
Medicare Planning for Senior Lawyers and their Spouses

By Paul G. Izzo, Esquire

Navigating the health care delivery and reimbursement system can be daunting. Equally challenging are the myriad of decisions that need to be made concerning Medicare coverage as we approach retirement. You also need to obtain an understanding of how Medicare parts B, C, and D operate. This article deals with Medicare, and purposely does not deal with Medicaid.

If you're already drawing Social Security (SS) at age 65, you'll be automatically enrolled in Medicare Parts A (hospital insurance) and B (medical insurance) starting the first day of the month you turn 65. If you're not already receiving SS benefits but are otherwise eligible for premium free Part A, then, at a minimum, you'll want to enroll in Part A when you turn 65. If you didn't pay into Medicare while employed and therefore aren't eligible for premium free Part A, you can still purchase Part A coverage. You must enroll in Part A when you turn 65 or face a penalty of 10% per year for twice the number of years you could have been eligible but failed to enroll.

If you or your spouse are not ready to enroll in Part B when you turn 65, because one or both of you are covered by your employer's group health insurance, you are able to defer enrolling in Part B at that time, but must notify SS of this decision. As long as you enroll in Part B when your employer-provided coverage ends, you will not be subject to a penalty. In addition, at this same time, you could enroll in a guaranteed issue Medicare Supplemental Insurance Policy (Medigap) to cover your Part B co-insurance amounts regardless of your health status.



When you elect Part B, you'll also need to decide whether to remain in Original Medicare or enroll in a Medicare Advantage Plan (Part C), which is sold by private insurance companies. Unlike Original Medicare, Part C plans frequently offer the carrots of dental and vision coverage, gym memberships, and prescription drug coverage. Some will pay your Part B premium and are also premium-free. If you enroll in Part C you will not be eligible for Medigap coverage.

Before electing Part C, you should carefully consider its potential limitations. For example, unlike Original Medicare, you must obtain your care from doctors and health care providers who are in the plan's network. In most cases, you must also have a referral to see a specialist and obtain pre-approval before receiving certain health services. If you receive care outside the plan's network, you may have to pay the full cost.

If you elect Part C when you first become eligible for Medicare at age 65, you will have a 12-month protected enrollment period within which to return to Original Medicare Parts A and B. If you do so before the end of that 12-month period, you will enjoy the same above referenced "guaranteed issue" benefits you would have had if you had enrolled in Part B when you first became eligible for Medicare, and can't be denied Medigap coverage or be charged higher premiums based on pre-existing conditions. If you fail to return to Original Medicare during the allotted period, you may still be able to obtain Medigap coverage, but it might deny coverage for pre-existing conditions or impose higher premiums.

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If you don't elect Part C, you'll need to enroll in Medicare Part D for prescription drug coverage. Failure to do so at the time of enrolling in Part B may result in the imposition of higher Part D premiums over your lifetime, if you do not have what Medicare considers "creditable prescription drug coverage", such as that provided under Medicare Part C, VA benefits, or employer/retiree provided insurance. Notably, under the Inflation Reduction Act, starting in 2025 your out-of-pocket drug costs under Medicare Part D are now capped at \$2,000 per year, per person. Whether the \$2,000 cap will survive the current round of budget cuts remains to be seen.

Lastly, you must cease contributions to a Health Savings Account ("HSA") while on Medicare; they are prohibited and failure to do so could result in a significant tax penalty, which can be avoided by making your last HSA contribution at least two months prior to turning 65. If you wait to enroll in premium free Medicare until more than six months after you turn 65, you should stop contributing to an HSA six months before you apply for Medicare.

As daunting as these decisions are, and the critical time frames within which to make the needed Medicare elections, you need not go it alone. The Medicare Rights Center is a national, non-profit consumer service organization that works to

ensure access to affordable health care for older adults and people with disabilities. Its website can be reached at <https://www.medicarerights.org/about>. Its national helpline is 1-800-333-4114. It also maintains a user-friendly website (which is called Medicare Interactive, which is accessible through the foregoing master website. Private health insurance brokers can also provide assistance.

Whether you choose to navigate the process yourself or engage the services of a broker, you would be well-advised to have the plan reviewed by the Virginia Insurance Counseling & Assistance Program (VICAP), located in Area Agency on Aging offices throughout the state. VICAP staff and volunteers are well-versed in the details of the Medicare enrollment process and can help you make the best enrollment decisions for you and your spouse free of charge. VICAP's website can be reached at <http://www.vda.virginia.gov/vicap.htm>, or to reach VICAP by phone, please call 1-800-552-3402, to obtain the toll-free telephone number for your area of the state.

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