

Congress Considers Bill to Address Medicare Late Penalties, Coverage Gap

Current enrollment rules can leave late enrollees liable for doc visits Medicare usually covers

by [Susan Jaffe](#) | Contributing Writer | MEDPAGETODAY | January 20, 2020

Some 10,000 Americans turn 65 every day and become eligible for Medicare, but enrollment mistakes can subject them to a lifetime of late penalties, as well as a months-long coverage gap.

Legislation that would fix these problems was one of the bills discussed at a hearing held by the House Energy & Commerce Health Subcommittee 2 weeks ago. Although the panel focused on how the bipartisan [Beneficiary Enrollment Notification and Eligibility Simplification \(BENES\) Act](#) impacts Medicare patients, it also affects their physicians.

Under the [current enrollment system](#), beneficiaries who don't sign up for Medicare's Part B outpatient coverage when they're first eligible -- and don't

qualify for an exception -- can join only in January through March. Coverage begins the following July. While they're waiting for coverage to kick in, most cannot purchase other health insurance. As a result, the rules delay Medicare coverage for thousands of people a year, according to [Congressional Budget Office estimates](#).

The logo for MEDPAGE TODAY, featuring the text "MEDPAGE TODAY" in a blue, serif font with a registered trademark symbol.

Some may mistakenly assume they can skip Part B because they have, for example, retiree coverage or a COBRA policy from a former employer or one purchased through the Affordable Care Act's marketplaces. But in many cases, once an insurer discovers that a beneficiary should have been covered under Part B, the plan can require a provider to refund payments received after the patient became Medicare eligible, said Fred Riccardi, president of the Medicare Rights Center, a consumer advocacy group.

"Then the patient could be on the hook for the services provided, and we've seen that happen," Riccardi said, after testifying before the subcommittee.

The legislation would revise these rules for the first time in 5 decades. It would require the Centers for Medicare & Medicaid Services and the Social Security Administration to notify people before their 65th birthday about their Medicare eligibility. Currently, the federal government only contacts people receiving Social Security benefits when it's time to join Medicare.

It would also move the January-through-March enrollment window to the fall, to coincide with the enrollment period for drug coverage and Medicare Advantage. And it would eliminate the July effective date.

Better-informed beneficiaries would also be able to avoid the permanent penalties applied when they delay signing up for Part B for 12 or more months after they become Medicare eligible. In 2018, about 760,000 people were paying a late penalty tacked onto their monthly Part B premium, increasing their costs an average of nearly 30%, according to the [Congressional Research Service](#).

The American Medical Association says it is concerned about access and coverage for Medicare beneficiaries who do not have Part B coverage, as is the legislation's sponsor, California Democrat Raul Ruiz, MD, who is also an emergency medicine physician. "Too often, seniors don't know when to enroll in Medicare Part B, and their late enrollment leads to higher out-of-pocket costs," Ruiz said last week. "That's why I introduced the [BENES Act](#), which would help ensure that seniors can keep seeing their doctors by eliminating gaps in coverage, strengthening the notification process for enrollment, and aligning the open enrollment timeline with other parts of Medicare."

The legislation, first introduced in 2016, is [supported by 95 disparate organizations](#), including the AFL-CIO and other unions, health insurance companies, AARP, and patient advocacy and provider groups.

Questions about Part B enrollment are the most frequent reason Medicare beneficiaries call the center's [national helpline](#), Riccardi told the committee. If they don't qualify for one of Medicare's limited financial assistance or exception criteria, the center encourages them to ask their providers to reduce or waive the bill. That's a decision physicians may be reluctant to make.

Rep. Michael Burgess, MD (R-Texas), the subcommittee's ranking member, called the bill "well-intentioned," yet he has some reservations: "We want our health system working better for individuals but we also know from the Congressional Budget Office that this bill comes at a significant cost," he said during the hearing.

"About 3% of new enrollees would receive Medicare benefits sooner than under current law," [CBO reported](#) last September. "These additional months of Medicare coverage would increase direct spending by \$375 million over the 2019-2029 period."