



CMA Weekly Alert – September 22, 2005

MEDICARE ADVANTAGE: TIMELY CHOICES FOR 2006 & BEYOND

The Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003 included major reforms to the Medicare program. The drug benefit added by the MMA, which will help pay for certain prescription drugs under a new section of Medicare called Part D, seems to be getting all of the attention. Little has been said, however, about the fact that also beginning January 1, 2006, Medicare beneficiaries who want to elect to join a private health insurance plan as an alternative to traditional Medicare or who want to drop a private health plan for original Medicare will face new health plan enrollment restrictions. This is referred to as the lock-in rule.

When an individual first joins Medicare, he or she can join a Medicare Advantage (MA) plan if one is available in their area and accepting new members. A Medicare beneficiary who has original Medicare and later chooses to join a MA plan can join and leave a MA plan at anytime during 2005. That means that an individual who is dissatisfied with their private health care plan for reasons such as their doctor leaving the network, wanting coverage outside of their service area, or any other reason, can switch to another plan or disenroll from a private plan and return to original Medicare. Beginning January 1, 2006 a Medicare beneficiary will only be permitted to join or leave a MA plan at certain times during the year, thus limiting the ability of people with Medicare to make choices about how and where they get their health care.

There are 4 periods during which individuals may elect coverage under an MA plan; the Initial Coverage Election Period, the Annual Coordinated Election Period, the Open Enrollment Period, and the Special Election Period. The Initial Coverage Election Period (ICEP), the period during which a newly MA eligible individual may make their initial choice to enroll in an MA plan, begins 3 months prior to eligibility for both Part A and Part B and ends on the later of the last day of the month preceding eligibility for both Part A and Part B, or, *after May 15, 2006*, ends on the last day of the individual's Part B initial enrollment period. The Part B initial enrollment period is the 7 month period that begins 3 months before the month an individual meets the eligibility requirements for Part B, and ends 3 months after the month of eligibility.

During the Annual Coordinated Election Period (ACEP) an MA eligible individual may change his or her election from an MA plan to original Medicare or to a different MA plan, or from original Medicare to an MA plan. The ACEP occurs from November 15 through December 31 of every year. The ACEP will be extended in 2006 to begin on November 15, 2005 and continue through May 15, 2006. The Initial Enrollment Period

for Part D mirrors that of the ACEP for MA. In the first year of Medicare Part D the enrollment period begins on November 15, 2005 and ends on May 15, 2006. In future years the enrollment period for Part D will be from November 15 through December 31. The preamble to the regulations states that, notwithstanding the special election periods discussed below, it is only during the ACEP that all Medicare beneficiaries are free to elect among all available options, whether original Medicare, MA plans, MA-PD plans or PDPs. This is because permitting a beneficiary to discontinue Part D coverage at any time during the year, without a corresponding election period to enroll in such coverage, could result in a gap in coverage that may result in a late enrollment penalty.

During the Open Enrollment Period (OEP) an individual has the opportunity to make an MA election. During an OEP MA organizations are not required to open their MA plans for enrollment. However, because original Medicare is always open during an OEP, an MA organization must accept valid requests for disenrollment during the OEP. Through 2005, the OEP extends throughout the year. In other words, subject to the MA plan being open to enrollees, an MA eligible individual has unlimited opportunities to enroll in, disenroll from, and/or change enrollment in an MA plan in 2005. Beginning in 2006, an MA eligible individual may make *one* MA OEP election during the first 6 months of the year. For 2007 and future years, an MA eligible individual may make *one* MA OEP election during the first 3 months of the year. A change of election made during an OEP in 2006 and later years is limited to the same type of plan in which the individual making the election is already enrolled. For example, an individual who is enrolled in an MA-PD plan may elect another MA-PD plan or disenroll from the MA-PD by enrolling in original Medicare with coverage under a PDP. An individual who is in original Medicare and is enrolled in a PDP may elect an MA-PD. However, the individual may not elect an MA plan that does not provide qualified prescription drug coverage.

Beginning in 2006 an MA eligible individual who is institutionalized, as defined by the Centers for Medicare & Medicaid Services (CMS), can make an unlimited number of MA elections during the OEP. Subject to the MA plan being open to enrollees an MA eligible institutionalized individual may at any time elect an MA plan or change his or her election from an MA plan to original Medicare, to a different MA plan, or from original Medicare to an MA plan.

Some categories of beneficiaries are not bound by the lock-in rules and may enroll or disenroll from an MA plan in other than the ACEP or OEP. An individual may at any time, during a designated Special Election Period (SEP), discontinue the election of an MA plan offered by an MA organization and change his or her election to original Medicare or to a different MA plan. Examples of situations which may entitle an individual to an SEP include the termination or discontinuation of a plan, a change in residency out of the service area, the organization violating a provision of a contract or misrepresenting the plan's provisions, or the individual meeting other exceptional conditions as CMS may provide. CMS has also designated an SEP for individuals entitled to Medicare A and B and who receive any type of assistance from Title XIX (Medicaid), including full-benefit dual eligible individuals, as well as those eligible only for the Medicare Savings Programs. This SEP lasts from the time the individual becomes

dually eligible until such time as they no longer receive Medicaid benefits. Individuals who are eligible for an SEP under the guidance for Part D enrollment and disenrollment may use that SEP to also make an election into or out of an MA-PD plan.

The Medicare & You 2005 Handbook boasts that Medicare Advantage is more than just a new name and will offer more health care coverage choices and better health care benefits. While individuals may have more MA plan choices, they will be limited to certain times of the year for choosing a different type of coverage, and once they choose will be locked in until the next enrollment period. Implementation of the new lock-in under the MA program, the initiation of the new Part D program, and the overlap of the enrollment periods will be confusing to Medicare beneficiaries and their advocates. Because Medicare beneficiaries' opportunities to switch health plans will be limited, they must be even more certain than ever before about the choices they make.

You can obtain a list of Medicare HMOs in your area from your State Health Insurance Assistance Program (SHIP), the Medicare Hotline (1-800-633-4227), or the Medicare website (www.medicare.gov).

For more information on MA lock-in, contact Attorney Mary Ashkar (mashkar@medicareadvocacy.org) in the Center for Medicare Advocacy's Connecticut office at (860) 456-7790.

References:

42 C.F.R. §422.62 and Medicare Managed Care Manual, Chapter 2, §30.