



CALIFORNIA HEALTH ADVOCATES
Medicare: Policy, Advocacy and Education

JUSTICE IN AGING
FIGHTING SENIOR POVERTY THROUGH LAW



Protecting Dual Eligible Clients from Improper Billing

Georgia Burke, Justice in Aging
Micki Nozaki, California Senior Medicare Patrol

May 27, 2021

Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems with getting on to the webinar? Send an email to trainings@justiceinaging.org.
- Find materials for this training and past trainings by searching the [Resource Library](https://justiceinaging.org/resource-library), justiceinaging.org/resource-library. A recording will be posted to [Justice in Aging's Vimeo page](https://Justice%20in%20Aging's%20Vimeo%20page) at the conclusion of the presentation, vimeo.com/justiceinaging.
- Enable closed captioning by selecting “CC” from the Zoom control panel.

Today's Agenda

- Protecting Medicare Beneficiaries
 - Micki Nozaki, California Senior Medicare Patrol:
mnozaki@cahealthadvocates.org
- Protecting Dual Eligibles from Improper Billing
 - Georgia Burke, Justice in Aging:
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Fraud Schemes


- Fraudulent Hospice Enrollment
 - False promises
 - Denied benefits
- COVID-19 Scams
 - Scam vaccine surveys
 - Phishing messages
- Medicare Plan Marketing

Congratulations!

You have been selected as a vaccine research subject! Please complete this short 30-second survey about COVID VACCINES in exchange for one of our consumer offer rewards! **(offer promo value up to \$120).**

VACCINE RESEARCH SURVEY

\$120 PROMO REWARDS AVAILABLE



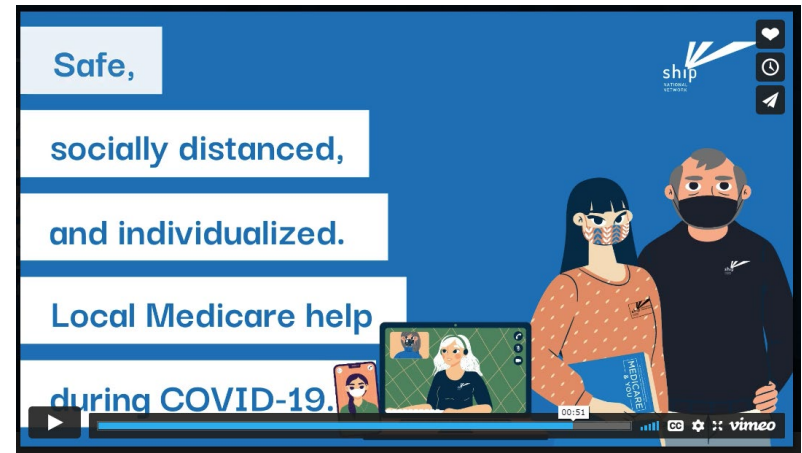
Those who complete the survey will get:

- Choice of up to 10 offer rewards
- Value up to \$120
- Reduced shipping prices

Get Started Now!

State Health Insurance Program (SHIP)

- Local, free and unbiased
- Medicare, Medicare Advantage, Medigap, Long Term Care Insurance
- Counseling and enrollment assistance
- Health Insurance Counseling & Advocacy Programs (HICAPs)
 - 800-434-0222
- Outside California (SHIPs)
 - <https://www.shiptacenter.org>



Medicare Fraud Stops with You

Report Medicare fraud to your local SMP

Each year an estimated **\$60 billion**
is lost to Medicare fraud

SMP

California Senior Medicare
Patrol

855-613-7080

www.cahealthadvocates.org

Outside California
www.smpresource.org

Fraud Presentations

Fraud alerts

Toll free hot line

Billing review

Education Webinars

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

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.

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

Roadmap

- Improper billing protections
 - Federal
 - State
- What federal tools are available when a client is improperly billed
 - In original Medicare
 - In Medicare Advantage
- Tips for helping your clients
- Addressing the underlying problem
- Q&A



What are Improper Billing
Protections?

What is Improper Billing?

- Improper billing occurs when Medicare providers seek to bill a dual eligible for Medicare cost-sharing, including deductibles, co-insurance, and co-payments.

Qualified Medicare Beneficiary

- A Medicare Savings Program operated by Medi-Cal
- Pays Part A (if needed) and Part B premiums
- Pays Medicare deductibles and co-insurance.

Who is a QMB?

- 100% or less Federal Poverty Level (\$1094 single/\$1472 married)
- Assets of \$7970 single/\$11,960 married
- Most CA QMBs are also full duals. Called QMB-plus
- A few are QMB-only. Higher assets or problems enrolling or don't want full Medi-Cal

Federal Law—All QMBs Are Protected From Improper Billing

All Medicare physicians, providers, and suppliers who offer services and supplies to QMBs may not bill QMBs for Medicare cost sharing. Any payment (if any) made by the State Medicaid plan shall be considered payment in full. Provider will be subject to sanctions.

Federal law: 42 U.S.C. Sec. 1396a(n)(3)(B) (Sec. 1902(n)(3)(B) of the Social Security Act)

California State Law

California: A provider of health care services who obtains proof of Medi-Cal eligibility may not seek payment from the beneficiary for covered services. If provider receives notice, provider and any debt collector must cease debt collection and correct any reports to consumer reporting agencies.

Cal. Welf. & Inst. Code § 14019.4

Another Federal Protection— QMBs in Medicare Advantage and Medicare-Medicaid Plans

MA and MMP plans must include in their contracts with providers a protection against cost sharing for dual eligibles.

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

Protections For All

- Original Medicare
 - QMB-plus or QMB-only: Federal and state law
 - Medi-Cal only (not QMB)-State law
- Medicare Advantage
 - QMB-plus or QMB-only: Federal and state law, and federal regulation
 - Medi-Cal only (not QMB): State law and federal regulation

Protections About All

- Provider may not charge deductible or co-insurance
- Protection cannot be waived
- In Medicare Advantage, plan has obligation to ensure beneficiary is protected
- But—
 - In Original Medicare, provider can refuse to take QMB as a patient



Tools for Fighting Improper
Billing

Federal Assistance At 1-800-MEDICARE

- Representatives at 1-800-MEDICARE are able to identify whether an individual is enrolled in QMB.
- They also are able to escalate improper billing complaints. Medicare Administrative Contractors (MACs) can issue a compliance letter to recalcitrant providers.

[REMOVE PRIOR TO SENDING: Compliance Letter to Providers]

[month] [day], [year]

[address]

[City] ST [Zip]

Reference ID: (NPI, etc.)

Dear [Provider/Supplier Name]:

The Centers for Medicare & Medicaid Services (CMS) received information that [Provider/Supplier Name] is improperly billing [Medicare beneficiary name/HICN number] for Medicare cost-sharing.

This beneficiary is enrolled in the Qualified Medicare Beneficiary (QMB) program, a state Medicaid program that helps low-income beneficiaries pay their Medicare cost-sharing. Federal law says Medicare providers can't charge individuals enrolled in the QMB program for Medicare Part A and B deductibles, coinsurances, or copays for items and services Medicare covers.

- **Promptly review your records for efforts to collect Medicare cost-sharing from [Medicare beneficiary name/HICN number], refund any amounts already paid, and recall any past or existing billing (including referrals to collection agencies) for Medicare-covered items and services**
- Ensure that your administrative staff and billing software exempt individuals enrolled in the QMB program from all Medicare cost-sharing billing and related collection efforts

Medicare providers must accept Medicare payment and Medicaid payment (if any) as payment in full for services given to individuals enrolled in the QMB program. Medicare providers who violate these billing prohibitions are violating their Medicare Provider Agreement and may be subject to sanctions. (See Sections 1902(n)(3); 1905(p); 1866(a)(1)(A); 1848(g)(3) of the Social Security Act.)

Finally, please refer to this Medicare Learning Network (MLN) Matters® article for more information on the prohibited billing of QMBs: <http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/downloads/SE1128.pdf>. If you have questions, please contact [MAC information].

Sincerely,

[Name]

[Title]

[MAC name]

[REMOVE PRIOR TO SENDING: Cover Letter for affected QMB Individuals sent by MAC]

[month] [day], [year]

[address]

[City] [ST] [Zip]

Reference ID: (NPI, etc.)

Dear [Beneficiary Name]:

You contacted Medicare about a bill you got from [Provider/Supplier Name]. Then we sent [Provider/Supplier Name] the letter on the next page.

You are in the Qualified Medicare Beneficiary (QMB) program. It helps pay your Medicare costs. **Medicare providers cannot bill you for Medicare deductibles, coinsurance, or copays for covered items and services.**

The letter tells the provider to stop billing you and to refund you any amounts you already paid. **Here's what you can do:**

1. Show this letter to the provider to make sure they fixed your bill.
2. Tell all of your providers and suppliers you are in the QMB program.
3. Show your Medicare and your Medicaid or QMB cards each time you get items or services.

If you have questions about this letter, call 1-800-MEDICARE (1-800-633-4227), 24 hours a day, 7 days a week. Call 1-877-486-2048 if you use TTY.

Sincerely,

[Name]

[Title]

[MAC name]

Eligibility Systems Changes

- Effective November 2017, HIPAA Eligibility Transaction System (HETS) includes data to indicate periods when beneficiaries are enrolled in QMB.
- Particularly helpful for Medicare-only providers who treat QMBs.
- Most providers use third-party databases that pull from HETS.

Medicare Summary Notices

- Medicare Summary Notices (MSNs) sent to QMBs show they have no liability for Medicare cost-sharing.
- MSNs are sent to Original (fee-for-service) Medicare beneficiaries on a quarterly basis.

Sample MSN (1 of 2)

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
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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.

Sample MSN (2 of 2)

June 18, 2017

Dr. Susan Jones, M.D., (555) 555-1234

Brevard County Physical Therapy Center, 32 Main Street, Brevard, NC 28712-4187

Service Provided & Billing Code	Service Approved?	Amount Provider Charged	Medicare- Approved Amount	Amount Medicare Paid	Maximum You May Be Billed	See Notes Below
Therapeutic exercise to develop strength, endurance, range of motion, and flexibility, each 15 minut (97110)	Yes	\$45.00	\$28.54	\$22.83	\$0.00	
Total for Claim #02-10195-592-677		\$45.00	\$28.54	\$22.83	\$0.00	A

Medicare Remittance Advice

- Medicare Remittance Advice for fee-for-service providers includes a notification to providers to refrain from collecting cost-sharing from QMBs. It also zeroes out the deductible and co-insurance amounts.

Summary of Federal Systems

System or Document	Description of Change	Beneficiary or Provider-Facing
1-800-MEDICARE	<ul style="list-style-type: none">• CSRs can identify QMBs• CSRs can escalate problem providers and send a warning letter through MAC	Both
HIPPA Eligibility Transaction System (HETS)	<ul style="list-style-type: none">• Includes QMB eligibility for when beneficiary is enrolled	Provider
Medicare Summary Notice (MSN)	<ul style="list-style-type: none">• Includes language about billing protection for QMBs.• Displays zero liability for co-pays and deductibles.	Beneficiary
Remittance Advice	<ul style="list-style-type: none">• Includes language about billing protection for QMBs.• Displays zero liability for co-pays and deductibles.	Provider



Tips

Tips

- Encourage the beneficiary not to pay up front.
- Remind the provider of the beneficiary's status as a QMB and the improper billing rules.
- Go up the chain in the billing department.
- For Medicare Advantage, remember both points of advocacy.
- Medi-Cal plans are supposed to have automatic crossover processes set up.
- Use Justice in Aging's model letters.
- Identify QMBs and report providers using 1-800-MEDICARE.
- Remember California state law.
- Contact Justice in Aging for technical assistance and systemic issues.

Beneficiary Options to Protect Against Improper Billing

- Beneficiaries can check their own status and report problems with 1-800-MEDICARE
- Beneficiaries in Medicare Advantage can and should enlist assistance from plan
- Justice in Aging Toolkit:
www.justiceinaging.org



Addressing Underlying Issues

Why Do Providers Improperly Bill?

- **The theory:** Medi-Cal steps in and pays the beneficiary's portion, usually 20%
- **The reality:** Medi-Cal is permitted to pay "the lesser of" the beneficiary's portion of the bill or the Medi-Cal rate
 - Medicare rate is \$100. Medicare pays \$80. Bill goes to Medi-Cal.
 - Medi-Cal rate is \$70. Medi-Cal pays \$0
 - Provider gets \$20 less compared to other Medicare patients
- **The solution:** Federal legislation to eliminate the "lesser of" policy

Questions?

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