

December 11, 2014

The Honorable Sylvia Matthews Burwell, Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

The Honorable Thomas Perez, Secretary  
U.S. Department of Labor  
200 Constitution Ave NW  
Washington, DC 20210

The Honorable Carolyn Colvin, Acting Commissioner  
Social Security Administration  
6401 Security Boulevard  
Baltimore, MD 21235

Dear Secretary Burwell, Secretary Perez and Acting Commissioner Colvin:

The undersigned organizations are writing to urge the Department of Health and Human Services to work with the Social Security Administration and the Department of Labor to notify individuals approaching Medicare eligibility about their rights and obligations as they near enrollment. Together, our organizations represent the 54 million older adults and people with disabilities who rely on Medicare for basic health and economic security.

Individuals collecting Social Security benefits are automatically enrolled in Medicare. Yet, no federal agency provides notification about Medicare eligibility to individuals not yet collecting Social Security benefits. Thus, those who must proactively enroll are not directly informed about enrollment rules and policies. In fact, many individuals who are nearing eligibility only receive information on Medicare from insurance companies marketing private health plans.

Making an informed decision about whether and when to enroll in Medicare remains a complicated task for many individuals because it requires them to identify and understand a complex set of rules, along with the implications of these rules for their personal situations. The consequences of missteps can be significant, including a lifetime of higher Medicare premiums. Many of our organizations hear firsthand from retirees and people with disabilities who are facing higher health care costs, gaps in coverage and barriers to care continuity resulting from enrollment mistakes. With 10,000 people becoming Medicare-eligible each day, notification and enhanced education around this transition is an ever-mounting need.

This need affects people who currently receive health care coverage through a variety of health plans. For example, while individuals transitioning to Medicare from employer-sponsored coverage may receive guidance directly from their employers, the quality and accuracy of this support varies greatly, and the information supplied is neither required nor standardized. Targeted Medicare enrollment notices are needed to adequately educate this population, but also to inform individuals transitioning from new coverage options made available through the Affordable Care Act (ACA), including Marketplace plans and expansion Medicaid. Individuals transitioning from individual market Qualified Health Plans (QHPs) are unlikely to receive any notice about nearing Medicare eligibility. Similarly, employers new to the Small Business Health Options Program (SHOP) may not be prepared to adequately assist aging or disabled employees, retirees and dependents.

Additional information and notice is particularly important for people who will be navigating the transition from expansion Medicaid to Medicare. Expansion Medicaid recertification and disenrollment may not be appropriately synchronized when a beneficiary is nearing Medicare eligibility. Furthermore, eligibility requirements for low-income assistance programs that work with Medicare, including Medicaid for aged, blind and disabled individuals, Medicare Savings Programs and the Low-Income Subsidy of Part D (or Extra Help), are more varied and more complicated than the relatively straightforward income threshold used for expansion Medicaid.<sup>1</sup>

In sum, for many people becoming Medicare-eligible, there is no official communication that provides education on when and how to enroll in Medicare or what may result from delayed enrollment, nor is there any trigger to spur the individual to seek out this information. As a result, many of our organizations hear from individuals who wrongly believed that because they had existing insurance, like COBRA benefits, retiree insurance or employer-sponsored coverage from a small employer, they did not need to enroll in Medicare. These individuals face severe consequences, including lifetime premium penalties, delays in access to essential low-income benefits and gaps in coverage that may prevent them from receiving urgently needed care. Further, without authoritative, reliable sources of information on Medicare basics and how to enroll, older adults and people with disabilities are more vulnerable to fraud and scams.

As a solution, we urge your agencies to develop a system to ensure that all individuals nearing Medicare eligibility receive timely and complete notice about Medicare enrollment. We recognize that your agencies will need to devote resources to implement this process, and we are committed to working with you to devise a notification system that is both high-impact and cost-effective. Standardized, federally required notices from employers and insurers about health coverage rights and responsibilities already exist in the Part D and COBRA contexts and could serve as models for a general notice about nearing Medicare eligibility.

In short, we believe this simple, low-cost fix will reap notable benefits for older adults and people with disabilities. Most importantly, a notification system will ensure that fewer people new to the Medicare program are saddled with higher health care costs or go without needed health care services resulting solely from honest enrollment mistakes. In particular, we suggest the following:

**Provide notice about nearing Medicare eligibility to all individuals turning age 65.** In particular, notice should be provided to people not already collecting Social Security benefits. We suggest sending this notice six months before a person's Initial Enrollment Period (IEP) and again at the start of the IEP, three months before an individual's 65<sup>th</sup> birthday. These notices could be combined with existing beneficiary-facing communications, like annual Social Security statements or notices related to creditable prescription drug coverage. Ideally, this notice should be sent by mail and made available in other formats, including online at [mysocialsecurity.gov](https://www.mysocialsecurity.gov).

**Ensure that notices include key messages.** Federal notices should include information on the following: who should enroll in Medicare when they turn 65; what factors to consider before delaying Medicare Part A and Part B enrollment, like employer size for those covered by an employer plan; when Medicare or other insurance (e.g. employer-based, retiree, COBRA, QHP, SHOP, etc.) pays first; what consequences may result from delayed enrollment, like lifetime late enrollment penalties and gaps in coverage; what factors to consider when deciding to enroll in Part D; and where to seek out additional, unbiased information, including 1-800-MEDICARE, the State Health Insurance Assistance Program (SHIP) network, local Social Security offices, and local Medicaid offices.

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<sup>1</sup> Expansion Medicaid uses a relatively simple income calculation, the Modified Adjusted Gross Income (MAGI) to determine eligibility and includes no asset test. Yet, once turning 65, an individual cannot be evaluated for Medicaid under these eligibility rules. Instead, the individual must meet the income and asset limits established by the State Medicaid authority. Similarly, eligibility for Medicare Savings Programs (MSPs) varies from state to state, above a federal floor. At the same time, income and asset test eligibility for Extra Help is distinct from the MSPs. These misaligned income and asset tests may result in delayed access to essential low-income benefits for individuals transitioning from expansion Medicaid to Medicare.

**Carefully engage other messengers, including health plans, employers and states.** In addition to establishing a notice from the federal government, we suggest that you consider leveraging Marketplace plans, employer-sponsored group health plans and Medicaid managed care plans to disseminate standardized, uniform notices to enrollees approaching their 65<sup>th</sup> birthday. These notices should be easy-to-understand and should direct people to independent sources of information like 1-800-MEDICARE, the SHIP network and local Social Security offices.

We also ask that you empower and better support employers to provide comprehensive and accurate information to employees nearing Medicare eligibility through educational initiatives and standardized materials. It will also be critical to coordinate with and provide direction to state Medicaid offices and Marketplaces to ensure uniform notice is provided for those managing specific transitions. Additionally, we suggest that you review and update model notices related to the election of COBRA benefits to ensure that the appropriate messages about Medicare enrollment are incorporated. In particular, individuals with COBRA who are approaching Medicare eligibility must be made aware that COBRA benefits pay secondary to Medicare and that COBRA coverage does not insulate a person from Part B late enrollment penalties.

**Strengthen notice for beneficiaries who are auto-enrolled.** Revisit and improve the notice and information sharing made available to those automatically enrolled into Medicare after 24 months of Social Security disability benefits or because they turn 65 after they begin receiving Social Security retirement benefits in order to minimize errors by those who actively decline Part B. Improved information about which insurance pays first and the Part B Special Enrollment Period timing is particularly important for this group.

**Develop notices and educational materials in threshold languages and alternate formats.** Include multi-lingual inserts with notices. Explore ways to target non-English notices and alternate format materials to individuals who have already expressed language or format preferences to Social Security, Medicaid, or Marketplace or employer-sponsored plans.

The development of a comprehensive system to support individuals approaching Medicare eligibility should be a paramount concern for the Department of Health and Human Services, the Department of Labor and the Social Security Administration. Improved notice and information will help individuals newly eligible for Medicare avoid many of the pitfalls—including unaffordable health care costs and gaps in coverage—that we regularly hear about from people who are uninformed or misinformed about the Medicare enrollment process. We would welcome the opportunity to meet with you to discuss these issues, and we are eager to support your agencies in strengthening education for individuals approaching Medicare eligibility. Thank you for your ongoing and steadfast commitment to promoting the health and well-being of people with Medicare.

Sincerely,

ACCSES

Alliance for Retired Americans

American Association of Kidney Patients

American Association on Health and Disability

American Federation of Government Employees (AFGE)

American Society on Aging

B'nai B'rith International

California Health Advocates

Campaign for America's Future

Center for Elder Care and Advanced Illness  
Center for Medicare Advocacy, Inc.  
Christopher and Dana Reeve Foundation  
Families USA  
The Jewish Federations of North America  
LeadingAge  
Lutheran Services in America (LSA)  
Medicare Rights Center  
National Academy of Elder Law Attorneys, Inc. (NAELA)  
National Active and Retired Federal Employees Association (NARFE)  
National Adult Day Services Association (NADSA)  
National Alliance for Caregiving  
National Association of Area Agencies on Aging (n4a)  
National Association of Nutrition and Aging Services Programs (NANASP)  
National Association of Professional Geriatric Care Managers  
National Association of Social Workers (NASW)  
National Committee to Preserve Social Security and Medicare  
National Consumer Voice for Quality Long-term Care  
National Council on Aging  
National Health Law Program (NHeLP)  
National Multiple Sclerosis Society  
National Organization for Women (NOW)  
National Senior Citizens Law Center  
National Women's Law Center  
OWL—the Voice of Women 40+  
Paralyzed Veterans of America  
Services and Advocacy for GLBT Elders (SAGE)  
Social Security Works  
State Health Insurance Assistance Program (SHIP) Steering Committee (Kris Gross, Chair)  
Strengthen Social Security Campaign  
Texas Transplantation Society  
Transplant Recipients International Organization (TRIO)  
United Spinal Association  
Wider Opportunities for Women (WOW)  
Women's Institute for a Secure Retirement (WISER)

CC: Marilyn Tavenner, Administrator, Center for Medicare & Medicaid Services  
Kathy Greenlee, Administrator, Administration for Community Living  
Shaun Donovan, Director, Office of Management & Budget