



CALIFORNIA HEALTH ADVOCATES

## Medicare and People with End Stage Renal Disease (ESRD)

If you have end stage renal disease (ESRD) or permanent kidney failure, you may be able to get Medicare solely on the basis of having ESRD even if you are younger than 65.

This fact sheet focuses on people who are eligible for Medicare solely because they have ESRD and who are not also eligible for Medicare due to another disability or age. It reviews Medicare eligibility due to ESRD, when coverage begins and ends, how Medicare coordinates with employer or union group health plans, what options you have for supplementing Medicare and information on enrolling in a Medicare Advantage plan.

### Medicare Eligibility with ESRD

You may enroll in Medicare Part A at any age if your kidneys fail and you need regular dialysis or have a kidney transplant, and you have met one of the following conditions:

- You have worked long enough to receive benefits under Social Security, the Railroad Retirement Board, or as a Medicare-qualified government employee; or
- You are the spouse or dependent child of a person who has worked long enough to receive benefits under Social Security, the Railroad Retirement Board, or as a Medicare-qualified government employee.

**Note:** Please call Social Security at 1-800-772-1213 or visit their website ([ssa.gov](https://www.ssa.gov)) for more information about work credits needed to be eligible for Medicare based on ESRD. If you have enough work credits, you may enroll in Medicare with Social Security. If you do not have enough work credits through your own or a spouse's or parent's employment, you are not eligible for Medicare Part A.

If eligible for Part A, you are also eligible for Part B and Part D. You need to enroll in both Medicare Part A and B to cover chronic dialysis methods and some kidney transplant services, including

immunosuppressive drugs. If you enroll in a Medicare Part D plan, the plan may cover your other prescribed drugs.

**Note:** If you are going to get Medicare due to ESRD, it's recommended that you obtain Part A and B at the same time. If you get Part A only, you will be restricted to enroll in Part B only during the annual General Enrollment Period." This could jeopardize your timing for a transplant or cause other problems in the future for dialysis coverage. See pages 3-4 for more information.

### When Coverage Begins

If you have ESRD and need dialysis (also known as 'hemodialysis'), your Medicare coverage starts the first day after the 3<sup>rd</sup> full month of dialysis in a clinic. For example, if you started in-center dialysis in July, Medicare would start October 1<sup>st</sup>.

Medicare coverage can start sooner if you choose to do home/self-dialysis during the 3-month waiting period. For home/self dialysis, your Medicare benefits begin on the first month of dialysis if:

- You take part in a training program through a Medicare-certified training clinic;
- Your physician certifies that you will finish home/self-dialysis training and do home dialysis or self-dialysis in a clinic.

Medicare coverage also starts sooner if you have a kidney transplant. Your Medicare benefits begin the month you are admitted to a Medicare-certified hospital for a kidney transplant, for evaluation or for health care services needed prior to your transplant if the transplant takes place that same month or within the following 2 months.

Medicare coverage can also start 2 months before your transplant if your transplant is delayed more than 2 months after you are admitted to the hospital for that transplant, or for

the evaluation and health care services needed before your transplant.

For example: Joe was admitted to the hospital on May 25th for some tests required before his kidney transplant. The transplant was scheduled for June 15<sup>th</sup>, but was delayed until September 15th. Joe's Medicare was backdated to July 1st, 2 months before the month he had his transplant.

**Note:** Medicare won't cover any services needed to prepare you for dialysis, such as surgery for a dialysis access (fistula, graft, catheter or peritoneal catheter) if those are done before Medicare starts.

## When Coverage Ends, Continues, or Resumes

If you have Medicare only because of ESRD, your Medicare coverage will **end**:

- 12 months after you stop dialysis; or
- 36 months after you have a kidney transplant and no longer need dialysis.

Your Medicare coverage will **continue** if:

- You start dialysis or you get a kidney transplant within 12 months after the month you stopped getting dialysis; or
- You start or resume dialysis or get another kidney transplant within 36 months after the month you have a kidney transplant.

Your Medicare coverage will **resume** if:

- Your ESRD Medicare ends and you resume dialysis or get another transplant for kidney failure. Your Medicare can start right away without any waiting period.

## Medicare and Union or Employer Group Health Plan (GHP) Coverage

If you have Medicare solely because of ESRD and also have health coverage through an employer or union GHP, the employer or union GHP will be your primary payer for a 30-month coordination period regardless of the number of employees or your employment status. As a secondary payer, Medicare will pay after your employer or union GHP pays from the date you

are first eligible for Medicare until the coordination period ends.

**Note:** Make sure to tell your doctor or any other person who provides your medical care if you have employer or union GHP coverage. This will ensure that your services are billed correctly.

At the end of the 30-month coordination period, or if your group health plan benefits end earlier, Medicare will pay first for all Medicare-covered services. If you still have employer or union GHP coverage after the 30-month coordination period, it will pay secondary to Medicare, and may also pay for services not covered by Medicare. Check with your plan's benefits administrator.

**Note:** Medicare only pays 80% for dialysis and other outpatient or doctor procedures. Group health plans paying secondary to Medicare will generally pay the 20% not covered by Medicare.

If you lose ESRD Medicare and re-qualify for ESRD Medicare again later while you are covered through an employer or union GHP, you will have a new 30-month coordination period. A new coordination period is applied each time you re-qualify for Medicare because of kidney failure. Medicare will pay second, assuming you are already enrolled in Medicare Parts A and B, for the 30-month coordination period while your GHP pays first.

**Note:** If you re-qualify for Medicare but don't have an employer or union GHP, Medicare will pay first right away.

If your Medicare already pays first when you develop kidney failure and you have a retiree plan that pays after Medicare, your Medicare will keep paying first and there will be no 30-month coordination of benefits period.

## Questions to Consider in Deferring Medicare Enrollment

You may delay enrolling into Medicare Part A or B or both if you have union or employer GHP coverage. One reason for delaying enrollment in Part B is to avoid paying the Part B monthly

premium. However, you need to fully understand all the benefits and risks of delaying enrollment.

Ask your GHP representative to describe how the plan works with and without Medicare. If your plan pays 100% of all charges and there is no deductible or copays, you may not need the secondary coverage Medicare provides. In other cases, adding Medicare to your group health plan may give you some additional benefits and/or pick up costs imposed by your GHP. If you have Medicare, health care providers may be limited in what they can charge you. A provider who accepts assignment accepts the Medicare-approved amount as full payment. Thus if your GHP pays at least as much as Medicare allows, a provider who accepts assignment cannot bill you for more.

Some questions to consider:

- Does your GHP have a yearly deductible, copays or coinsurance costs? If so, what are they? Medicare may help cover these expenses or limit the provider who accepts assignment from billing you for more than the Medicare-approved amount.
- Is there a yearly limit on charges for kidney treatment or the number of dialysis sessions? Some policies may have caps on services you may need.
- Does your union or employer plan have a lifetime limit? Are you nearing this limit? If your plan has limits that may keep you from getting health care services, enrolling in Medicare can help. If your GHP does not have limits and will pay all your health costs during the 30-month coordination period, you may choose to delay enrolling in both Medicare Part A and B until this period is over.
- What are your chances of getting a kidney transplant during this 30-month coordination period? You must have Part A coverage the month you have a transplant to be eligible for Part B coverage for immunosuppressive drugs. This means if you have a transplant during the 30-month coordination period and you chose not to enroll in Part A, you may never use Part B to cover immunosuppressive drugs. One

way you protect this coverage is to file for ESRD Medicare Part A retroactively to cover the month of transplant. See the section below.

## Cost of Deferring Medicare Enrollment

If you decide to defer Medicare because: 1) your union or employer group plan provides good coverage; 2) you verify you don't need Medicare to supplement that coverage; and 3) you are not likely to have a transplant during the 30-month coordination period, be aware there could be expensive consequences.

- **If you only enroll in Medicare Part A** and defer enrolling in Part B to avoid paying the Part B monthly premium during the 30-month coordination period, **you will be charged a premium penalty when you enroll in Part B if you delay enrolling 12 or more months.** The penalty is 10% of the current Part B premium for each 12-month period you had Part A but did not enroll in Part B. For example, if you enrolled in Part A and delayed Part B for 30 months, your premium would be 20% higher than your premium would have been if you had enrolled in both Medicare Part A and Part B together.

**Note:** You will pay this higher premium until you qualify for Medicare due to age or disability.

If you delay enrolling in Medicare Part B, you can enroll in Part B only during the General Enrollment Period (GEP) from January 1st to March 31st each year with your Part B taking effect July 1st of that year. If you plan to delay Part B, make sure to time your Part B enrollment so you have coverage by the time your 30-month coordination period ends.

- **If you initially delay enrolling in BOTH Parts A and B, you can sign up for both parts of Medicare before** the 30-month coordination period ends. You are not restricted to signing up only during the GEP. You will not be charged a premium penalty as long as you are covered by the GHP.

If you choose to delay enrollment, make sure you contact Social Security to enroll in Medicare Parts A and B a few months before your coordination period ends to avoid any gaps in coverage. Tell Social Security that you want your Medicare coverage to begin the first month after the coordination period ends, when Medicare will become your primary coverage. Apply early to give Social Security time to process your application.

Regardless of whether you enroll in Medicare, the 30-month coordination period starts the first month you are eligible for Medicare.

**Note: If you're eligible, you can file for ESRD Medicare Parts A and B retroactively up to 12 months.** Therefore, if you do not have Part A when you have your transplant (as mentioned above) you can sign up for Part A within 12 months of your transplant to be retroactive the month you had your transplant. You will then be eligible for immunosuppressive drug coverage any time you have Medicare Part B.

In addition, you can delay enrolling into Medicare Part D without paying a penalty if your current prescription drug coverage is "creditable." "Creditable coverage" means your drug coverage is at least as good as the standard Medicare Part D plan. For more information on Part D enrollment, see our fact sheet "Medicare Enrollment Periods."

**Note:** In some cases, enrolling in a Part D plan while you have a GHP can cause your GHP benefits to be terminated. Check with your plan administrator before you enroll in Part D to ensure that you do not put your group health plan coverage at risk.

### Coverage of immunosuppressive drugs

Medicare Part B covers immunosuppressive drugs for **36 months following a successful transplant** if Medicare Part A was in effect the month of your transplant (see the section above) and either:

- Medicare paid for the transplant; or

- Medicare did not pay for the transplant because Medicare was a secondary payer to your employer or union GHP; and
- You had your transplant in a Medicare-approved transplant facility.

Medicare coverage of immunosuppressive drugs will continue as a lifetime benefit if:

- You have Medicare because you are 65 years old or older; or
- You are entitled to Medicare because of a separate disability not related to ESRD.

### If Your Group Health Benefits End

If you delay enrolling in Medicare Parts A, B and D and your group health plan benefits end during this coordination period, you can enroll in all 3 parts of Medicare at that time. Contact Social Security as soon as possible to sign up for Medicare Parts A and B (more on enrolling in Part D below).

If you already have Part A when your group health benefits end but not Part B, you may have a gap in coverage since you can only enroll in Part B during the General Enrollment Period (GEP). Those who have Medicare due to age or disability, but not ESRD can enroll in Part B any time during their 8-month "special enrollment period" (SEP). However, if you have ESRD Medicare, you do NOT have this "special enrollment period" (SEP) to enroll in Part B if your union or employer GHP ends. You will have to wait until the next GEP to enroll in Part B (which is January 1<sup>st</sup> through March 31<sup>st</sup> of each year) and you may have to pay a premium penalty if you've been enrolled only in Part A for 12 months or more. You may have a gap between when your union or employer GHP ends and Medicare Part B begins, which could mean you have no coverage for any Part B services, like dialysis, doctors visits, or immunosuppressive drugs. This is a risk you take when you enroll in Part A and delay enrolling in Part B.

If you do not have creditable prescription drug coverage, you will need to sign up for a Medicare Part D plan. If you have creditable prescription drug coverage, you should sign up

within 63 days of when your other coverage ends. Otherwise, you will have to wait until the next Annual Election Period and you may have to pay a premium penalty of 1% per month for those months you did not have drug coverage as good as Part D.

**Note:** You may be eligible for the Part D low income subsidy (LIS), also called “Extra Help,” if you have limited income and assets. If you qualify for Part D Extra Help, you will not have to pay a Part D premium penalty.

## Supplementing Your Medicare Coverage

### Medigap Plans

Medigap plans are private insurance policies designed to cover Medicare’s gaps. They pay some or all of the costs that Original Medicare doesn’t pay, such as deductibles and coinsurance, for Medicare-covered services.

If you are younger than 65 and qualify for Medicare because you have ESRD, Federal law does not give you guaranteed access to Medigap insurance. You can still apply for a Medigap policy, but unless state regulations require companies to cover those with ESRD (which they do NOT in California), most insurance companies won’t sell you a Medigap policy if you’re younger than 65.

Once you turn 65, however, even if you have ESRD, you will have a 6-month open enrollment period to buy any Medigap policy without a health screening. In addition, all other open enrollment and guaranteed issue rights for Medigaps apply to you once you are 65, even if you still have ESRD. See our fact sheet “Your Rights to Purchase a Medigap Plan.”

### Medicare Advantage (MA) Plans

A Medicare Advantage (MA) plan is an alternative to Original fee-for-service Medicare. Medicare contracts with MA plans as part of the Medicare program and pays the plans to manage beneficiaries’ health care. See our fact sheet “Medicare Advantage: an Overview” for more information.

In general, if you have ESRD and are on dialysis, you cannot enroll in most MA plans. If you are already in an MA plan when you develop ESRD, you can keep your plan or change to another plan sold by that company. Your MA plan cannot disenroll you because you have ESRD. If you are not already in an MA plan, you may be able to enroll in an MA Special Needs Plan (SNP) or demonstration plan designed for people with ESRD if there is one in your area.

If you have ESRD and are in a MA plan, you may have a special enrollment period to change your MA plan or switch to Original Medicare. For example, if your MA Plan leaves the Medicare program, or it no longer provides coverage in your area you have a one-time special enrollment period (SEP) to join another MA plan that lasts until you select a new MA plan. If you move out of your Medicare Advantage plan’s area, you can use the special enrollment period to join an MA plan in the new area where you live or switch to Original Medicare.

**Note:** If your MA plan terminates its coverage, you can return to Original Medicare, but in California you may not be able to get a Medigap plan if you are younger than 65 and you have Medicare solely based in ESRD. If you are 65 or older, however, even if you have ESRD, you can buy a guaranteed issue Medigap policy with no waiting period.

### Note on ESRD MA Demonstration Plans:

You may have the option of joining an ESRD MA demonstration plan if one is available in your county. In 2010, California has 2 of these plans. One is a Special Needs Plan (SNP) called VillageHealth ([villagehealthca.com](http://villagehealthca.com)), operating only within certain zip codes in Riverside and San Bernadino counties. The other is a Medicare Advantage Private-Fee-for-Service (PFFS) plan called Fresenius Medical Care Health Plan ([fmchp.com](http://fmchp.com)), operating in several northern and southern counties.

Each ESRD demonstration plan covers at least all Medicare-covered services. The main difference between being in an ESRD demonstration plan and Original Medicare is these plans are designed with a disease management focus. An interdisciplinary team of a nephrologist, renal nurse, renal social worker, and pharmacist

coordinate the patient's medical and psychosocial care. You should carefully compare the services a demonstration plan offers and any out-of-pocket costs you will be responsible to pay. Each of these plans imposes different cost sharing. Medigap plans will not work with MA plans to pay your out-of-pocket costs. VillageHealth's plan offers the additional benefit of waiving the Medicare Part B deductible.

If you have ESRD, are over 18 years of age and have Medicare Parts A and B, you can enroll into an ESRD demonstration plan at any time during the year. The effective date of your coverage will be the first of the month after the month you applied. Example: if you enroll on May 15, you will be covered by the ESRD demonstration plan effective June 1.

You can only disenroll from one of these plans during certain periods. Two of those periods are the:

- Annual Election Period, and
- Annual Disenrollment Period from January 1 through February 14 starting 2011.

However, if you have both Medicare and Medi-Cal, or you have the Part D low-income subsidy (LIS), you can disenroll from one of these plans and return to Original Medicare at any time. See our fact sheets on Medi-Cal and the Part D LIS.

**Note:** ESRD demonstration plans are scheduled to end December 31, 2010. Yet, California's 2 ESRD MA demonstration plans will continue offering coverage under the regular Medicare Advantage program for 2011, if Medicare grants their request to do so.

## Other Ways of Supplementing Your Medicare Coverage

### Medi-Cal and Medicare Savings Programs (MSPs)

If you have low income and few assets, you may qualify for Medi-Cal (California's Medicaid program) or one of the Medicare Savings Programs (MSPs). These programs can help cover the costs of Medicare's premiums,

deductibles and coinsurance. You can qualify for Medi-Cal if your assets are no more than \$2,000 for an individual or \$3,000 for a couple. If your assets are higher, you may qualify for a Medicare Savings Program (MSP): \$6,600 for an individual or \$9,910 for a couple. For more information see our fact sheets on Medi-Cal and the MSPs.

### Veterans' Benefits and TRICARE

If you are a veteran, the U.S. Department of Veterans Affairs can help pay for dialysis and a transplant. To apply and for more information, call the U.S. Department of Veterans Affairs at 1-800-827-1000 or visit their website at [www4.va.gov/healtheligibility/](http://www4.va.gov/healtheligibility/). If you or your spouse is retired from the military, call the Department of Defense at 1-800-538-9552 for more information on their TRICARE for Life program. Also see our fact sheets on Veterans' benefits and TRICARE.

### California's Major Risk Medical Insurance Program (MRMIP)

MRMIP is a state-run program for Californians who are unable to obtain coverage in the individual health insurance market because of a pre-existing condition. If you have Medicare *solely* because of ESRD, you can apply for this program to supplement your Medicare. Monthly premiums for this coverage are usually high. For more information, call 1-800-289-6574.

## ESRD and Disability Benefits

If you are unable to work because of ESRD or if you have other disabilities, and you or a family member has enough work credits, you can file for Social Security Disability Insurance (SSDI). If you qualify for SSDI, you will be eligible for Medicare due to disability and your Medicare benefits start after you have received SSDI checks for 24 months. As long as Social Security determines that you continue to have a disability, the Medicare benefits you receive due to disability will continue, even if you have a successful transplant and lose Medicare based solely on your ESRD eligibility.

If, after receiving disability benefits, you'd like to try working again, there are ways to keep your cash benefits and Medicare while testing your ability to work. See the Social Security website for more info: [ssa.gov/pubs/10029.html#part11](https://ssa.gov/pubs/10029.html#part11).

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The Health Insurance Counseling and Advocacy Program (HICAP) provides free, objective information and counseling on Medicare and other related topics. You can call **1-800-434-0222** with your questions or to make an appointment at the HICAP office nearest you. To find the HICAP office in your area, visit [cahealthadvocates.org](https://cahealthadvocates.org).

*Staff and volunteers at the National Kidney Foundation contributed to the editing of the revised version of this fact sheet.*