



Medicare and Incarceration

Benefits Authorized by Law

Medicare is a federal health insurance program for people who are elderly (65 and over) or individuals of any age receiving Social Security Disability Insurance benefits (SSDI). Medicare benefits are grouped into parts: Part A covers hospital care; Part B covers outpatient services and Part D covers prescription drugs. Part C is HMO coverage called **Medicare Advantage**.

Mental health benefits include hospital care (limited to 190 days in the person's lifetime) and outpatient physician services, including services of psychiatrists, therapy furnished by psychologists and social workers and partial hospitalization. Under Part D of Medicare, individuals can purchase coverage for prescription drugs, and for low-income individuals the federal government subsidizes this drug coverage.

Impact of Criminal Justice Contacts on Receipt of Benefits

Medicare does not pay for services for a person who is incarcerated in jail or prison. However, the different parts of Medicare are handled differently. Eligibility for Part A, hospital benefits, does not terminate during incarceration but no health benefits can be paid while incarcerated. Typically there is no premium liability for Part A so entitlement is available upon release.

Eligibility for Part B is always dependent upon the person paying a premium to have this coverage. Individuals who have paid Part B premiums and are then incarcerated do not necessarily lose their Part B eligibility (although just like Part A no reimbursement is made for services during incarceration). However, if their Medicare eligibility is a result of receipt of cash benefits, these premiums have been paid through a deduction from the monthly Social Security benefit. Once the cash benefit stops due to conviction and incarceration, the person themselves becomes responsible for these premiums. To remain eligible while incarcerated, the individual would have to start paying their Part B premium directly.

If the individual does not pay the Part B premium, the benefit will terminate after three months. The federal government will notify the individual of this risk through a series of delinquency notices that are mailed to last known address of the person. Since few prisoners change their mailing address upon incarceration to the jail or prison, most never see these billing notices). Part B premiums can be paid monthly or quarterly. Those who pay monthly will receive a notice 30 days from the initial billing of that month's premium (marked "Second Notice"); if they pay quarterly, they will be sent this Second Notice 60 days after the initial billing notice.

A "Delinquent Notice" is sent about 90-days after the initial billing notice for that quarter. This notice will show the past-due amount owed (in 2011, this would mean a quarterly amount of

\$289.20 for individuals with annual incomes of \$85,000 or less) plus premiums for the next month. If the past-due amount (or partial payment of that amount leaves a balance of more than \$10, coverage terminates by billing due date. This system gives individuals a grace period of three months in which to pay their premiums. If they are not paid by that date, the individual will owe the federal government back payments of the premiums.

If Medicare Part B is terminated for any reason, including non-payment of premiums, the individual can re-apply but must do so only at the General Enrollment Period, which is January-March each year. This can mean a very long wait for some people before their Part B benefits restart. Moreover, the premium they will be charged will reflect a penalty for the failure to stay permanently enrolled. The penalty is 10% of the premium amount for each twelve month period the person was not enrolled.

For individuals who are able to reinstate a cash benefit upon release, any back premiums will be deducted from their cash benefit. They will also still face the 10% a year penalty.

Individuals with a relatively short stay in jail or prison will be able to keep their Medicare Part B coverage and avoid these penalties and higher charges by paying, or having someone pay the Part B premium for them. Individuals facing a longer term in jail or prison can, if they choose, terminate their Part B coverage immediately by withdrawing, thus avoiding any back-premium debts. If they wish to reinstate Part B at a later date, they will still have to wait for the General Enrollment Period and face higher premium amounts (see above). These individuals will need to decide what is best for them, but should be fully informed of the ramifications of federal Medicare rules.

Part D, drug coverage, also terminates when the person is incarcerated. The drug plan to which the individual is enrolled will cancel the coverage because “moving” into a penal institution constitutes a move into a non-covered geographic area under Part D rules. However, there are no back premiums or penalties at issue, and the person can enroll either in a new plan or in their prior plan upon release. Enrollment in a Part D plan cannot occur in anticipation of release, but only once the person is back in the community.

Using SSI to Reinstate Coverage

In states that have opted to cover Medicare costs for Medicaid-eligible persons (state buy-in programs), there is a way to reinstate Part B coverage without the person incurring penalties or having to pay higher premiums.

Individuals who are eligible for SSI benefits can apply for reinstatement while incarcerated, with benefits to begin upon release. This applies only if their SSI benefit has been suspended and not terminated (generally, SSI is terminated after about one year in jail or prison). Most individuals who were on SSDI at the time of arrest will qualify under SSI income and resource rules upon release. Once on SSI, these states will pay the Medicare Part B premium for this person. Under federal rules, this eliminates all premium penalties and also negates having to wait for the General Enrollment Period. Since SSDI benefits are reinstated one month later than SSI benefits under current federal policy, the person will only be on SSI (or SSI only) for one month. However, this is sufficiently long to avoid the Medicare penalties.