

How to Make Things Right with Medicare

Even if you have carefully avoided having any relationship with the Medicare program, if you haven't taken the step of officially opting out, you may encounter problems when your patients age into the Medicare program. Although you've made it a policy not to take Medicare, one day you realize that several of your patients have turned sixty-five, a couple of them several months ago, and there's a high probability that their health care is now covered by Medicare. These patients have always paid your standard fee out of pocket and have continued to do so.

The problem is: If you see a Medicare patient and haven't taken the step of formally opting out of the Medicare program, you are legally obligated to file a claim with Medicare and may not charge more than the Medicare-approved fee for the service provided.

At the point that you realize you've been seeing a Medicare beneficiary but you haven't been filing claims with Medicare, there are really two reasonable choices. First, if you know you never want to have anything to do with Medicare, you can refund the payments your patients have given you since they became Medicare enrollees, opt out of Medicare, and sign private contracts with these patients; they can then resume paying your fee as they had been.

The second option—to enroll in Medicare as a nonparticipating provider—applies if you want to continue seeing your Medicare patients and don't want to lose the entire amount they've paid you since they enrolled in Medicare. You will have to refund only the portion of your fee that was beyond the Medicare-allowed amount for the treatment you provided, and you can then file claims with Medicare for services provided as far back as two years and four months, and Medicare will reimburse the patient. There is no issue with your not having been enrolled in Medicare when the care was provided.

Enrolling in Medicare is a little easier than it used to be. If you have not yet done so, you can begin by getting a National Provider Identifier. You can apply for an NPI online at <https://nppes.cms.hhs.gov/NPPES/Welcome.do>. Then obtain and complete the Medicare enrollment form, CMS-855I. It can be downloaded from www.cms.hhs.gov/cmsforms/downloads/cms855i.pdf or requested by phone at (800) 465-3203.

Finally, since Medicare reimburses physicians only by electronic transfer, you also must complete CMS-588, posted at www.cms.hhs.gov/cmsforms/downloads/CMS588.pdf.

If you don't want to opt out of Medicare or enroll in Medicare so you can file claims, you must refund your patients' payments and tell them that you can no longer see them because you cannot provide services to Medicare beneficiaries. Also, you have an ethical obligation to help your patients find another therapist before terminating the relationship.

If you make it a practice not to see Medicare patients in your private practice but you do see them in clinic work, even though the clinic does the billing for your services, you are enrolled in Medicare. Thus, you must file claims for the services provided to any patients you saw in your practice since they became Medicare beneficiaries and refund the portion of their payments beyond the Medicare approved amount. You don't have to see any Medicare patients in your private practice even though you see them in other settings, but if you inadvertently do see them, you must file claims with Medicare.

If you don't do any Medicare work at any location, and hence are not enrolled in Medicare, and don't want to enroll in Medicare, you have only one option when patients age into Medicare without your having realized it if you haven't opted out: You must refund the patients' payments, accept the loss, and only continue to see these patients if you can afford to do it pro bono.

One might wonder why psychiatrists who do not want to treat Medicare patients don't just take the step of opting out of Medicare. Here's the reason: Since the opt-out period is two years, physicians who think their practice or employment situation might change might not want to take the risk of being unable to see Medicare patients during that period.

It's really not as complicated as it sounds, but the best way to avoid having any problems with Medicare patients is to be sure and check with your patients every time they come about any changes in their insurance status.

If you have questions, you can call the APA's Practice Management HelpLine at 800-343-4671 for more information.