

Access to Medigap Coverage: Challenges for Under and Over Age 65

Presentation to the NAIC Senior Issues Task Force
February 28, 2024

Speakers:

- Bonnie Burns, California Health Advocates
- Deborah Darcy, American Kidney Fund
- Silvia Yee, Disability Rights Education & Defense Fund
- Kara Nett Hinkley, ALS Association

Presentation Overview

Challenges younger Medicare beneficiaries face once they become eligible for Medicare **and** beneficiaries of all ages have faced when trying to leave an MA plan and access a Medigap plan

Overview of federal requirements: *December 2023 CMS update on adequacy guidance*

Best practices for states to expand access to Medigap, examples of what states are pursuing; and how states can assist consumers on these issues



Access to Medigap Insurance for
Medicare Beneficiaries:

Under Age 65

Access to Medigap Health Benefits

- **No federal right to a Medigap until age 65**
 - **Discrimination based on age**
 - At age 64 or younger (12% of Medicare population)
 - Disabled
 - With health conditions
 - **Example of no discrimination based on age**
 - Insured beneficiaries at age 80+
 - Protected by federal and state guaranteed issue events
 - Also likely to have existing health conditions

Medigap Access: State Variations

- **Variations range from:**
 - Same Medigap rights as age 65
 - Limited access
 - To certain Medigap plans
 - Higher premiums, some with certain limitations
 - Access through a state high risk pool
 - Some voluntary sales with health underwriting
 - In some states
 - No access until age 65 in some states
- **Nationally:**
 - Only 2% of younger beneficiaries have a Medigap

State Availability Of Medigaps

- **3 states**

- All Medigaps available to all Medicare beneficiaries
- Age and health pricing factors not permitted

- **5 states**

- Same access as age 65
 - Premiums or other limitations exist

- **3 Medigap Waiver states**

- Some Medigaps available
 - Some limitations exist

State Availability Of Medigaps

- **13 states and D.C.**
 - Have no requirements for younger than 65
 - 7 states provide access to the state high risk pool
 - 1 state issues Medigap through their high risk pool
 - Some voluntary sales with health underwriting occur
- **1 state**
 - Year round access with no health or age restrictions

What Can The NAIC Do?

- **Why are 3 states able to accept all risks?**
 - What is the Medigap experience in those states?
 - Premium costs
 - Medical/claims experience
 - Loss ratio experience
 - Comparison to other states?

- **NAIC could collect data to inform states and policymakers**
 - What is the impact of state rules on:
 1. Access to Medigap
 - Each population (age, gender, urban/rural)
 2. Medigap rates
 - All populations?
 - Over 65?
 - Younger beneficiaries only?
 3. Loss ratios
 4. State high risk pools
 5. Medicaid/duals (65+, -64)
 - Insurer data
 - Health underwriting in voluntary markets
 - Pricing data

•
Access to Medigap Insurance for
Medicare Beneficiaries:

Over Age 65 and Outside the 6 Month
Federal Consumer Protection Window

Snapshot: Medicare, Medicare Advantage, Supplemental Plans

- 2021 - 58 million people enrolled in both Medicare Part A and Part B, about half of all beneficiaries were covered under traditional Medicare (53%) and roughly half were enrolled in Medicare Advantage (MA) plans (47%)¹

Enrollment in MA is growing

- 2023 – Growth in MA Plans - 30.8 million people are enrolled in an MA plan, accounting for more than half, or 51 percent.²

Snapshot: Medicare, Medicare Advantage, Supplemental Plans (cont.)

Supplemental Plans (from 2021)

- **Traditional Medicare – 30.6 million people**
- Traditional Medicare + Medigap - 12.5M
- Traditional Medicare + employer - 9.7M
- Traditional Medicare + Medicaid - 5M
- Traditional Medicare + other coverage
- Traditional Medicare with no other coverage

Access to Medigap Health Benefits

Age 65 ½ +

- **Federal Medigap Law Protects Patients for 6 Months**
- There is a one-time, 6-month open enrollment period that begins when beneficiaries first enroll in Medicare Part B.
- During this time, there is guaranteed issued.
 - Medigap insurers cannot deny a Medigap policy to any applicant based on factors such as age, gender, health status, or pre-existing medical conditions.
- After this 6 month period, there is no federal protections. State laws decide consumer protections.³

Access to Medigap Health Benefits Age 65 ½ and Over

Outside Federal Medigap 6-Month Protections

- **States can go beyond the minimum federal standards for Medigap.**
- 4 States (CT, MA, ME, NY) require either continuous or annual guaranteed issue protections for Medigap for all beneficiaries in traditional Medicare ages 65 and older, regardless of medical history.
- 28 states require Medigap insurers to issue policies to eligible Medicare beneficiaries whose employer has changed their retiree health coverage benefits.
- In other states, people may be denied a Medigap plan when they switch from an MA plan to traditional Medicare because they have a pre-existing condition.⁴

Medicare Advantage (MA): Challenges

- Provider Directory Inaccuracy⁵
- Inadequate Provider and Facility Standards
- Prior Authorizations/Delay or Denial of Care
- 50% of beneficiaries leave their current plan within 5 years⁶
- Beneficiaries feel Stuck⁷
 - Changing MA Plans
 - No Medigap Options

Federal Guidance and Initiatives to Improve MA

- Network Adequacy Standards⁸ – New Guidance Updated December 2023
 - Dialysis Centers are still not included in MA network adequacy standards
- Prior Authorization Improvement Plan⁹ – Released January of 2024
 - Will go into affect in 2027
- U.S. Senate Finance Committee Hearings/Letters on Deceptive Marketing

Sources:

¹<https://www.kff.org/medicare/issue-brief/a-snapshot-of-sources-of-coverage-among-medicare-beneficiaries/>

²<https://www.kff.org/medicare/issue-brief/medicare-advantage-in-2023-enrollment-update-and-key-trends/>

³<https://www.kff.org/medicare/issue-brief/medigap-enrollment-and-consumer-protections-vary-across-states/>

⁴<https://www.kff.org/medicare/issue-brief/medigap-enrollment-and-consumer-protections-vary-across-states/>

⁵https://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/Downloads/Provider_Directory_Review_Industry_Report_Round_3_11-28-2018.pdf

⁶<https://jamanetwork.com/journals/jama-health-forum/fullarticle/2808747>

⁷<https://fortune.com/well/2024/01/06/older-americans-say-they-feel-trapped-in-medicare-advantage-plans/>

⁸<https://www.cms.gov/files/document/medicare-advantage-and-section-1876-cost-plan-network-adequacy-guidance12072023pendingombapproval.pdf>

⁹<https://www.cms.gov/files/document/cms-0057-f.pdf>

Contact Information:

- Bonnie Burns, California Health Advocates, bburns@cahealthadvocates.org
 - Deborah Darcy, American Kidney Fund, ddarcy@kidneyfund.org
 - Silvia Yee, Disability Rights Education & Defense Fund, syee@dredf.org
 - Kara Nett Hinkley, ALS Association, kara.hinkley@als.org
- 