



CALIFORNIA HEALTH ADVOCATES

Medicare and People with End Stage Renal Disease (ESRD)

If you have end stage renal disease (ESRD) or permanent kidney failure, you can get Medicare solely on the basis of having ESRD even when you are younger than 65. Your options for supplementing Medicare, however, are few until you turn 65. Most rights that other Medicare beneficiaries have for purchasing Medicare supplement insurance (Medigap) or a Medicare Advantage plan do not apply to you.

This fact sheet focuses on people who are eligible for Medicare solely because of having ESRD who are not also eligible for Medicare due to another non-kidney-related disability or age. It reviews your Medicare eligibility when you only have ESRD, when coverage begins and ends, how Medicare coordinates with employer or union group health insurance, and what your options are for supplementing Medicare.

Medicare Eligibility with ESRD

You can get Medicare Part A at any time before the normal age of entitlement at age 65 if your kidneys no longer work and you require regular dialysis or have had a kidney transplant, and you have met one of the following conditions:

- You have worked long enough under Social Security, the Railroad Retirement Board, or as a Medicare-qualified government employee;
- You are getting or are eligible for Social Security, Office of Personnel Management, or Railroad retirement benefits; or
- You are the spouse or dependent child of a person who has worked the required amount of time under Social Security, the Railroad Retirement Board, or as a Medicare-qualified government employee or who is getting Social Security, Federal retirement, or Railroad retirement benefits.

Note: Please call Social Security at 1-800-772-1213 or visit their website (ssa.gov) for more information on the required amount of time needed under Social Security, the Railroad Retirement Board, or as a government employee to be eligible for Medicare based on ESRD.

If eligible for Part A, you can also get Part B and Part D. Having both Part A and B are necessary for Medicare to cover certain dialysis and kidney transplant services, including immunosuppressive drugs, while Part D covers other outpatient prescription drugs.

Note: If you are younger than 65 with ESRD, you do not have the option of purchasing Medicare Part A if you don't qualify for premium free Part A. You only have this option if you are 65 years old or older, and are a U.S. citizen or legal immigrant with a green card who has lived in the U.S. for at least 5 consecutive years. One exception is for individuals who are younger than 65 who have Medicare because of a disability (not ESRD) and their Medicare and disability benefits were terminated because they returned to work. These individuals can buy Part A or Part A and Part B, or, if qualified, they can have the Qualified Working Disabled Individual (QWDI) program pay for their Part A premium. For information on QWDI, see our fact sheet: "Medicare Savings Programs" at cahealthadvocates.org.

When Coverage Begins

If you have ESRD and require dialysis (also known as 'hemodialysis'), your Medicare coverage starts 3 months after you start dialysis. For example, if you started treatments in July, your Medicare coverage would start October 1st.

Your Medicare coverage can start sooner if you do home/self dialysis, or if you are going to have a kidney transplant.

For home/self dialysis your Medicare benefits begin on the first month of treatment if:

- You take part in a training program through a Medicare-certified training facility;
- You begin your home/self training within the first 3 months of dialysis treatment; and
- You expect to (and your physician certifies that you will) finish home training and self-dialyze at home.

For a kidney transplant, your Medicare benefits begin the month you are admitted to a Medicare-certified hospital for a kidney transplant or for health care services needed prior to your transplant if the transplant takes place that same month or within the following 2 months.

Medicare coverage can also start 2 months before your transplant if your transplant is delayed more than 2 months after you are admitted to the hospital for that transplant, or for health care services needed before your transplant.

For example: A beneficiary was admitted to the hospital on May 25th for some tests required before his kidney transplant. The transplant was scheduled for June 15th, but was delayed until September 15th. Therefore, this beneficiary's Medicare coverage will start on July 1st, 2 months before the month of his rescheduled transplant.

Note: Medicare won't cover surgery or other services that are needed to prepare for dialysis (such as surgery for a blood access [fistula]) if those are done before Medicare coverage begins.

When Coverage Ends, Continues, or Resumes

If you have Medicare only because of ESRD, your Medicare coverage will **end** in the following situations:

- If you stop dialysis treatments, your Medicare coverage will end 12 months after the month you stop dialysis.

- If you have a kidney transplant, your Medicare coverage will end 36 months after the month you have a successful transplant and no longer need dialysis.

Your Medicare coverage will **continue** if:

- You start dialysis again or you get a kidney transplant within 12 months after the month you stopped getting dialysis; or
- You start or resume dialysis or get another kidney transplant within 36 months after the month you have a kidney transplant.

Your Medicare coverage will **resume** if:

- You go off of ESRD Medicare and later resume treatment for kidney failure. In this case, your Medicare benefits begin the month you restart dialysis, and you will have no waiting period.

Medicare and Union or Employer Group Health Plan (GHP) Coverage

If you have Medicare solely because of ESRD and also have health coverage through an employer or union group health plan, the employer or union plan will be the primary payer of your benefits during a 30-month coordination period regardless of the employer's number of employees or your current employment status. Medicare will be the secondary payer and pays after your employer or union plan during this coordination period for as long as your group health plan coverage is in force. The 30-month coordination period starts the first month your Medicare benefits begin (or the month your Medicare benefits would have begun if you delay your Medicare enrollment) and continues as long as you have union or employer coverage.

Note: Make sure to tell your doctor or any other person who provides medical care that you have this employer or union group health coverage. This will ensure that your services are billed correctly.

At the end of the 30-month coordination period, or when your group health plan benefits end (whichever happens first), Medicare will become the primary payer and pay first for all Medicare-covered services. Your employer or union group health plan pays second, and may also pay for

services not covered by Medicare. Check with your plan's benefits administrator.

If you lose your ESRD Medicare and re-qualify for ESRD Medicare again at later time and are covered through an employer or union GHP, you will have another separate 30-month coordination period. A new coordination period is applied each time you re-enroll in Medicare because of kidney failure. You will not have another 3-month waiting period before your Medicare benefits start. Medicare will begin paying immediately as the secondary payer for the 30-month coordination period while your GHP will pay as the primary payer.

Note: If you re-qualify for Medicare but don't have an employer or union group health plan, your Medicare benefits will start right away and Medicare will be your primary payer.

Note: If you already have Medicare because of a disability or you are 65 or over and are covered by an employer group health plan through you or your spouse and you later develop ESRD, the coordination of benefit rules may differ; see below. This depends on your or your spouse's employment status and the employer's number of employees.

If your Medicare coverage is already primary because:

- You are retired or your spouse is retired AND your coverage is through an employer; or
- You or your spouse is currently working and the employer has fewer than 20 employees (in the case of having Medicare due to age); or
- You or your spouse is currently working and the employer has fewer than 100 employees (in the case of having Medicare due to a disability),

...then your Medicare will remain primary and you will not have a 30-month coordination of benefits period.

If Medicare is already the secondary payer because you or your spouse is working and the employer has more than 20 employees, or more than 100 employees if you have Medicare due to a disability, your employer group health plan will remain the primary payer for the 30-month

coordination period once you become eligible for ESRD Medicare. After the 30-month period, Medicare will become your primary payer.

Questions to Consider in Deferring Medicare Enrollment

Although you can delay enrolling into one or both Medicare Parts A and B if you have union or employer group health coverage and avoid paying the Part B monthly premiums, you need to fully understand the benefits and consequences of making that choice, including whether you will be charged a premium penalty if you defer enrollment.

First, ask your health plan representative to describe how the plan works with and without Medicare. If you are still actively working, you may not need the secondary coverage Medicare provides depending on the benefits your plan offers. In other cases, adding Medicare to your group health plan may give you some additional benefits or pick up costs imposed by your group health plan.

Some questions to consider are:

- Does my GHP have a yearly deductible or coinsurance costs? If so, what are they? Medicare may help cover these expenses.
- Is there a yearly renal services limitation? Some policies may have a capitation on the amount paid yearly for renal services or other services you may need.
- What is the lifetime limit of the union or employer GHP and are you nearing this limit? If your plan has limitations that will affect your health care services, enrolling in Medicare may be beneficial. If it does not have limitations and will pay all your health costs during the coordination period, you may choose to delay enrolling into Medicare until this period is over.
- What are my chances of getting a kidney transplant during this 30-month coordination period? Note: This question is important because you need to be covered by Part A at the time you have a transplant to be eligible for some Part B benefits later (such as immunosuppressive drugs). This means if you have a transplant during this

coordination period and chose not to enroll in Part A, you may not be entitled to the Part B covered immunosuppressive drugs. One way you can get around this rule to get coverage is if you file for ESRD Medicare Part A retroactively. See the section below.

Cost of Deferring Medicare Enrollment

If you decide to defer Medicare because 1) your union or employer group plan provides good coverage, 2) you verify you don't need Medicare to supplement that coverage, and 3) you are not likely to have a transplant during the 30-month coordination period, be aware you may be charged a Part B premium penalty when you later enroll. This depends on whether you just delay enrolling in Part B, or if you delay both Parts A and B.

- **If you only enroll in Medicare Part A** and defer enrolling in Part B to avoid paying the Part B monthly premium during the 30-month coordination period, **you will be charged a premium penalty when you later enroll in Part B.** The penalty is 10% of the premium cost for each 12-month period you had Part A but not Part B.

Also, you can only enroll in Part B during the General Enrollment Period (GEP), which is between January 1st and March 31st of each year with your coverage not beginning until July 1st of that same year. Make sure to time your Part B enrollment so that you have coverage by the time your 30-month coordination period ends.

- **If, however, you delay enrolling in BOTH Parts A and B during the coordination period, you can sign up for both parts of Medicare anytime** during those 30 months. You are not restricted to only signing up during the GEP. You will not be charged a premium penalty as long as you continue to be eligible for employer group coverage through your employment or a qualified family member's employment.

If you choose to delay enrollment for the full 30-month coordination period, make sure

you contact Social Security to enroll in Medicare Parts A and B a few months before your coordination period ends to avoid any gaps in coverage. Tell Social Security that you want your Medicare coverage to begin the first month after the coordination period ends, when Medicare will become your primary coverage. Apply early to give Social Security time to process your application.

If you do decide to delay Medicare coverage, your 30-month coordination period still begins on the date your Medicare coverage would have been effective.

Note: You can also file for ESRD Medicare Parts A and B retroactively up to 12 months. Therefore, in the case of not having Part A when you have your transplant (as mentioned above), if you sign up for Part A within 12 months of your transplant, you can then get your Medicare retroactive to your transplant date. This way you will then be eligible for the immunosuppressive drug coverage under Part B.

In addition, you can delay enrolling into Medicare Part D without paying a penalty if your current prescription drug coverage is 'creditable.' 'Creditable coverage' means it is as good as or better than Medicare's drug benefit. For more information on Part D enrollment, see our fact sheet "Medicare Enrollment Periods" at cahealthadvocates.org.

Note on immunosuppressive drug coverage:

Medicare Part B covers immunosuppressive drugs. **Medicare Part B will cover your immunosuppressive drugs for 36 months following a successful transplant** if you had Medicare Part A at the time of the transplant (or enroll to get Part A retroactively up to 12 months to the time of your transplant - see the section above) and either:

- Medicare paid for the transplant; or
- Medicare did not pay for the transplant because Medicare was a secondary payer to your employer or union group health plan.

Medicare's immunosuppressive drug benefit will continue as a lifetime benefit if:

- You have Medicare because you are 65 years old or older; or
- You are entitled to Medicare because of a separate, non-kidney related disability.

If Your Group Health Benefits End

If you delay enrolling in Medicare Parts A, B and D and your group health plan benefits end during this coordination period, you must enroll in all 3 parts of Medicare at that time. Contact Social Security as soon as possible to sign up for Medicare Parts A and B.

If you already have Part A when your group health benefits end but not Part B, however, you can only enroll in Part B during the General Enrollment Period (GEP) and may be charged a premium penalty. This is because beneficiaries with ESRD that only have Part A during their 30-month coordination period do NOT have a special enrollment period (SEP) to enroll in Part B if their union or employer group health plan ends. All other beneficiaries do have an 8-month SEP to enroll in Medicare Part B under that condition, just not those with ESRD Medicare.

In this case, you must wait until the next GEP to enroll in Part B (which is January 1st through March 31st of each year) and may have to pay a premium penalty if you've been enrolled only in Part A for 12 months or more.

You will also need to sign up for a Part D plan for your prescription drug coverage. You must sign up within 2 months of your coverage ending, or wait until the next Annual Election Period (November 15th - December 31st) when you may have to pay a late enrollment penalty.

Note: If you are paying a higher premium for Part B or D because you did not sign up for Part B or Part D when you were first eligible (and did not have 'creditable' drug coverage through an employer group health plan or union plan), when you turn 65 and qualify for Medicare based on age, your Part B and Part D premium will be reduced to the basic premium amount.

Supplementing Your Medicare Coverage

Medigap Plans

Medigap plans are private insurance policies designed to cover the gaps of Medicare. They pay for some of the costs that Original Medicare doesn't cover, such as deductibles and co-insurance.

If you are younger than 65 and qualify for Medicare solely because you have ESRD, you do not have guaranteed access to Medigap insurance. You can still apply for a Medigap policy, but most insurance companies won't sell a Medigap policy to a person who has ESRD and is not yet 65.

Once you turn 65, however, regardless of whether you still have kidney disease, you have a 6-month open enrollment period where you can buy any Medigap policy without a health screening. In addition, all other open enrollment and guaranteed issue rights for Medigaps apply to you once you are 65, regardless of whether you still have ESRD. See our fact sheet "Your Rights to Purchase a Medigap Plan" for more information at cahealthadvocates.org.

Medicare Advantage Plans

A Medicare Advantage (MA) plan is an alternative to Original fee-for-service Medicare. Medicare contracts with MA plans as part of the Medicare program and pays the plans to manage beneficiaries' health care. See our fact sheet "Medicare Advantage: an Overview" for more information at cahealthadvocates.org.

In general, if you have end-stage renal disease (ESRD), you cannot enroll in an MA plan. If you are already in an MA plan when you develop ESRD, you can continue receiving care in the plan; your MA plan cannot disenroll you because you developed ESRD. If you are not already in an MA plan, your only option is to enroll in Original Medicare.

If your Medicare Advantage Plan leaves the Medicare program, or it no longer provides coverage in your area, you have a one-time right, also called a special enrollment period (SEP), to join another Medicare Advantage plan regardless of whether another plan is currently available

where you live. This one-time enrollment right has no timeframe. It is indefinite and continues until you select a new MA plan.

Also, if you move to another service area or state and have not used your one-time SEP, you still have your SEP and can use that one-time enrollment right to enroll in an MA plan in your new location.

Note: In the situation of an MA plan terminating its coverage, once a person with ESRD is at least 65 years old, they would also have a guaranteed issue rights to purchase a Medigap policy.

Note on ESRD MA Demonstration Plans:

You may have the option of joining an ESRD Medicare Advantage demonstration plan if one is available in your county. In 2009, California has 2 of these plans. One is a Special Needs Plan (SNP) called VillageHealth (villagehealthca.com), operating only within certain zip codes in Riverside and San Bernadino counties. The other is a Private-Fee-for-Service (PFFS) plan called Fresenius Medical Care Health Plan (fmchp.com), operating in several northern and southern counties.

Each ESRD demonstration plan covers at least all Medicare-covered services. The main difference between being in an ESRD demonstration plan versus Original Medicare is these plans are designed with a disease management focus. An interdisciplinary team of a nephrologist, renal nurse, renal social worker, and pharmacist coordinate the patient's medical and psychosocial care. You should carefully compare the services a demonstration plan offers and any out of pocket costs you will be responsible to pay. Each of these plans imposes different cost sharing. VillageHealth's plan offers the additional benefit of waiving the Medicare Part B deductible.

If you have ESRD, are over 18 years of age and have Medicare Parts A and B, you can enroll into an ESRD demonstration plan at any time during the year. The effective date of your coverage will be the first of the month after the month you applied. Example: if you enroll on May 15, you will be covered by the ESRD demonstration plan effective June 1.

Unless you are covered by Medi-Cal (California's Medicaid program) as well as Medicare, you can only disenroll from one of these plans during certain periods. Two of those periods are the:

- Annual Election Period from November 15 through December 31 of each year, and
- Medicare Advantage Open Enrollment Period from January 1 through March 31 of each year.

However, if you have both Medicare and Medi-Cal, or you have the Part D low-income subsidy (LIS), you can disenroll from one of these plans and return to Original Medicare at any time. See our fact sheets on Medi-Cal and the Part D LIS at cahealthadvocates.org.

Note that all demonstration plans are scheduled to end December 31, 2009. If you are enrolled in one of these plans at that time, you will have the option of returning to Original Medicare or choosing another Medicare Advantage plan in your service area. Since these ESRD demonstration plans are a type of Medicare Advantage plan, this means you will have a one-time right to join another regular Medicare Advantage plan if there is one in your service area.

Other Ways of Supplementing Your Medicare Coverage

Medi-Cal and Medicare Savings Programs (MSPs)

If you have low income and few assets, you may qualify for Medi-Cal (California's Medicaid program) or one of the Medicare Savings Programs (MSPs). These programs can help cover the costs of Medicare's premiums, deductibles and co-insurance. For an individual, your assets must be no more than \$2,000 for Medi-Cal, or no more than \$4,000 for a Medicare Savings Program (MSP). For a couple, they must be no more than \$3,000 for Medi-Cal or no more than \$6,000 for a MSP. For more information see our fact sheets on Medi-Cal and the MSPs at cahealthadvocates.org.

Veterans' Benefits

If you are a veteran, the U.S. Department of Veterans Affairs can help pay for ESRD treatment. For more information, call the U.S.

Department of Veterans Affairs at 1-800-827-1000 or visit their website at. If you or your spouse is retired from the military, call the Department of Defense at 1-800-538-9552 for more information.

California's Major Risk Medical Insurance Program (MRMIP)

MRMIP is a state-run program for Californians who are unable to obtain coverage in the individual health insurance market because of their pre-existing conditions. If you have Medicare *solely* because of ESRD, you can apply for this program to supplement your Medicare. Monthly premiums for this coverage are usually high. For more information, call 1-800-289-6574.

ESRD and Disability Benefits

Remember, if you are unable to work because of ESRD, or if you have other disabilities, you can file for Social Security Disability Insurance (SSDI) to get monthly income benefits. If you qualify for those benefits, you will also be eligible for Medicare under an additional category of eligibility after receiving SSDI for 24 months, as long as you continue to have a disability.

If you have or you later develop other health conditions, the Medicare benefits you receive due to disability will continue, even if you have a successful transplant and lose Medicare based solely on your ESRD eligibility.

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The Health Insurance Counseling and Advocacy Program (HICAP) provides free, objective information and counseling on Medicare and other related topics. You can call **1-800-434-0222** with your questions or to make an appointment at the HICAP office nearest you. To find the HICAP office in your area, visit cahealthadvocates.org.