

Balance Billing Protections Cover Most Duals

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What happens when a physician or other health care provider bills a low-income beneficiary for Medicare's deductibles and coinsurance charges? Can a physician, for example, collect the balance of an unpaid Part B coinsurance charge from a beneficiary who has both Medicare and Medicaid? Can a hospital bill that same dual eligible beneficiary for the unpaid balance of the Part A inpatient deductible? The answer depends largely on the distinctions CMS makes between the different types of dually eligible beneficiaries, commonly called "duals."

Who are the Duals?

According to CMS' most recent Medicare-Medicaid State Enrollee Profile, 9.1 million people were enrolled in the Medicare and Medicaid programs in 2008. Among them, 77 percent received Medicare and full Medicaid benefits, 12 percent were "QMB-only," and 11 percent were other "Partial Benefit" enrollees. Partial Benefit duals include those who spend down their excess income to Medicaid eligibility levels and those whose incomes exceed 100 percent of the federal poverty level and qualify for the Specified Low-income Medicare Beneficiary (SLMB) or Qualified Individual (QI) programs that pay the beneficiary's Part B premium.

Qualified Medicare Beneficiaries (QMB) are persons whose income is 100 percent of the federal poverty level or less (\$1,001 per month for a single person in 2015) and whose financial resources are below certain limits. State Medicaid programs cover their Medicare cost-sharing amounts, including monthly premiums, deductibles, copayments, and coinsurance charges. Together, the QMB, SLMB, and QI programs are called the Medicare Savings Programs.

Of the 9.1 million duals, more than three-fourths receive full Medicaid and QMB benefits. CMS refers to them as "QMB Plus" beneficiaries. As a group, QMB-only and QMB Plus beneficiaries account for more than 8 million people.

Prohibition against Balance Billing for QMBs in Original Medicare and Medicare Advantage

Since 1997, federal law has prohibited providers, physicians, and suppliers from billing any QMB for unpaid Medicare deductibles and other cost-sharing charges. The law and CMS provider agreements require providers to accept the amounts they receive from Medicare and Medicaid as payment in full, even if Medicaid pays nothing toward the deductible or coinsurance costs. The prohibition against balance billing applies to providers in Original Medicare and Medicare Advantage alike. The only amounts providers can collect from QMBs are the nominal copayments (e.g., \$4 for a physician visit) that some states require Medicaid recipients to pay for covered services.

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Provider Awareness and Education

Physicians and other providers who don't often deal with Medicaid may be unaware that some of their Medicare patients qualify for Medicaid benefits like QMB. They also may not know that state Medicaid programs need not fully cover Medicare's cost-sharing amounts. The law allows states to pay up to their Medicaid reimbursement rate for a particular service. When Medicaid's payment rate is less than Medicare's payment rate, Medicare pays up to its 80 percent of the approved amount. The provider "eats" the remaining 20 percent of the bill and, as long as he or she has sent the claim to both Medicare and Medicaid, can treat it as an uncollectable debt.

To address the provider community's lack of awareness about the QMB program and its implications for billing and collections, CMS began in 2010 to circulate fact sheets, bulletins, and Medicare Learning Network resources to help educate Medicaid agencies and providers about the QMB balance billing prohibition. An Informational Bulletin, issued in 2012 by CMS' Medicare-Medicaid Coordination Office to the State Medicaid Agencies, said this: "Section 1902(n)(3)(B) of the Social Security Act, as modified by section 4714 of the Balanced Budget Act of 1997, prohibits Medicare providers from balance-billing QMBs for Medicare cost-sharing. All Medicare physicians, providers, and suppliers who offer services and supplies to QMBs are prohibited from billing QMBs for Medicare cost-sharing, including deductible, coinsurance, and copayments."

A Medicare Learning Network (MLN) [fact sheet](#) issued to providers in March 2014 expands on it by explaining that "QMBs have no legal obligation to make further payment to a provider or Medicare managed care plan for Part A or Part B cost sharing. Providers who inappropriately bill QMBs for Medicare cost-sharing are subject to sanctions." A more recent MLN [booklet](#) for providers, *Dual Eligible Beneficiaries in the Medicare and Medicaid Programs*, reiterates this point and provides an overview of the various Medicaid programs for duals. It is worth noting that CMS requires providers in Original Medicare to submit claims to Medicare on a beneficiary's behalf. A provider can't bill the patient for a service if he or she fails to submit a claim. The law also prevents physicians from accepting QMBs as "private pay" patients in order to bill them directly and dodge the balance billing prohibition.

The SMP Role

What can SMPs do when they encounter low-income beneficiaries who complain that they are being billed for deductibles and coinsurance charges? First, it is important to determine if the beneficiary is a QMB who is protected by the balance billing prohibition. Ask if the state Medicaid program pays the beneficiary's Part B premium and doctor coinsurance charges, or ask to see the beneficiary's Medicaid award letter to verify eligibility status. Medicaid coverage of the deductible and coinsurance charges distinguishes QMBs from the SLMBs and QIs who are not protected by QMB balance billing prohibition. Second, SMPs should inform QMBs who have erroneously paid Medicare cost-sharing amounts that the provider owes them a refund. You can help educate providers by sharing the two MLN products noted above. Finally, if providers refuse a refund and insist on pursuing collections against a QMB, it is appropriate to report the provider to the OIG Hotline via ACL. 🟡