

June 17, 2020

Seema Verma, Administrator  
Centers for Medicare & Medicaid Services  
200 Independence Avenue SW  
Washington, DC 20201

Dear Administrator Verma:

Thank you for your efforts to respond to the COVID-19 emergency. As this work continues, the undersigned organizations write today to respectfully request several continuations of Medicare enrollment flexibilities that are urgently needed to better facilitate access to coverage and care during this challenging time.

As you know, the older adults and people with disabilities we collectively serve are at high risk of infection, serious illness, and even death from COVID-19.<sup>1</sup> We are concerned that 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 enrollment flexibilities that may help some of these individuals connect with their coverage during the emergency period must not end before it does.

**We urge you to maintain the following enrollment policies for the duration of the public health emergency, and longer if needed: The Special Enrollment Period for Part C and Part D; Equitable Relief for Premium Part A and Part B; and Time-Limited Equitable Relief for Marketplace Enrollees.**

These extensions are necessary to ensure access to coverage during the COVID-19 crisis as well as ongoing compliance with public health guidelines. Local and state ordinances in effect and under consideration, the closure of Social Security field offices, as well as beneficiary experiences with the virus and related complications, may prevent timely Medicare enrollment application submission and processing for an unknown but significant amount of time. Keeping these coverage pathways intact would give older adults, people with disabilities, and their families much-needed peace of mind and access to care.

Special Enrollment Period for Part C and Part D. On May 5, 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>2</sup> This SEP allows people to make changes to their MA or Part D coverage if they were prevented from doing so during and due to COVID-19 emergency. Importantly, access to this SEP is set to end on June 30, 2020—in the face of staggering unemployment and coronavirus infection rates that make it more important than ever.

As a record number of workers continue to experience employment changes and the loss of job-based health coverage, an ever-growing share of the Medicare-eligible population is likely to qualify for a Part B SEP. Many of these individuals may be overwhelmed by their own or a family member's

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

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

illness or distracted by the general state of the outbreak and its economic fallout. These circumstances may leave them uniquely susceptible to Medicare enrollment errors and missteps. To ensure these individuals can access needed coverage in a timely manner, we urge CMS to maintain this SEP while the emergency declarations are in place, at a minimum.

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. While, as always, these enrollees can file an appeal if their plan will not cover a necessary medication or service, that is their only recourse. They are currently unable to make a coverage change, even if they need to do so because of the coronavirus emergency. Given the unprecedented nature of this crisis and urgent, shifting health care needs, we encourage you to adopt this flexibility without delay.

Equitable Relief for Premium Part A and Part B. Also recently unveiled, CMS acknowledges this application of equitable relief will help “ensure beneficiaries have access to the critical healthcare coverage they need in the wake of the Coronavirus Disease (COVID-19) outbreak.”<sup>3</sup> We appreciate this recognition, and that the solutions available to the agency are limited. Unlike with MA and Part D, CMS does not have the statutory authority to establish an emergency-specific SEP for Premium Part A and Part B.<sup>4</sup> As a result, the agency is forced to rely on equitable relief to facilitate these enrollments.

Despite this lack of parity, equitable relief will undoubtedly help some Medicare-eligible individuals connect with needed coverage.<sup>5</sup> Troublingly, the policy has serious limitations that may dilute its efficacy. Announced just last month, it is only set to be in effect from March 17 to June 17, and enrollees are required to file their request within that timeframe. Based on our experience helping Medicare beneficiaries understand and navigate the equitable relief process, that is unlikely to be enough time for people to realize the need for and availability of this relief, or to obtain, complete, and submit the necessary paperwork. This restrictive timeline also excludes people who make or discover mistakes after mid-June, for whom access to coverage will be no less urgent. Absent changes, these constraints may prevent CMS from realizing its stated goal of improved access to Medicare.

As the COVID-19 pandemic and its risk to older adults and people with disabilities continues, so does the need for enrollment relief across the Medicare program. We urge CMS to keep this equitable relief eligibility window open for the duration of the public health emergency, at a minimum, and to strengthen the policy by allowing all who are eligible to access it at any time in the future.

Time-Limited Equitable Relief for Marketplace Enrollees. Time-limited equitable relief (TLER) helps some Medicare-eligible individuals with Marketplace coverage enroll in Part B without penalty. We understand that under the current policy, all who qualify for TLER through June 30, 2020 will be able to access it going forward. However, we are concerned that the pool of those newly needing this

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<sup>3</sup> CMS, “Medicare Part A and Part B Enrollment Equitable Relief for the COVID-19 Pandemic-Related National Emergency” <https://www.cms.gov/Medicare/Eligibility-and-Enrollment/OrigMedicarePartABEligEnrol/index>.

<sup>4</sup> SSA 1860D-1(b)(3)(C)

<sup>5</sup> CMS, “Medicare Part A and Part B Enrollment Equitable Relief for the COVID-19 Pandemic-Related National Emergency” <https://www.cms.gov/Medicare/Eligibility-and-Enrollment/OrigMedicarePartABEligEnrol/index>.

relief may continue to grow after that cutoff date. In particular, in the current environment, CMS communications targeted to Medicare-eligible Marketplace enrollees may be less impactful and more confusing than they would have been otherwise. At a time when access to affordable care is more important than ever, we urge CMS to maintain this pathway to coverage alongside the emergency declarations.

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,

AARP  
AFL-CIO  
AFSCME  
Aging Life Care Association  
Alliance for Aging Research  
Alliance for Retired Americans  
American Association on Health and Disability  
American Geriatrics Society  
American Kidney Fund  
California Health Advocates  
Caring Across Generations  
Center for Medicare Advocacy  
Center for Public Representation  
Children's Aid  
Disability Policy Consortium  
Every Texan  
Families USA  
Gerontological Society of America  
GLMA: Health Professionals Advancing LGBTQ Equality  
The Jewish Federations of North America  
Justice in Aging  
Lakeshore Foundation  
Medicare Rights Center  
NAACP  
National Adult Day Services Association (NADSA)  
National Adult Protective Services Association  
National Alliance on Mental Illness  
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 Consumer Voice for Quality Long-Term Care  
National Council of Jewish Women

National Council on Aging (NCOA)  
National Grange  
National Health Law Program  
National Partnership for Women & Families  
Service Employees International Union (SEIU)  
Union for Reform Judaism  
Whitman-Walker Health

cc:

Demetrios Kouzoukas, Principal Deputy Administrator for Medicare and Director, Center for Medicare  
Jerry Mulcahy, Director, Medicare Enrollment and Appeals Group, Center for Medicare