

February 5, 2021

Acting Secretary Norris Cochran  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Acting Secretary Cochran:

Older adults and people with disabilities are at high risk of infection, serious illness, and even death from COVID-19.<sup>1</sup> If they do not have health coverage, they may not be able to obtain medical treatment at a time when they need it most, worsening their own and public health outcomes. The undersigned organizations urge you ensure all Medicare-eligible individuals can connect with their coverage during this challenging time.

**Specifically, we request the immediate reinstatement of two critical COVID-19 related Medicare enrollment flexibilities: the Special Enrollment Period for Part C and Part D<sup>2</sup> and Equitable Relief for Premium Part A and Part B.<sup>3</sup> These policies should remain in effect through December 31 of the year the public health emergency ends, at a minimum, and coverage should begin no later than the first day of the month following enrollment.**

The reinstatements are necessary to promote access to care during the COVID-19 crisis, as well as ongoing compliance with public health guidelines. National, local, and state ordinances in effect and under consideration, the closure and limited hours of some Social Security field offices, as well as individual experiences with the virus and related complications—all of which are in flux—may prevent timely and informed Medicare enrollments, as well as swift application processing. This vital assistance would give older adults, people with disabilities, and their families much-needed peace of mind and access to care.

Reopening these pathways aligns with the administration's *National Strategy for the COVID-19 Response and Pandemic Preparedness*. It would advance several of those cornerstone goals by increasing access to care and treatment for those most at risk.<sup>4</sup> It would also further U.S. Department of Health and Human Services (HHS) compliance with recent White House initiatives that seek to implement that framework. This includes the January 21 *Executive Order on Improving and Expanding Access to Care and Treatments for COVID-19*,<sup>5</sup> which directs HHS to "evaluate Medicare...and take any available steps to promote insurance coverage for safe and effective COVID-19 treatments and clinical care," and the January 28 *Executive Order on Strengthening Medicaid and the Affordable Care Act*, which asks HHS to establish a Special Enrollment Period for Marketplace coverage "in light of the exceptional circumstances caused by the ongoing COVID-

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<sup>1</sup> Centers for Disease Control and Prevention, "If You Are at Higher Risk" (last updated January 4, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html>.

<sup>2</sup> Centers for Medicare & Medicaid Services, "Special Enrollment Period (SEP) for Individuals Affected by a FEMA-Declared Weather-Related Emergency or Other Major Disaster: Applicable for COVID-19" (May 5, 2020), <https://www.cms.gov/files/document/special-enrollment-period-sep-individuals-affected-fema-declared-weather-related-or-other-major.pdf>.

<sup>3</sup> Centers for Medicare & Medicaid Services, "Enrollment Issues for COVID-19 Pandemic-Related National Emergency Questions and Answers for Medicare Beneficiaries" (last accessed February 5, 2021), <https://www.cms.gov/files/document/enrollment-issues-covid-ab-faqs.pdf>.

<sup>4</sup> The White House, "National Strategy for the COVID-19 Response and Pandemic Preparedness" (January 21, 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/01/National-Strategy-for-the-COVID-19-Response-and-Pandemic-Preparedness.pdf>.

<sup>5</sup> Executive Order 13997 "Improving and Expanding Access to Care and Treatments for COVID-19" (January 21, 2021), <https://www.federalregister.gov/documents/2021/01/26/2021-01858/improving-and-expanding-access-to-care-and-treatments-for-covid-19>.

19 pandemic.”<sup>6</sup> We applaud these efforts to facilitate coverage during the pandemic, and urge the administration not to leave older adults and people with disabilities behind.

Special Enrollment Period for Part C and Part D. On May 5, 2020, the Centers for Medicare & Medicaid Services (CMS) clarified the availability of a Medicare Advantage (MA) and Part D Special Enrollment Period (SEP) for qualifying individuals affected by the pandemic.<sup>7</sup> This SEP allowed people to make changes to their MA or Part D coverage if they were prevented from doing so during or due to the COVID-19 emergency.

This SEP ended on June 30, 2020, but the need for it remains. Many people are still experiencing the pandemic in ways that have impacted their plan selection or satisfaction. They may be overwhelmed by their own or a family member’s illness or distracted by the general state of the outbreak and its economic fallout. These circumstances can leave them susceptible to enrollment errors, and in need of timely access to appropriate coverage.

We also support making this SEP more effective by broadening eligibility to include people who have discovered, as a result of the pandemic, that their plan is not a good fit. Although enrollees have access to the current MA Open Enrollment Period, it offers limited relief, and only through March. And while enrollees can file an appeal if their plan will not cover a necessary medication or service, that process does not allow them to make comprehensive coverage changes. Given the unprecedented nature of this crisis and urgent, shifting health care needs, we encourage you to reopen and strengthen the MA and Part D SEP.

Equitable Relief for Premium Part A and Part B. Unlike with MA and Part D, CMS does not currently have the statutory authority to establish an emergency-specific SEP for Premium Part A and Part B.<sup>8</sup> As a result, the agency must rely on equitable relief to facilitate these enrollments. While we appreciate this limitation, we note that equitable relief can be a time-consuming and difficult process for beneficiaries.

Troublingly, the policy unveiled last May did not reflect this reality. The effective dates—March 17 to June 17—and requirement that relief applications be filed within that timeframe, further limited its usability. Based on our experience helping Medicare beneficiaries navigate equitable relief, that is simply not enough time for people to learn about the policy’s availability or to obtain, complete, and submit the necessary paperwork.

The narrow timeline also excluded people who made or discovered mistakes after mid-June 2020, for whom access to coverage is no less urgent. We continue to hear from people in this situation, who desperately need to access their Medicare, but can’t. Some are un- or under-insured because they experienced a mismanaged Medicare transition since the equitable relief policy lapsed. Others made errors well before then—like inadvertently delaying Part B in reliance on secondary coverage—that they are only discovering now. Still others need help because of lay-offs from jobs that didn’t offer health coverage, but that did provide them with a means to pay for other insurance, which they can no longer afford. While they

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<sup>6</sup> See The White House, “Fact Sheet: President Biden to Sign Executive Orders Strengthening Americans’ Access to Quality, Affordable Health Care” (January 28, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/28/fact-sheet-president-biden-to-sign-executive-orders-strengthening-americans-access-to-quality-affordable-health-care/> and Executive Order 14009 “Strengthening Medicaid and the Affordable Care Act” (January 28, 2021), <https://www.federalregister.gov/documents/2021/02/02/2021-02252/strengthening-medicare-and-the-affordable-care-act>.

<sup>7</sup> Centers for Medicare & Medicaid Services, “Special Enrollment Period (SEP) for Individuals Affected by a FEMA-Declared Weather-Related Emergency or Other Major Disaster: Applicable for COVID-19” (May 5, 2020), <https://www.cms.gov/files/document/special-enrollment-period-sep-individuals-affected-fema-declared-weather-related-or-other-major.pdf>.

<sup>8</sup> See “Consolidated Appropriations Act, 2021” P. L. 116-260 (December 27, 2020), <https://www.congress.gov/116/bills/hr133/BILLS-116hr133enr.pdf>, which extends this statutory authority to Premium Part A and Part B beginning in 2023.

can sign up during the current General Enrollment Period, that window closes next month, and coverage doesn't begin until July.<sup>9</sup> Some will have been waiting for nearly a year by then.

In announcing this now-lapsed equitable relief, CMS acknowledged the policy would help “ensure beneficiaries have access to the critical healthcare coverage they need in the wake of the Coronavirus Disease (COVID-19) outbreak.”<sup>10</sup> This need remains. We urge CMS to reestablish and strengthen its COVID-19 equitable relief policy. The agency should clarify that it is available to all who need to connect with their Medicare amid the pandemic, even if they discover their eligibility after the emergency period ends.

Thank you for your leadership, time, and consideration. We look forward to working together to ensure all people with Medicare have accessible and affordable health care and prescription drug coverage, during the COVID-19 crisis and beyond.

Sincerely,

ACCSES  
AFL-CIO  
Aging Life Care Association  
Alliance for Aging Research  
Alliance for Retired Americans  
American Association on Health and Disability  
American Federation of State, County and Municipal Employees (AFSCME)  
American Geriatrics Society  
American Health Care Association  
American Kidney Fund  
American Muslim Health Professionals  
American Society on Aging (ASA)  
BlueCross BlueShield Association (BCBSA)  
Brain Injury Association of America  
California Health Advocates  
Center for Advocacy for the Rights and Interests of the Elderly (CARIE)  
Center for Independence of the Disabled, NY  
Center for Medicare Advocacy  
Children's Aid  
Disability Policy Consortium  
Disabled In Action of Metropolitan NY  
Easterseals  
The Jewish Federations of North America  
Justice in Aging  
Lakeshore Foundation  
Medicare Rights Center  
NAACP  
NASTAD  
National Adult Day Services Association (NADSA)  
National Adult Protective Services Association (NAPSA)

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<sup>9</sup> See “Consolidated Appropriations Act, 2021” P. L. 116-260 (December 27, 2020), <https://www.congress.gov/116/bills/hr133/BILLS-116hr133enr.pdf>, which closes this coverage gap beginning in 2023.

<sup>10</sup> Centers for Medicare & Medicaid Services, “Enrollment Issues for COVID-19 Pandemic-Related National Emergency Questions and Answers for Medicare Beneficiaries” (last accessed February 5, 2021), <https://www.cms.gov/files/document/enrollment-issues-covid-ab-faqs.pdf>.

National Alliance on Mental Illness  
National Association for the Support of Long Term Care (NASL)  
National Association of Area Agencies on Aging (n4a)  
National Association of Councils on Developmental Disabilities  
National Association of Nutrition and Aging Services Programs (NANASP)  
National Association of Social Workers (NASW)  
National Association of State Long Term Care Ombudsman Programs (NASOP)  
National Center for Assisted Living  
National Consumer Voice for Quality Long-Term Care  
National Council of Jewish Women  
National Council on Aging (NCOA)  
National Disability Rights Network (NDRN)  
National Grange  
National Health Law Program (NHeLP)  
National Hospice and Palliative Care Organization (NHPCO)  
National Partnership for Women & Families  
National Patient Advocate Foundation  
Service Employees International Union (SEIU)  
Union for Reform Judaism  
Whitman-Walker Institute

CC:

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