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# Medicare 101

# Agenda

1. Parts are Parts:  Medicare Coverages
2. Timing is Everything:  Medicare Elections
3. Creditable Coverage – Part D
4. Medicare Secondary Payer Rules

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# Parts are Parts: Medicare Coverages

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# What is Medicare?

- Administered by the Centers for Medicare and Medicaid Services (CMS)
- A national health insurance program which provides health insurance to Americans:
  - Aged 65 and older
  - With disabilities
  - End Stage Renal Disease
  - Amyotrophic Lateral Sclerosis (ALS)

Part A (Hospital Insurance)

- Hospital inpatient care, skilled nursing facility, hospice, some home health care

Part B (Medical Insurance)

- Doctor's office visits, outpatient care, mental health care, medical equipment

Part C (Medicare Advantage or Medicare HMO)

- Purchased from an insurance company
- Covers Part A and Part B expenses
- Often includes additional services and prescription drug coverage

Part D (Prescription Drug Coverage)

- Purchased from an insurance company

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# Timing is Everything: Medicare Elections

## Electing Medicare Part A

By electing Social Security Retirement Income benefits, you will automatically be enrolled effective on the first day of the month you turn 65 in Medicare Part A.

If you are not yet receiving Social Security, you must actively enroll in Medicare Part A.

## What if I am actively employed and have a health savings account (HSA)?

Under IRS rules you are not eligible to contribute additional funds into an HSA if you are enrolled in Medicare.

You can continue to use HSA funds which had previously been deposited into your account.

Your annual allowable HSA contribution limit will be prorated if you are Medicare enrolled.

If you subsequently enroll in Medicare Part A, your enrollment is effective retroactively to the later of six months prior to your enrollment or your 65th birthday. Retroactive enrollment will cause your HSA allowance to be limited and can result in adverse tax consequences.

# If you are actively at work beyond age 65, you have options

- Continue coverage through you/your spouse's employer and wait to enroll in Medicare
  - If you wait to enroll in Medicare and are HSA-eligible, you can continue to contribute to an HSA after age 65 (+ $1,000 annual catch-up)
  - You have eight months after your employment ends/reduce hours to part-time status to enroll
- Continue your employer coverage and enroll in Part A since there's no cost
  - Except for HSA accountholders
- Continue your employer coverage and enroll in both Part A and Part B
  - Your employer coverage would be primary (pay first) and Medicare would be secondary

# Enrollment Options

## Initial Enrollment

You can sign up online or by paper application for Part A and/or Part B during an initial seven-month enrollment period that begins three months before the month in which you turn age 65 and ends three months after the month in which you turn age 65.

## Annual Open Enrollment

Beginning October 1 covered beneficiaries may begin comparing and reviewing coverage options for the following calendar year. Annual Open Enrollment runs from October 15 through December 7. New coverage takes effect the following January 1 for any changes that you make during Annual Open Enrollment.

# Enrollment Options

## Special Enrollment

If you didn't sign up for Part A and/or Part B when you were first eligible because you were covered by a group health plan based on current active employment, you may sign up during the eight-month period after employment ends or after eligibility for the group coverage ends. Coverage begins on the first day of the month following the date you apply.

## General Enrollment

If you didn't sign up for Part A and/or Part B during your Initial or Special Enrollment Period, you can sign up between January 1 and March 31 each year. In this case, coverage beings on July 1 of the year you sign up.

## What if I don't enroll in Medicare Part B when I'm first eligible?

- If you don't enroll in Part B and don't have active employment-based coverage, you will be subject to a penalty at the time Part B coverage begins (10% for each 12-month period that you could have had Part B but did not).

## What if I don't enroll in Medicare Part D when I'm first eligible?

- If you don't enroll in Part D and don't have creditable prescription drug coverage, you will be subject to a penalty (1% for each month that you don't have creditable prescription coverage multiplied by the national base beneficiary premium at the time coverage begins).

## How does Medicare work with COBRA?

- COBRA is NOT considered to be coverage based on current employment. So, you should consider whether delaying Part B election because of COBRA could result in a Medicare late enrollment penalty.
- Medicare becomes the primary payer when current active employment ends, and COBRA is always secondary to Medicare.
- If you already have COBRA coverage when you enroll in Medicare, COBRA will end.

- After you enroll in Part B, you have a six-month Medigap Open Enrollment Period
- If you enroll after your Medigap Open Enrollment Period, the insurance company can turn you down or charge you higher premiums
- If you switch to a different Medigap plan, keep your current plan until your new plan is approved

# Creditable Coverage – Part D

# Medicare Prescription Drug, Improvement, and Modernization Act of 2003

- Employers who offer prescription drug (Rx) coverage to Medicare-eligible individuals must disclose creditable or non-creditable status of Rx coverage
- Notice to individuals required prior to October 15
- Must also use Centers for Medicare and Medicaid Services (CMS) online portal to report creditable status of Rx coverage within 60 days after start of plan year (e.g., March1 for calendar year plans)

# What is creditable prescription coverage?

- Rx coverage that is expected to pay as much or more than the Rx coverage under Medicare Part D
- Individuals need this info to make an informed choice on enrolling in Medicare Part D plan
- Individuals who do not enroll in Part D and do not have other creditable Rx coverage must pay permanent late enrollment penalty
- Employer who does not apply for retiree drug subsidy can determine creditable coverage status by determining:
  - Plan covers generic and brand name Rx drugs
  - Plan provides reasonable access to retail providers
  - Plan designed to pay on average ≥ 60% of participants' Rx drug expenses

# What is creditable Rx coverage? (cont.)

- Employer who does not apply for retiree drug subsidy can determine creditable coverage status by determining:
  - Stand-alone plan has no annual max (or annual max of at least $25,000), or has actuarial expectation of paying at least $2,000/Medicare-eligible individual; or
  - Integrated coverage has no more than $250 annual deductible, has no annual max (or annual max of at least $25,000), or has actuarial expectation of paying at least $2,000/Medicare-eligible individual, and has no less than $1 million combined lifetime benefit maximum

# What notices are required?

## Individual Notice of Creditable or Non-creditable Coverage

- CMS has template forms (Caution: templates will require modification)
- Carriers or TPAs should be able to provide info on creditable status; may state they cannot render an official opinion
- Generally, unless major changes, creditable status will remain unchanged

# Notice Content

If not using template, notice must include:

- Statement that plan sponsor has determined coverage is creditable or not
- Explanation of creditable or non-creditable coverage
- Description of beneficiary's right to advice
- Explanation of coverage options available
- Explanation of why creditable coverage is important and advice that individual could be subject to higher Part D premiums if 63-day or longer break in creditable coverage before Part D enrollment

Notice template is available at https://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/Model-Notice-Letters

# When must notices be issued?

## Individual notice annually by October 15

- Coincides with start of Medicare open enrollment period
- Law requires notices to all Medicare-eligible individuals
  - Includes active employees, disabled employees, COBRA participants, retired participants, and covered dependents and spouses.
  - Employers won't necessarily know who all of these are; best practice to send to all employees who are eligible to participate in plan
  - Separate notice required only where employer knows of different residence

# Individual notice annually by Oct. 15 (Medicare enrollment period)

- Prior to individual's initial enrollment period for Part D
- Prior to effective date of coverage for any Medicare-eligible individual joining the plan
- Whenever Rx coverage ends or changes so it is no longer creditable (or becomes creditable)
- Upon beneficiary request

Individual notice often included in new hire packets or plan enrollment materials

If open enrollment is after October 15, be sure to provide notices before open enrollment

# How to send notice?

- Separate regular mailing
- Incorporated with other materials, but must either be on first page or called out on first page in a separate text box (bold or offset and at least 14-point type)
- Electronic following DOL disclosure rules

# Annual Notice to CMS

- Access CMS portal within 60 days of start of plan year (e.g., March 1 for calendar year plan)
  - No paper option
  - Portal menus contain helpful guidance
- Required within 30 days of
  - terminating Rx coverage, or
  - change in creditable status of Rx coverage

# Medicare Secondary Payer Rules

# Medicare Secondary Payer Rules

- Determines who pays first for Medicare enrolled individuals
- Prohibit a group health plan from "taking into account" Medicare entitlement of current employee or a current employee's spouse or family member
- Plans must provide same benefits to Medicare-entitled as to other employees
- Incentives to opt-out of group health plan or elect Medicare generally prohibited

# Who pays first?

- Group health plans (GHP) (including HRAs) will usually be primary payers and Medicare will be secondary, unless an exception applies
- GHP will pay for Medicare beneficiaries as they do for all other covered individuals
- If services remain unpaid, Medicare may pay for Medicare services up to covered amount
- If GHP doesn't cover service, Medicare may pay for covered services
- Penalties of up to 25% of GHP's plan expenses incurred in calendar year of violation

# Exceptions to MSP Rules

- Employers with fewer than 20 employees for age-based Medicare enrollees
- Employers with fewer than 100 employees for disability-based enrollees
- COBRA covered individuals
- Participation in a multiemployer or multiple employer plan and the small employer exception

# MSP and the working aged

- Individual is age 65 or older
- Individual is covered by a GHP through current employment or spouse's current employment
- Employer has fewer than 20 employees

**Medicare pays primary**
**GHP pays secondary**

- Individual is age 65 or older
- Individual is covered by a GHP through current employment or spouse's current employment
- Employer has 20 or more employees or at least one employer is a multi-employer group that employs 20 or more employees

**GHP pays primary**
**Medicare pays secondary**

- Individual is age 65 or older
- Individual is self-employed and covered by a GHP through current employment or spouse's current employment
- Employer has 20 or more employees or at least one employer is a multi-employer group that employs 20 or more employees

**GHP pays primary**
**Medicare pays secondary**

# MSP and disabled individuals

- Individual is disabled
- Individual is covered by a GHP through current employment or family member's current employment
- Employer has 100 or more employees (or at least one employer is a multi-employer group that employs 100 or more employees)

GHP pays primary
Medicare pays secondary

- Individual has ESRD
- Individual is covered by a GHP and is in first 30 months of eligibility or entitlement to Medicare

GHP pays primary
Medicare pays secondary during 30-month coordination period for ESRD

- Individual has ESRD
- Individual is covered by COBRA plan and is in first 30 months of eligibility or entitlement to Medicare or COBRA

COBRA pays primary
Medicare pays secondary during 30-month coordination period for ESRD

# MSP and COBRA-covered individuals

- Individual has ESRD
- Individual is covered by COBRA and is in first 30 months of eligibility or entitlement to Medicare

COBRA pays primary
Medicare pays secondary during 30-month coordination period for ESRD

- Individual is age 65 or older
- Individual is covered by Medicare and COBRA

Medicare pays primary
COBRA pays secondary

- Individual is disabled
- Individual is covered by Medicare and COBRA

Medicare pays primary
COBRA pays secondary

# Multiple Employer and Multiemployer Small Employer Exception

- If at least one employer in the multiemployer or multiple employer plan has at least 20 full-time or part-time employees, the MSP rules apply to all Medicare entitled plan participants
- BUT a GHP can get an exception for participating employers who have fewer than 20 full and/or part-time employees
- GHP must apply
- Only effective as of the request date
- GHP is required to notify CMS of any changes
- No exceptions for ESRD

# Who is covered?

Employees in current enrollment status, which includes:

- Receiving disability for up to six months
- Employees with employment rights who have not been terminated and have group health coverage other than COBRA

NOT covered:

- Individuals with retiree coverage
- Individuals with COBRA coverage

# Impermissibly “taking into account” Medicare entitlement

- Failure to pay primary benefits
- Offering coverage that is secondary to Medicare to individuals entitled to Medicare
- Charging a Medicare-entitled individual higher premiums
- Terminating coverage because the individual has become entitled to Medicare, except as permitted under COBRA

# Offering prohibited incentives

- MSP prohibits employers from discouraging Medicare-eligible employees from enrolling in GHP or offering any other incentive not to enroll, or to terminate enrollment
- Reimbursing employees for Medicare premiums
- Permitting employees to use pre-tax amounts
- CMS has indicated that an employer "cannot offer, subsidize, or be involved in the arrangement of a Medicare supplement policy where the law makes Medicare the secondary payer"
- $5,000 penalties for every violation which is "every time a prohibited offer is made regardless of whether it is oral or in writing"

# Offering same benefits and conditions

- Requires GHP to provide same benefits to current employees and spouses aged 65 and older as to employees and spouses under age 65

# Part D – Rx Plans

- Purchased from an insurance company
- 2022 annual deductible can be no greater than $415; thereafter you pay 25% of drug costs
- Each plan has a list of covered drugs so check the formularies carefully for the drugs your doctor prescribes
- When out-of-pocket costs reach $6,350, the plan pays 95% of your drug costs for the rest of the year

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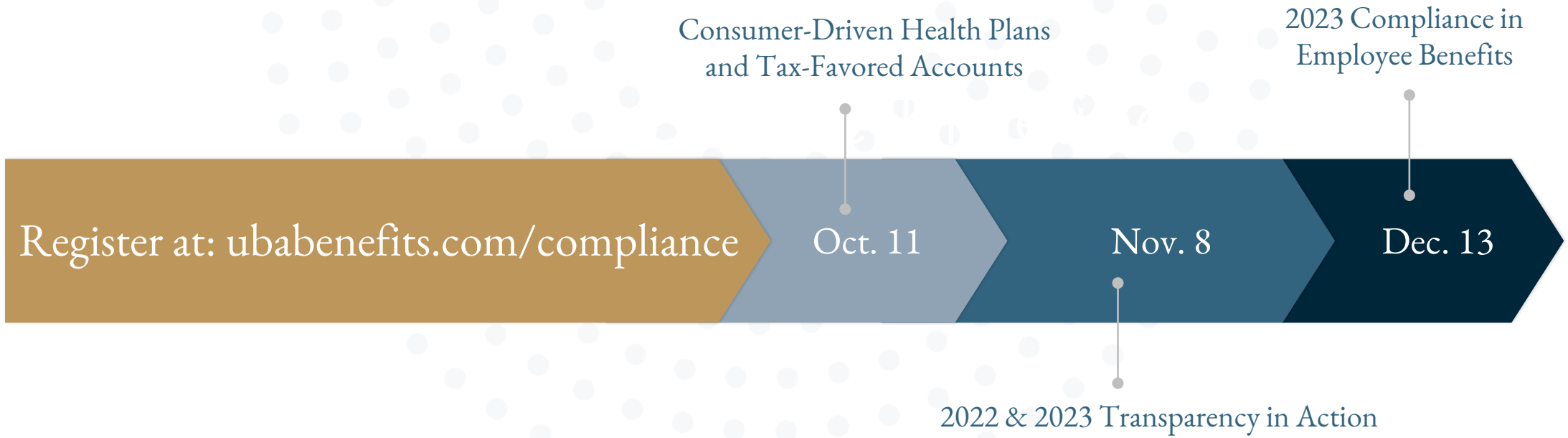

# Thank You

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