Balance billing is the practice in which providers, particularly physicians, seek to bill (1) dual eligible beneficiaries (those with both Medicare and Medi-Cal) for charges not covered by either Medicare or Medi-Cal; or (2) Medi-Cal only seniors and persons with disabilities any amount for a Medi-Cal covered service.

Balance billing violates both federal and state law.¹ State law protects any Medi-Cal beneficiary against balance billing.² A provider must accept as payment in full whatever amount the provider receives from Medicare, other insurance (if any), and Medi-Cal. Private pay agreements or other waivers of the balance billing protection are unlawful.

Furthermore, federal law protects all dual eligibles – regardless of whether they are QMB – who are enrolled in Medicare Advantage plans from paying co-pays.³

Note that the state law balance billing protection applies to Medi-Cal share of cost beneficiaries when the share of cost has been met for the month during which services were rendered.

Providers, however, are often confused about their obligations under law and that confusion can affect both dual eligibles and SPDs. Providers who balance bill beneficiaries are subject to penalties under both federal and state law. If a provider has erroneously billed a beneficiary, upon proof of Medi-Cal enrollment, the provider must call off any collection efforts that have begun, and if the bill has been

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¹Federal law provides that all Medicare providers who serve qualified Medicare beneficiaries (“QMBs”) cannot bill them for Medicare cost-sharing. 42 U.S.C. Sec. 1396a(n)(3)(B) (Sec. 1902(n)(3)(B) of the Social Security Act). The state law covers all Medi-Cal beneficiaries, whether or not they are QMBs. Cal. Welf. & Inst. Code § 14019.4.


³ 42 C.F.R. sec. 422.504(g)(1)(iii)
sent a debt collection agency, the agency also must correct any erroneous information sent to credit reporting agencies.4

As dual eligible beneficiaries transition from fee-for-service to managed care, advocates may begin to see increased instances of balance billing during the implementation of the Coordinated Care Initiative (CCI) due to provider confusion and misunderstanding.

What Should Advocates Do If Their Clients are Balance Billed?
• Beneficiaries should be instructed to contact the local Health Insurance Counseling and Advocacy Program (HICAP) agency (1-800-434-0222) to report the issue. The Health Consumer Alliance (1-888-804-3536) can also assist clients on balance billing issues.

• Advocates should work with beneficiaries to make sure their balance billing provider knows of the beneficiary’s Medi-Cal enrollment, inform beneficiaries of their legal rights, and encourage them not to pay the bill.

• Please tell Justice in Aging if you see balance billing issues so we can monitor the issue. Justice in Aging also is available to provide technical assistance

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Case Example #3
Ms. Garcia is a dual eligible with a Medi-Cal share of cost of $100 and lives in a CCI county. She opts out of Cal MediConnect and picks a Medi-Cal plan. In February, she sees her Medicare fee-for-service doctor, and she receives a bill from him for $50, which is 20 percent of the Medicare-approved amount for the service.

RULE: If Ms. Garcia has not yet met her share of cost for February, she can pay the $50 bill and have it count toward her share of cost. If she has already met her share of cost for February prior to this visit, balance billing protections are in effect, and she should not pay the bill.

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Case Example #4
Ms. Allen lives in California and has both Medicare and Medi-Cal. She is also a member of a Medicare Advantage plan. Upon visiting her in-network knee surgeon prior to a scheduled knee surgery, she is told by the billing staff that she owes a co-pay and has to pay as a condition to getting the surgery.

RULE: Under no circumstances may the knee surgeon bill Ms. Allen. As a dual in a Medicare Advantage plan, Ms. Allen is protected from paying any co-pays.