

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

Improper Billing of Qualified Medicare Beneficiaries (QMBs) and Dual Eligibles

Georgia Burke and Denny Chan, Justice in Aging

Kim Glaun, Medicare-Medicaid Coordination Office (MMCO), CMS

Beverly Yang, Office of Older Americans, Consumer Financial Protection Bureau

Tuesday, February 7, 2017

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 populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems with getting on to the webinar? Send an e-mail to trainings@justiceinaging.org.
- Slides and a recording are available at Justice in Aging - Resources for Advocates - Webinars: <http://www.justiceinaging.org/resources-for-advocates/webinars>. See also the chat box for this web address.

Today's Discussion

Overview

CMS
Initiatives

Debt
Collection

Toolkit
Materials

Overview of Improper Billing

Sometimes known as a form of “balance billing,” improper billing occurs when Medicare providers seek to bill a beneficiary for Medicare cost sharing. Medicare cost sharing can include deductibles, coinsurance, and copayments.

The Lesser-Of Policy

- Explicitly allows states to limit payment to the Medicare cost-sharing amount or the state's Medicaid rate for the same service.
- In addition to provider negligence and confusion, the policy is a reason why duals are improperly billed.
- New MACPAC compendium:
www.macpac.gov/publication/state-medicaid-payment-policies-for-medicare-cost-sharing-2016/

Legal Protections

- Federal law protects all Qualified Medicare Beneficiaries (“QMBs”) from improper billing.
- The QMB program is one of several Medicare Savings Programs that help low-income Medicare beneficiaries get help from Medicaid to pay for Medicare Parts A and B, assuming they meet certain criteria.
- QMBs are at or below 100% FPL and meet QMB asset limits.

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

The Case of Mr. Bonta

- Bonta is a dual and QMB. He goes to see Dr. Hart, his cardiologist. The Medicare rate for his visit is \$100.
- Medicare is primary, so it pays 80%/ \$80. The Medicaid rate is only \$70.
- Bonta's state has adopted the lesser-of rule, so Dr. Heart receives no additional payment.
- Dr. Heart cannot bill Mr. Bonta for any balance.

Additional Protections

- MA plans must include in their contracts with providers a protection against cost sharing for all full duals and QMBs.
- Some states may offer more protections - see Justice in Aging library.

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

Medicare Advantage

Impact of the MA Dual Eligible Protection:

- The regulation binds the Medicare Advantage plans.
- The plan contract binds providers.
- **BOTH** are responsible for compliance.

The Case of Ms. Mendoza

- Ms. Mendoza is a full benefit dual eligible. She is enrolled in *Seniors Rock* MA plan.
- Every time she sees her PCP, the office charges her a \$20 co-pay.
- Her PCP is bound by contract not to charge Ms. Mendoza.
- Complain to both PCP and *Seniors Rock*.

Are improper billing protections waivable?

NO!

- QMBs have no legal obligation to make further payment to a provider or Medicare managed care plan for Part A or Part B cost sharing.
- Medicare providers who violate these billing restrictions are violating their Medicare provider agreement.



CMS Initiatives



Reducing Inappropriate Billing of Qualified Medicare Beneficiaries



Kim Glaun

*Medicare-Medicaid Coordination
Office (MMCO)*

February 2017

Overview

- CMS findings regarding inappropriate billing of those enrolled in QMB
- CMS' initiative to address inappropriate billing
- Recent CMS issuances for providers and plans
- New CMS supports and provider outreach
- Forthcoming system changes to promote compliance

CMS' 2015 QMB Findings

Beneficiary Perspectives	Access to Care
<ul style="list-style-type: none">• Erroneous billing is “relatively commonplace”	<ul style="list-style-type: none">• Access to Care is compromised
<ul style="list-style-type: none">• Many pay cost-sharing	<ul style="list-style-type: none">• Reduced use of primary, routine and preventative care.
<ul style="list-style-type: none">• Unpaid bills referred to collections	<ul style="list-style-type: none">• Increased use of acute care services
<ul style="list-style-type: none">• Appeals process is challenging	
<ul style="list-style-type: none">• Billing processes are confusing/complex	

[See CMS, Access to Care Issues Among Qualified Medicare Beneficiaries, 2015](#)

CMS Initiative to Reduce Inappropriate Billing of QMBs

- Strengthen CMS information and supports for beneficiaries
- Revise instructions to plans and providers and conduct targeted outreach
- Implement CMS system reforms to promote compliance

CMS Information for Providers

- Reminder to Medicare FFS providers regarding QMB billing rules
 - [CY 2017 Final Physician Fee Schedule](#) p. 80440
- Revised [Medicare Learning Network \(MLN\) 1128](#) article regarding QMB balance billing
- Revised [MLN fact sheet: Dual Eligibles at a Glance](#)

CY 2017 Instructions to Plans

- Plans must re-educate providers regarding billing rules under 42 CFR §422.504(g)(1)(iii)
- Plans must have procedures to ensure that MA providers do not refuse to serve enrollees based on QMB status (Managed Care Manual, Ch. 4, Section 10.5.2)
- See [CY 2017 Call Letter pp. 181-183](#); CMS, 2017 Readiness Checklist for Medicare Advantage Organizations, Prescription Drug Plans, and Cost Plans, 10/5/16

New CMS Information and Supports for QMBs

- Effective September 2016 *Medicare and You* and Medicare.gov
 - Include new QMB billing language
 - List 1-800-MEDICARE as a resource for QMBs who've been unable to resolve billing issues themselves

New- Enhanced 1-800 Procedures to Assist QMBs

- Effective September 2016, call center representatives can:
 - Identify the QMB status of all callers
 - Provide information regarding QMB billing protections and
 - Address inquiries from a QMB MA enrollee regarding a Medicare Advantage provider's willingness to serve her/him

New- Outreach to Providers to Address Persistent Billing

- Effective 12/16, 1-800 customer service representatives can send cases to the Medicare Administrative Contractors (MACs) to:
 - Issue letters to providers whom beneficiaries report as persisting in inappropriate billing
 - Send beneficiaries a copy of the compliance letter (with an explanatory cover letter)
- See [CMS MLN 99817](#)

New- Joint Agency Advisory

- Joint consumer advisory from the Consumer Financial Protection Bureau (CFPB) and CMS regarding inappropriate QMB billing by providers and debt collectors
 - **CFPB/CMS Blog:** *What to do if you're wrongfully billed for Medicare costs* (January 2017) <http://www.consumerfinance.gov/about-us/blog/what-do-if-youre-wrongfully-billed-medicare-costs/>
 - **Medicare blog:** *3 Tips for People in the Qualified Medicare Beneficiary Program (QMB)* (January 2017) <https://blog.medicare.gov/2017/01/18/qualified-medicare-beneficiary-program/>

3 Tips for QMBs from the CFPB/CMS Advisory

1. Tell the provider or debt collector that you have QMB and can't be charged.
2. If the medical provider won't stop billing you, call 1-800-MEDICARE (TTY-1-800-633-4227).
3. If you have a problem with debt collection, you can [send a complaint to the Consumer Financial Protection Bureau \(CFPB\) online](#) or call the CFPB toll-free at (855) 411-2372. (TTY (855) 729-2372.)

NEW-CMS System Modifications to Stem Inappropriate Billing

- Starting October 2017, the Medicare Fee-For-Service systems will send notifications regarding a patient's QMB status and lack of costs-sharing liability to
 - Providers (through the Provider Remittance Advice) and
 - Beneficiaries (through the Medicare Summary Notice).
- Changes aim to help providers identify QMB patients, improve compliance, and better inform beneficiaries
- See: <https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/2017Downloads/R3715CP.pdf>



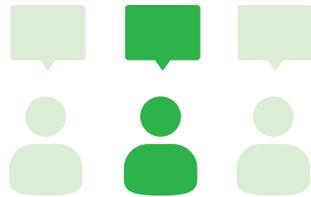
Debt Collection

Disclaimer



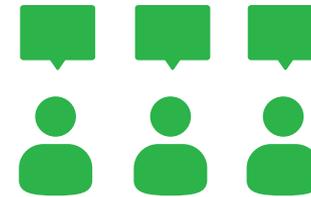
This presentation is being made by a Consumer Financial Protection Bureau representative on behalf of the Bureau. It does not constitute legal interpretation, guidance or advice of the Bureau.

CFPB complaint process: how we help



Individual assistance

We turn complaints into action. We work to get a response to complaints – **generally within 15 days**



Market-wide information

Every complaint provides insight into problems consumers are experiencing

Submit a complaint

Have an issue with a financial product or service? We'll forward your complaint to the company and work to get a response from them.

Have questions? ¿Preguntas? (855) 411-2372

Check complaint status First login?

Choose a product or service to get started

If you don't want to submit a complaint, you can [tell your story](#).

Want to find others like you? Visit the [complaint database](#) to read about consumers' experiences, in their own words.

LOANS

- [Mortgage](#)
- [Student loan](#)
- [Vehicle loan or lease](#)
- [Payday loan](#)
- [Other consumer loan](#)

PRODUCTS AND SERVICES

- [Bank account or service](#)
- [Credit card or prepaid card](#)
- [Credit reporting](#)
- [Debt collection](#)
- [Money transfer or virtual currency](#)
- [Other financial service](#)

Can a debt collector take my Social Security or VA benefits?

Answer: Generally no, debt collectors can't take your Social Security or VA benefits directly out of your bank account or prepaid card.

After a debt collector sues you for the debt and wins a judgment, it can get a court order for your bank or credit union to turn over money from your account or prepaid card. This is called a "[garnishment](#)." A U.S. Department of Treasury rule requires banks to **automatically** protect certain federal benefits from being frozen or garnished if they are **direct deposited** into your account. There are some exceptions to this rule, which are explained below. Read about how the automatic protection works.

Benefits covered by this rule:

- Social Security
- Supplemental Security Income
- Veterans
- Federal Railroad retirement, unemployment and sickness
- Civil Service Retirement System
- Federal Employee Retirement System.

Your bank or credit union must automatically protect 2 months' worth of benefits

If a collector tries to garnish money in your account, your bank must look at your account history to see if you received any of the above benefits by direct deposit in the last 2 months. The bank must protect 2 months' worth of benefits from garnishment and let you use that money. If your account has more than 2 months' worth of benefits, your bank can

Contact

Office for Older Americans

olderamericans@cfpb.gov

Beverly Yang

Beverly.Yang@cfpb.gov

Submit A Complaint:

Phone

(855) 411-CFPB | (855) 411-2372 

TTY/TDD: (855) 729-CFPB | (855) 729-2372 

8 a.m. to 8 p.m. ET, Monday through Friday

More than 180 languages available

Justice in Aging Toolkit Materials

- New issue brief summarizing latest developments
- State-specific authorities library
- Brief questionnaire - share your story!
- Factsheets
- Model letters

www.justiceinaging.org/our-work/healthcare/dual-eligibles-california-and-federal/improper-billing/



Questions?

dchan@justiceinaging.org



JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW