

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

March 25, 2020

Seema Verma, Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Via Electronic Mail

Dear Administrator Verma,

Justice in Aging thanks you for the guidance released to date in response to the COVID-19 public health emergency and to propose a number of immediate solutions needed to ensure that the low-income and dual eligible population, which is at very high risk of serious illness and death from the virus, has access to affordable health care and treatment.

Justice in Aging is an advocacy organization with the mission of improving the lives of low-income older adults. We use the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources. We have decades of experience with Medicare and Medicaid, with a focus on the needs of low-income beneficiaries and populations that have traditionally been denied legal protection such as women, people of color, LGBTQ individuals, and people with limited English proficiency.

We ask CMS to take additional action on the following urgent issues:

Extend and Expand Medicare Enrollment Periods

The ability for people to enroll in Medicare has been severely impeded. First, the Social Security Administration closed Social Security offices to the public effective March 17, 2020, and Social Security staff are only processing “dire need” requests, which does not include Medicare applications. The public is being told to contact Social Security’s 1-800 number for other issues. Furthermore, the individuals applying for Medicare fall within the population who have been cautioned since the outbreak of the virus in January to limit social contact and avoid public spaces. The crisis has also limited the extent to which SHIPs and other

WASHINGTON

1444 Eye Street, NW, Suite 1100
Washington, DC 20005
202-289-6976

LOS ANGELES

3660 Wilshire Boulevard, Suite 718
Los Angeles, CA 90010
213-639-0930

OAKLAND

1330 Broadway, Suite 525
Oakland, CA 94612
510-663-1055

advocates have been able to conduct outreach and enrollment assistance, and many individuals cannot get help from trusted family members in making enrollment decisions. Most important, however, is the fact that these individuals, particularly those with low incomes, are facing unprecedented barriers to meeting their basic needs on a daily basis while quarantined or sheltering in place and, in many cases, are experiencing significant economic insecurity. Many older adults and people with disabilities, like all of us, are likely to miss enrollment deadlines as they struggle with more urgent needs.

- **General Enrollment Period.** The Medicare General Enrollment period will end on March 31, 2020, but many individuals who needed to and would have enrolled in Medicare during the GEP will not be able to do so. The harm to individuals is particularly severe in the 14 states that do not have Part A buy-in agreements with CMS. In these states, low-income individuals, including those whose household income suddenly dropped as a result of the crisis, will not be able to enroll in Medicare until next year's General Enrollment Period. We therefore ask that CMS extend the General Enrollment Period through at least October 15, 2020 or three months after the end of a federal or state emergency declaration with respect to COVID-19, whichever is later. We also ask that all new enrollments—including those that have already enrolled during the normal GEP—become effective no later than the first day of the month after enrollment to provide more immediate access to coverage. People eligible for Medicare cannot wait until July 1st for coverage to begin.
- **Provide a continuous special enrollment period for dual eligible beneficiaries.** Dually eligible beneficiaries are currently only able to change their Medicare Advantage or Part D plan enrollment once per quarter. These individuals, who are already living in poverty, do not have the financial resources to weather any disruption or denial of care when in a plan that does not meet their needs. This is particularly problematic during this current crisis when their care and treatment needs are extremely likely to change. Providing a continuous SEP would reduce administrative complexity and mitigate disruptions and access to care.
- **Provide extensions of the Initial Enrollment Periods for individuals newly qualifying for Medicare and the special enrollment period for people losing employer coverage.** Individuals whose IEP or SEP for loss of employer coverage ends January 31, 2020, (the date of Secretary Azar's [emergency declaration](#)) or later, also need an extension. We ask CMS to extend these enrollment periods for affected individuals through October 15, 2020, or three months after the end of a federal or state emergency declaration with respect to COVID-19, whichever is later.

Preserve and Improve Access to Needed Services

- **Increase income limits and waive asset limits for Medicare Savings Programs and the Part D Low-Income Subsidy.** To increase access to services and reduce out-of-pocket costs during this emergency, we ask CMS to increase the income limit for the Qualified Medicare Beneficiary (QMB) program up to 150% of the federal poverty line and waive asset limits for all Medicare Savings Programs. CMS should also work with SSA to waive the asset limit for the Part D Low-Income Subsidy program. We also urge CMS to ask Congress to authorize 100 percent FMAP to states for Medicare Savings Programs and continue to encourage states to expand hospital presumptive eligibility (HPE) for Aged, Blind, and Disabled Medicaid and the Medicare Savings Programs. If CMS waives asset tests, it will enable HPE for MSPs, which are underutilized and critical to enabling access to care and providing financial assistance to low-income seniors and people with disabilities.
- **Clarify homebound definition.** Make clear in guidance that the homebound requirement for home health services during the COVID-19 crisis encompasses being quarantined, self-quarantining, self-isolating, and includes the instances in which individuals are subject to shelter-in-place or similar restrictions by state or local governments and agencies.
- **Require MA plans to waive in-network and prior authorization requirements.** We appreciate that CMS has required Medicare Advantage plans to cover out-of-network facilities. We urge CMS to extend this mandate to require all MA plans to waive network and prior authorization requirements for any Part A or B provider services related to the testing and treatment of COVID-19, whether or not the final diagnosis is COVID-19 infection.
- **Require Part D plans to waive network, utilization management, and refill restrictions.** CMS should also *require* Part D plans to waive prior authorization and network requirements (including limits or barriers to mail-order pharmacy use), along with “refill-too-soon” and extended fill limits. These policies should go into effect now, and not require beneficiaries to wait for any legislation requiring them to take effect.
- **Halt plan terminations for failure to pay Part C and Part D premiums.** Many Medicare beneficiaries are experiencing significant drops in either their own income or the incomes of the households where they live. At a time where continuing access to health care coverage is critical, they need breathing room if they are unable to pay plan premiums. Keeping Medicare beneficiaries covered is not only important for the

individuals but is also a public health imperative. We ask CMS implement a grace period of no less than six months and develop guidance for plans about extended repayment periods that reflect the unique economic challenges that the COVID-19 emergency poses.

Thank you for your attention to these concerns. We welcome the opportunity to discuss these recommendations with your staff. I can be reached at achrist@justiceinaging.org or by phone at (816) 812-3773.

Sincerely,

A handwritten signature in black ink that reads "Amber Christ". The signature is written in a cursive style with a large initial "A" and a stylized "C".

Amber Christ
Directing Attorney

Cc: Demetrios Kouzoukas, Director, Center for Medicare
Tim Engelhardt, Medicare-Medicaid Coordination Office