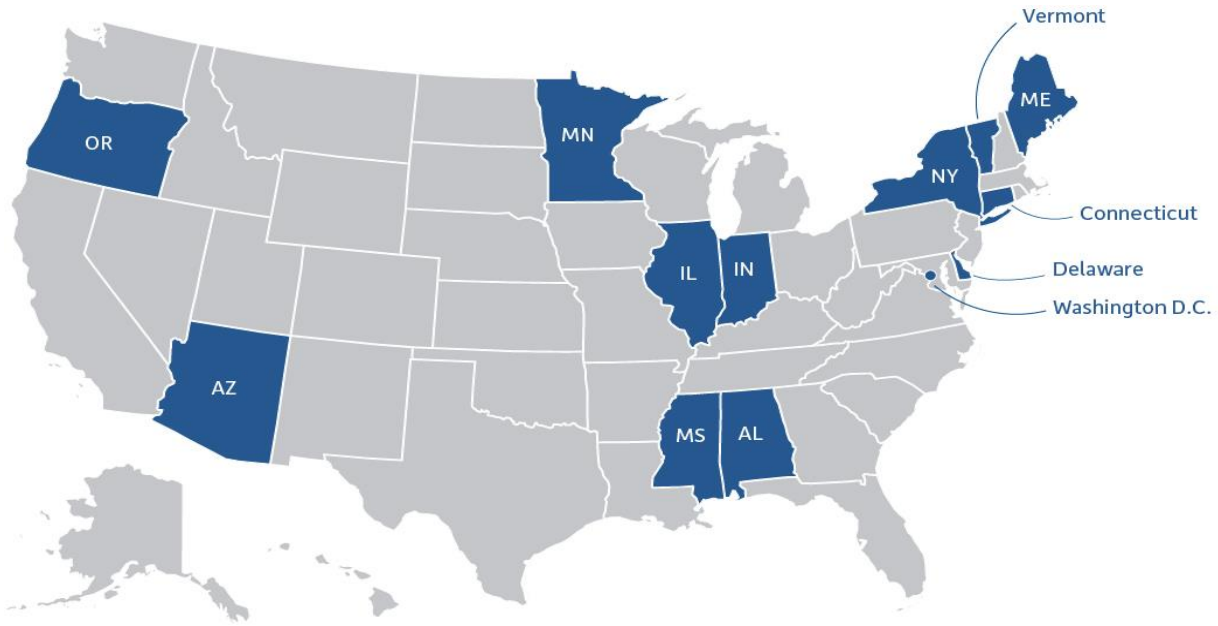
Advocacy Opportunity: MSP Eligibility Rules & Screening

Talk to Medicaid agency about improving MSP screening and to legislature about raising income and asset levels

13 states have raised income or asset levels



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Part D Extra Help

- a.k.a. Low-Income Subsidy (LIS)
- Not part of Medicaid
- Reduces premiums & cost-sharing for Part D prescriptions
- 12 Million Part D Enrollees receive Extra Help
  - Including 28% of enrollees in Florida

The LIS Benefit

Full Benefit <135% FPL and <$7,730 assets	Partial Benefit <150% FPL and <$12,890assets
Pays premiums on any benchmark plan	Partially pays premiums on any benchmark plan
No Part D deductible	Up to $85 annual deductible
No donut hole	No donut hole
Co-pays range from $0 to $8.50	15% co-insurance
Zero co-pay above out-of-pocket threshold	Limited co-pay above out-of-pocket threshold

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LIS Enrollment

- Automatic if enrolled in:
  - SSI
  - Medicare Savings Programs (QMB, SLMB, QI)
  - Medicaid
    - Only need to meet Medicaid Share of Cost once per year
- Others apply through Social Security Administration or state Medicaid agency.

Part D and Duals

- If qualify for LIS, no Part D late enrollment penalty (LEP)
- Subsidy levels for duals:
  - Institutionalized or HCBS: $0 co-pay
  - Full dual w/ income ≤ 100% FPL: $1.25/$3.80
  - Other duals: $3.35/$8.35

Part D and Duals

- Special Enrollment Period-**2019 Forward**
  - One change per quarter for first 3 quarters; effective the 1st of next month
  - Change during Open Enrollment Period (Oct 15-Dec 7) is effective Jan. 1
- Other SEPs (change of residence, moving into/out of nursing facility, etc.) continue to apply

Advocacy Opportunity: Lack of knowledge + inertia => Bad choices & Benes spending own $$

- Too many choices, confusing
- Auto-assignment is random
- Plan costs and benefits change from year to year. Few beneficiaries review their choices annually
- Marketing can mislead—especially LEP consumers

Issue: Enrollment Lags

- SSA routinely takes 2-3 months to start or stop Part B premium withholding
  - If newly eligible: continued payment responsibility
  - If losing Medicaid: repay overpayment
    - If LIS, can request $10/mo repayment schedule

      POMS Section GN 02210.030(B)(6)
- Part D LIS eligibility doesn't show up at pharmacy
  - Best Available Evidence procedures-Beneficiary shows proof of LIS status at pharmacy

Navigating Services for Duals

Navigation Basics

- Medicaid is always the payer of last resort
  - Dual must use Medicare benefits first or get Medicare denial
- Usually no prior authorization in Medicare
- Medicare coverage is limited to items needed for use in the home.
- Prescriber of Medicaid services also must be enrolled in Medicaid
  - Can apply solely as a “non-billing individual provider”—4 page application

Services Medicare does not cover

- Most dental care
- Most vision care
- Routine hearing care
- Most foot care
- Most long-term care and long term services and supports
- Alternative medicine
- Most care received outside of the US
- Most personal care or custodial care
- Most non-emergency transportation

***Note:** Medicare Advantage plans may cover some of these services

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Navigating Drug Coverage

- Transition from Medicaid-only to dual status
  - Medicaid formulary more comprehensive
  - Must use Part D plan's in-network pharmacies
  - Auto-assigned plan may not cover your drugs
  - Transition rights—30 day supply of current drug
- Duals use Medicaid for OTC drugs, others covered by Medicaid but not Medicare
- Off label coverage
  - Medicare—usage must be supported by compendium
  - Medicaid-state allowed to consider peer reviewed lit.
- New Part B Step Therapy for Medicare Advantage
  - https://www.ncoa.org/wp-content/uploads/Part-B-step-therapy.pdf

Payment Protections

Medicare Savings Programs – A Summary

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Qualified Working Disabled Individual	200% FPL	Medicare Part A premiums

Legal Protections for Improper Billing

- Federal law protects all Qualified Medicare Beneficiaries ("QMBs") from improper billing.
- Medicare provider may not charge deductible or co-insurance for any Medicare covered service
- Bill can crossover to Medicaid for payment—but obligation is only to pay up to Medicaid rates.
- In Original Medicare provider may refuse to serve QMB

Federal law: 42 U.S.C. Sec. 1396a(n)(3)(B) (Sec. 1902(n)(3)(B) of the Social Security Act)
Fla. Admin. Code r. 59G-5.020 ["Provider Requirements."]

QMBs in Medicare Advantage

- MA plans must include in their contracts with providers a protection against cost sharing for all QMBs.
- Plans must assist members who have been billed.
- Plan network providers may not discriminate against QMBs.

Federal regulation: 42 CFR Sec. 422.504(g)(1)(iii)

QMBs in Medicare Advantage

- Impact of the MA QMB Protection:
  - The regulation binds the Medicare Advantage plans.
  - The plan contract binds providers.
  - BOTH are responsible for compliance.

New Protections

- Starting July 2, 2018, Medicare Summary Notices now show $0 co-insurance for QMBs & include explanatory note that they cannot be billed.
- Provider remittances sent by CMS will show that QMB patient has $0 co-insurance responsibility
- HETS system of insurance verification now shows QMB status so all providers can verify before they bill.

New MSN Showing QMB Billing Protections

Notice for Jennifer Washington

Medicare Number	**XXX-XX-1234A**
Date of This Notice	**September 16, 2017**
Claims Processed Between	**June 15 – September 15, 2017**

Your Deductible Status

Your deductible is what you must pay for most health services before Medicare begins to pay.

Part B Deductible: You have now met **$85.00** of your **$109.00** deductible for 2017.

Be Informed!

This notice contains claims covered by the Qualified Medicare Beneficiary (QMB) program, which pays your Medicare costs. When you're enrolled in the QMB program, providers and suppliers who accept Medicare aren't allowed to bill you for Medicare deductibles, coinsurance, and copayments.

Your Claims & Costs This Period

Did Medicare Approve All Services?	**Yes**
Number of Services Medicare Denied	**0**

See claims starting on page 3.

Total You May Be Billed	**$0.00**

Providers with Claims This Period

June 18, 2017
Susan Jones, M.D.

June 28, 2017
Craig I. Secosan, M.D.

June 29 – June 30, 2017
Edward J. Mcginley M.D.

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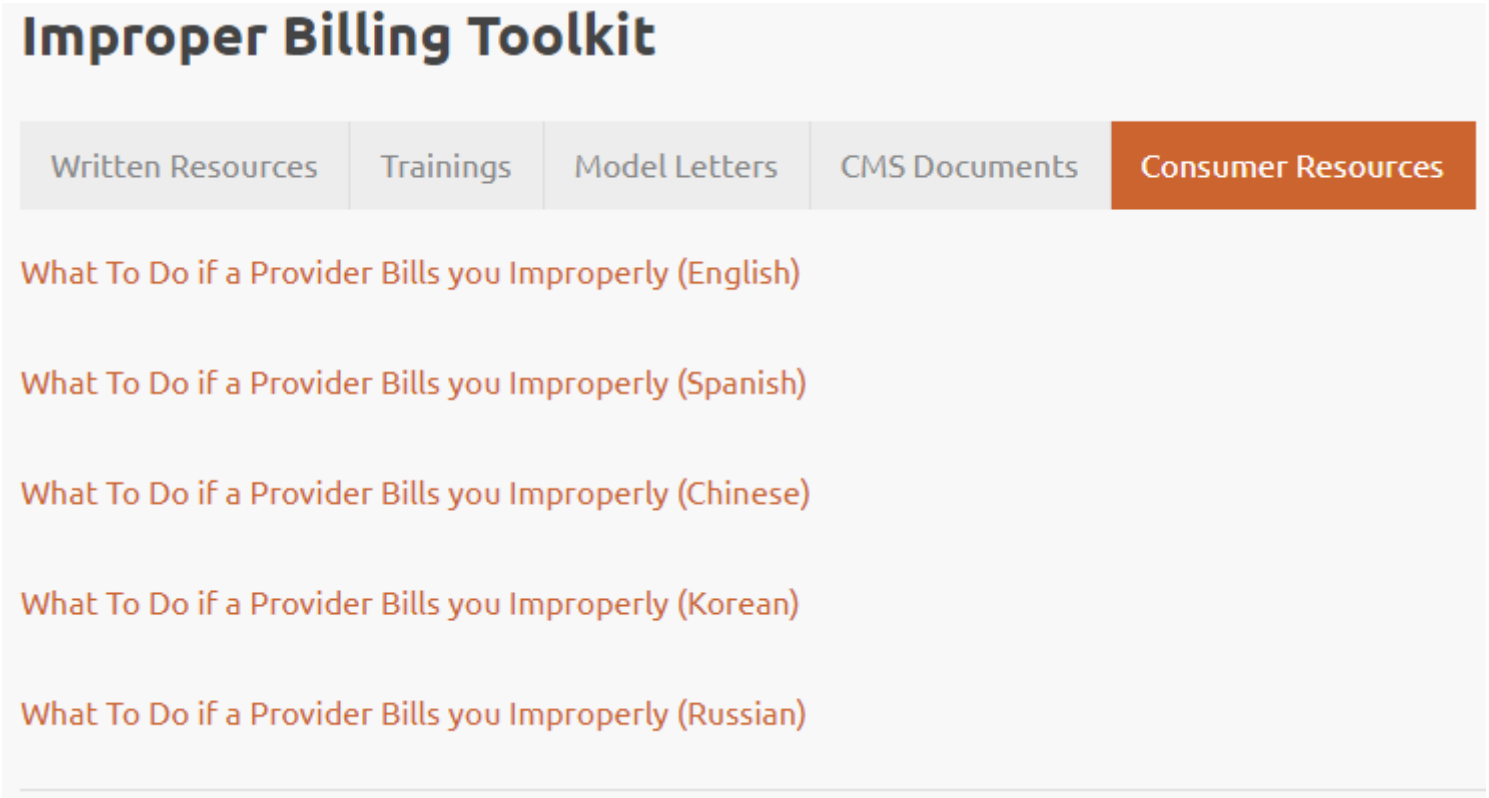
Helping QMBs who have been improperly billed

- Justice in Aging toolkit w/template letters to providers.
- If in Medicare Advantage. Enlist assistance of plan.
- If no success, call 1-800-Medicare. Report improper billing of QMB and that provider contact unsuccessful. Request that the case be escalated. If rep doesn't seem to understand, ask for supervisor.

Improper Billing Toolkit



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Advocacy Opportunity: Improper Billing

- Talk to Medicare Advantage plans about
  - systemic changes
  - educating providers & plan members
- Let Justice in Aging know about difficult cases or systemic issues
  - Denny Chan (dchan@justiceinaging.org)
- Share stories!

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Challenges in Managed Care

Supplemental Benefits

- MA plans can offer supplemental benefits not covered by Medicare—vision, dental, etc.
- Supplemental benefits usually quite limited in scope
- Benefits may overlap with Medicaid

Supplemental benefits: New developments

- Chronic Care Act gives MA plans new flexibility with supplemental benefits
- Allows benefits that are not primarily health related as long as the benefit has a reasonable expectation of improving or maintaining the health or overall function of the individual.
- Starts in 2020

Supplemental benefits: Example

- Mary needs extensive dental work
- Her MA plan covers dental up to $500 and only certain procedures
- Mary's work will cost at least $1500
- Mary can't find any plan dentists who take Medicaid

D-SNPs on the rise

- Over 262,000 D-SNP enrollees in Florida in 2017—largest D-SNP population in US
- Chronic Care Act gives permanent authorization for D-SNPs
- Awaiting Final Rule on:
  - Minimum integration contracts with states
  - Integrating Medicare and Medicaid appeals for D-SNP members

Questions

Resources

- JusticeinAging.org
- Improper Billing of Duals Toolkit
- Fact Sheet: SSA Clarifies Handling of Medicare Part A Conditional Applications

NCLER.ACL.gov
Case Consultations
Training Curriculum

NATIONAL CENTER ON LAW & ELDER RIGHTS

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