

# AgeingToday

the bimonthly newspaper of the American Society on Aging

ISSN: 1067-8379  
www.asaging.org

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MAY\_JUNE 2016  
volume xxxvii number 3

## Balance billing: a tragic trend that is hurting our poorest elders

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**E**very time I visit the doctor I get a bill for \$15.27. I know I should not be receiving these, but I don't want to 'rock the boat.' The doctor is in walking distance, so I don't need to take public transportation. That saves me a lot because my income is only \$329 a month. I ultimately do not know what I should and shouldn't pay. I really feel anxious. I do not know what is going to happen with my healthcare.

*I received two bills that I know I should not have received. I was sick and I needed the care, so I just paid them.*

*My medical bills never seem to be right. I often get bills that I should not be receiving. I get so frustrated fighting the system that I just pay them. I am a master at going without things that I need.*

These stories, documented in a July 2015 Centers for Medicare & Medicaid Services (CMS) report, *Access to Care Issues Among Qualified Medicare Beneficiaries* (<https://goo.gl/p36mJ5>), reflect a growing trend of poor older adults being illegally billed for healthcare services covered by Medicare and Medicaid.

### **Billing Dual Eligibles Violates Law**

Doctors, hospitals, suppliers, ambulances and other medical providers are billing dual eligible beneficiaries—those elders and people with disabilities who qualify for both Medicare and Medicaid—for co-payments, co-insurance and deductibles. This practice, known as “balance billing,” violates federal law and also, in many cases, state law.

Many dual eligibles, even those who understand their rights, pay these bills because they are afraid of losing their provider, or because they have endured long waits and urgently need the medical service. Low-income older adults who end up paying these illegal medical bills have less money available to meet their basic needs such as food, rent or transportation to the doctor.

There are 7.1 million low-income elders enrolled in the Medicare and Medicaid programs, with 10.4 million low-income Americans overall enrolled in both programs, according to CMS (<https://goo.gl/XeDKN4>). Two out of three dual eligibles are ages 65 and older. Because of their low incomes, dual eligibles' healthcare is fully covered by the Medicare and Medicaid programs. Medicare pays first, then Medicaid pays any deductibles and cost-sharing. Doctors, hospitals, medi-

cal suppliers and other providers are not allowed to bill dual eligibles for co-payments, co-insurance or deductibles, according to a 2011 Justice in Aging brief (<http://goo.gl/RoaCs3>).

This brief points out that federal policy has weakened the practical effect of these protections by allowing states to pay less when paying claims for dual eligibles. States can choose whether to pay providers the full amount they would be entitled to under Medicare, or the “lesser of” the Medicare or Medicaid payment. For example, a beneficiary receives a medical service for which the Medicare payment rate is \$100 and the Medicaid rate is \$70. Medicare pays \$80. Under the basic rules, the state would be responsible for the \$20 co-payment. However, for states that use the “lesser of” policy, the provider would not be paid anything at all by the state, because the state Medicaid payment rate is only \$70, and the provider already received \$80 from Medicare. Providers that do not receive anything from Medicaid are more likely to bill the beneficiary directly.

### Typical Tales of Balanced Billing

*Ms. Lee is enrolled in Medicare and fee-for-service Medicaid. She needed vascular surgery, and went to a university-affiliated surgery center, which accepts both Medicare and Medicaid. However, shortly after she returned home, she received the surgeon’s bill for \$260, which is causing her tremendous stress.*

*Mr. Johnson’s doctor prescribed regular injections that can only be given at the local hospital. Mr. Johnson, who is a dual eligible, tries to follow his doctor’s advice, but because he is billed for co-insurance at each outpatient visit, he sometimes skips injections, putting his health at risk.*

Justice in Aging has been collecting these stories over the past two years during our investigation of the balance billing problem. Many dual eligibles cannot afford to pay such bills, and, unfortunately, the matter eventually is sent to collection. Billing departments and collection agencies frequently hound the beneficiary, even when it is clear the individual has no resources to make payment. Once debt collectors are involved, beneficiaries can experience constant phone calls and harassment. One such patient, quoted from the CMS report, said:

*I have never received a bill. My doctors have always been so good. I got an eye infection. I went to urgent care and they sent me to the specialist. I paid a \$10 co-pay. Now I keep getting bills for my outstanding amount. I called Medicare and they said I shouldn’t have gotten bills. Yesterday I got this bill and it says it’s going to collections. I have to go back to the doctor because my eye is bothering me, but I just can’t because I’m scared I will get another bill. I only make \$644 a month.*

The 10.7 million dual eligible beneficiaries nationwide are in the lowest income Medicare beneficiary population. These people need to be able to age with dignity, minus the stress of illegal medical bills that they cannot afford. The following actions can help ameliorate this situation:

- **Educate providers.** Many do not understand their obligations to dual eligible patients (see <https://goo.gl/sNRekt> for an excellent provider education piece from CMS).
- **Educate beneficiaries.** Many are unclear about their rights.
- **Enforce balance billing protections.** Providers need to be held accountable.
- **Fix payment rules.** Dual eligibles are losing access to their Medicare providers because of Medicaid payment policies.

Congress has already put protections in place for these poor elders, but we must work together to make those protections real by helping local advocates protect their clients, pressing for improved federal policies and forcing providers to stop illegal balance billing practices that hurt lowest income older adults and people with disabilities. ■

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