

## **MEDICARE ENROLLMENT SHOULD NOT BE A GAMBLE**

### **THE BENES ACT (S. 1909/H.R. 2575) OFFERS NEEDED SOLUTIONS**

While people with Social Security benefits are automatically enrolled in Medicare, an increasing number of Americans are working longer, delaying retirement, and deferring Social Security benefits. With fewer people automatically enrolled in Medicare—and 10,000 Baby Boomers aging into Medicare each day—more people new to Medicare must actively enroll in Part B. Unfortunately, many such individuals often fail to do so because they are not informed of Medicare’s complex enrollment rules.

The bipartisan **Beneficiary Enrollment Notification and Eligibility Simplification Act (BENES Act)** (S. 1909/H.R. 2575), championed by Senators Robert Casey (D-PA) and Todd Young (R-IN) as well as Congressmen Raul Ruiz (D-CA) and Patrick Meehan (R-PA), modernizes and simplifies the Part B enrollment process.

Different enrollment rules apply to those without coverage, with employer-based coverage, with retiree coverage, with COBRA coverage, and with Marketplace coverage. The rules are so complicated that even the most sophisticated Human Resources (HR) departments struggle to follow them. Many retirees and people with disabilities who are paying for private coverage learn only after medical treatment that their insurance is “secondary” to Medicare, and that relying on their insurance, instead of Part B, creates a gap—which can cost hundreds of thousands of dollars out-of-pocket.

Clear and simple advice to those approaching eligibility could help address the problem, but today the federal government provides virtually no notification to people nearing Medicare eligibility that must actively enroll about when and how to do so. The BENES Act includes bipartisan, low-cost solutions to address these problems.

**Enrollment Errors Affect Tens of Thousands of Americans in Every State:** The Medicare Rights Center answers nearly three million questions each year, through its national helpline and educational programs. Year after year, about one in four helpline calls concerns Medicare enrollment. In 2015, most of these calls were from individuals experiencing challenges enrolling in Part B, whether because they were navigating a specific hurdle (35%), did not understand enrollment periods (30%), or were confused about Part B costs, eligibility, and other issues (35%). In 2014, 750,000 people with Medicare were paying a Part B Late Enrollment Penalty (LEP) and the average LEP amounted to nearly a 30% increase in a beneficiary’s monthly premium.<sup>1</sup>

<sup>1</sup> P. Davis, “Medicare: Part B Premiums,” (Congressional Research Service: August 2016), available at: <https://fas.org/sgp/crs/misc/R40082.pdf>

#### **THE BENES ACT:**

□ **Increasing Notification and Education.** The BENES Act will create a pathway for the Department of Health and Human Services (HHS), Social Security Administration (SSA), and Internal Revenue Service (IRS) to work together and notify individuals approaching eligibility about enrollment rules and how other insurance works with Medicare.

□ **Eliminating Coverage Gaps during Enrollment Periods.** The BENES Act guarantees that people with Medicare do not experience a break in critical coverage. Specifically, the bill will fix coverage gaps in the 5<sup>th</sup>, 6<sup>th</sup> and, 7<sup>th</sup> month of a person’s Initial Enrollment Period (IEP) and in the General Enrollment Period (GEP), modernizing an enrollment system that has not been revisited since Medicare was established more than fifty years ago.

**A Case Study:** Throughout their working lives, Mr. and Mrs. G held good jobs with good health insurance. When Mr. G turned 65, Mrs. G was working for a large company whose group health plan covered them both. In late 2012, when Mrs. G was 64, the company she worked for was acquired, and her position was terminated. As part of her termination, the couple was provided two years of continuing enrollment in the company's group health plan, paid for by the company. The coverage for those years was identical to the coverage available to them while Mrs. G was employed.

Planning ahead, before the group health plan coverage was due to terminate in late 2014, the couple went to their local Social Security office to enroll in Medicare. For the first time, they were told that when Mrs. G stopped working, it triggered a change in how her group health coverage was treated under Medicare rules. Because Mrs. G was not “actively” employed within the past eight months, she and her husband were ineligible to enroll in Part B through a Special Enrollment Period.

Mr. and Mrs. G were able to enroll in Medicare Part A immediately, and did so, but that only covered hospitalizations and inpatient care. For outpatient coverage through Part B, Mrs. G and her husband were told they would have to wait for the General Enrollment Period in January 2015 and their coverage would not be effective until July 1, 2015—**meaning Mrs. G and her husband would be without adequate health coverage for nearly a year.**

At the same time, the couple learned that because they delayed Part B enrollment for two full years and did not have employer-sponsored coverage through “active” employment during this time, they will be **required to pay a penalty of 20 percent** (10 percent multiplied by the number of years delayed) on their Part B premium. This amount will be added to their monthly Part B premium **for the rest of their lives.**

Facing a precarious situation, Mrs. G attempted to purchase individual insurance for her and her husband, to fill the coverage gap while waiting for Medicare, and was turned away. So, Mrs. G called the Medicare Rights Center for help. The helpline counselor explained that Medicare law prohibits the sale of policies that offer the same coverage as Medicare to anyone who is enrolled in any part of Medicare. All available avenues to enrollment were explored, to no avail.

Mrs. G expressed her frustration at the lack of information she and her husband had received from her employer, from Social Security, and from Medicare. According to Mrs. G, they did not even realize “Medicare was something we needed to look into as long as we were covered by an excellent medical plan.” Mrs. G said being without health coverage for any outpatient medical needs for many months is what worried her most of all. At the time, she told Medicare Rights Center that she was “keeping her fingers crossed” that neither she nor her husband would need any significant health care while in the coverage gap. Unfortunately, this wishful thinking was the only solution available to them.

Had the BENES Act been in place when Mrs. G turned age 65, she would have received a detailed notice explaining Medicare enrollment rules and considerations. If they had been informed, Ms. G and her husband would not be facing many months without Part B coverage. The BENES Act will be a source of relief for many older adults and people with disabilities nearing Medicare and frustrating stories similar to that of Mr. and Mrs. G will become something of the past.