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VIA ELECTRONIC SUBMISSION

Office of Regulations and Reports Clearance
Social Security Administration
6401 Security Boulevard, 3rd Floor (East)
Altmeyer Building
Baltimore, Maryland 21235-6401

Re: Request for Information on the Foundations for Evidence-Based Policymaking Act of 2018 Learning Agenda

The Medicare Rights Center (Medicare Rights) appreciates this opportunity to comment on the **Request for Information on the Foundations for Evidence-Based Policymaking Act of 2018 Learning Agenda**. Medicare Rights is a national, nonprofit organization that works to ensure access to affordable and equitable health care for older adults and people with disabilities through counseling and advocacy, educational programs, and public policy initiatives. Each year, Medicare Rights provides services and resources to over three million people with Medicare, family caregivers, and professionals, including through our national consumer helpline.

From this work, we know Medicare enrollment can be a difficult and daunting task. Year after year, among our most frequent helpline calls are from or on behalf of people trying to navigate this confusing system.¹ Missteps are common and have serious repercussions—yet few remedies exist. As part of its Learning Agenda, we encourage the Social Security Administration (SSA) to explore ways to prevent and cure Medicare enrollment errors, including by examining gaps in consumer education, enrollment outreach, and data collection.

Consumer Education

We frequently hear from older adults and people with disabilities who do not understand how or when to enroll in Medicare, many of whom have experienced mismanaged transitions as a result. We

¹ Medicare Rights Center, "Medicare Trends and Recommendations: An Analysis of Call Data from the Medicare Rights Center's National Helpline, 2020-2021" (May 2022), <https://www.medicarerights.org/policy-documents/2020-2021-medicare-trends-and-recommendations>.

recommend that SSA research these knowledge gaps and identify potential solutions, such as updating outreach strategies, decision-making tools, and educational materials in ways that empower consumers.

Need for Notice

Most people new to Medicare are automatically enrolled because they are receiving Social Security when they become eligible—but a growing number are not.² These individuals must enroll on their own, taking into consideration specific timelines, intricate Medicare rules, and any existing coverage. Mistakes carry severe consequences, including lifelong penalties, high out-of-pocket health care costs, disruptions in care continuity, and gaps in coverage. As the Medicare Payment Advisory Commission (MedPAC) explains, an official notification of upcoming Medicare eligibility could help. But today, no such notice exists:

The lack of a notification process ensuring that individuals are aware of their eligibility for and need to enroll in Medicare as they turn 65 should be addressed. Current law does not require that either the SSA or CMS notify individuals who have yet to apply for Social Security payments of their eligibility for Medicare. More than 20 percent of the beneficiaries paying the Part B late-enrollment penalty may have not been aware when they were supposed to enroll to avoid this lifetime penalty. Improvement in the timeliness of notification to eligible individuals about Medicare enrollment and potential late-enrollment penalties is essential.³

Informing people nearing Medicare eligibility about enrollment rules and timelines is a critical issue. We encourage SSA to study it, and to adopt solutions in fulfillment of its obligation to facilitate Medicare enrollments.

Equitable Relief

SSA offers few opportunities for people to correct their Part B enrollment mistakes. The agency's main remedy, equitable relief, can be a lifeline. It allows beneficiaries whose enrollment error was due to misinformation from the federal government to request immediate or retroactive coverage as well as the elimination of any Part B late enrollment penalties.⁴

Despite its importance, there is little publicly available information on equitable relief. We urge SSA to identify, collect, and release data on Medicare equitable relief patterns and barriers, including the number of beneficiaries requesting equitable relief and any trends over time; the entities most commonly cited as providing misinformation; the frequency with which SSA grants or denies equitable relief; the average amount of time it takes to process a request; and data on how SSA uses this information to improve stakeholder education and outreach.

² Medicare Payment Advisory Commission, "Beneficiary enrollment in Medicare: Eligibility notification, enrollment process, and Part B late-enrollment penalties" (June 2019), https://www.medpac.gov/wp-content/uploads/import_data/scrape_files/docs/default-source/reports/jun19_ch1_medpac_reporttocongress_sec.pdf.

³ *Id.*

⁴ 42 U.S.C. 1395p(h) [Section 1837(h) of the Social Security Act] and Medicare Rights Center, "Equitable Relief" <https://www.medicareinteractive.org/get-answers/medicare-health-coverage-options/original-medicare-enrollment/equitable-relief>.

Existing data collection efforts fail to capture the constellation of impacts that enrollment challenges and mistakes can have on people with Medicare. Regular reporting could advance understanding and policymaking.

Medicare Part B Late Enrollment Penalty (LEP)

Similarly, more data on beneficiary experiences with the Part B LEP could improve the process, agency documentation, and program rules. We encourage SSA to regularly and publicly release national and state-specific data on the number of Medicare beneficiaries paying lifetime late enrollment penalties, information on the beneficiaries themselves (i.e., race, ethnicity, education completed, gender, pre-Medicare coverage source), the average penalty amount, and the length of any attendant coverage gaps.

We also urge reviewing the efficacy of the LEP structure more generally, as recommended by MedPAC. Though intended to encourage individuals to enroll in Medicare when first eligible, complex enrollment rules mean many are likely paying the LEP because of an honest error, not a deliberate deception.⁵ Additional study is needed to determine “whether the late-enrollment penalties are having the desired effects” as well as to guide reforms.⁶

Conclusion

Thank you again for the opportunity to provide comment. For additional information, please contact Lindsey Copeland, Federal Policy Director at LCopeland@medicarerights.org or 202-637-0961 and Julie Carter, Counsel for Federal Policy at JCarter@medicarerights.org or 202-637-0962.

Sincerely,



Fred Riccardi
President
Medicare Rights Center

⁵ Congressional Research Service, “Medicare: Part B Premiums” (May 19, 2022), <https://fas.org/sgp/crs/misc/R40082.pdf>.

⁶ Medicare Payment Advisory Commission, “Beneficiary enrollment in Medicare: Eligibility notification, enrollment process, and Part B late-enrollment penalties” (June 2019), https://www.medpac.gov/wp-content/uploads/import_data/scrape_files/docs/default-source/reports/jun19_ch1_medpac_reporttocongress_sec.pdf.