



What is Medicare?

The Medicare program, funded by workers' and employers' contributions and premiums paid by participants, is the principal source of insurance coverage for most Americans over age 65 as well as for Americans receiving Social Security Disability benefits. Medicare is divided into Part A, Part B, Part C, and Part D. People who are receiving Social Security retirement benefits at age 65 automatically receive Medicare Part A. Others, including those who will not receive full Social Security retirement benefits until after age 65, must apply for Medicare through their Social Security office.

About the National Academy of Elder Law Attorneys (NAELA)

NAELA, founded in 1987, is a national association of Elder Law Attorneys devoted to the education and training of attorneys who can meet the needs of seniors and people with disabilities, and who advocate for the needs of such individuals.

While NAELA Elder Law attorneys work one-on-one with clients in their local areas, NAELA also examines and advocates on national public policy issues facing seniors in America including long-term health care; planning for retirement; estate planning and probate; guardianship and conservatorship; health care decision making; and elder abuse and neglect.

This informational brochure is provided as a public service and is not intended as legal advice. Such advice should be obtained from a qualified Elder Law attorney.

More information on NAELA and a directory of NAELA members in your area can be found at www.NAELA.org.

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www.NAELA.org • 703-942-5711



1217 Ponce de Leon Blvd, Clearwater FL 33756

(727) 586-4224

www.parrilaw.com



Medicare Part B



National Academy of
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Special Needs & Elder Law Series



What is Medicare Part B?

Medicare Part B is optional for beneficiaries, who must pay a monthly premium for coverage. If a person who is eligible for Medicare Part B does not timely apply for this coverage when initially eligible and later enrolls in Medicare Part B, they will be assessed a monthly premium that is higher than the premium assessed had they enrolled when initially eligible. The premium "penalty" for late enrollment is a permanent increase in the monthly premium of an additional 10 percent per year for any 12-month period during which a person was eligible for, but did not enroll in Medicare Part B. There are situations in which even if a person is eligible for Part B, they can choose to not enroll in Part B because they are covered by a spouse's health insurance, their own employer or retiree health insurance or have creditable coverage through another health insurance plan. When that coverage ends, they are then "required" to enroll in Part B to avoid the 10 percent per year premium penalty.

As of January 2007, beneficiaries with what Medicare deems "high income" (for an individual, \$80,000 per

year and higher; for a married couple, \$160,000 per year and higher) will pay a greater proportion of their Part B premium than individuals with incomes below these thresholds. Premium payments for Medicare Part B based on high income are part of a program being phased in starting in 2007, with all increases to be completely phased-in by 2009. There are four income categories for individuals and married couples and two income categories for married individuals filing separately. These income categories will change annually as the phase-in of the premium program progresses to 2009.

The Social Security Administration (SSA) will determine whether a beneficiary is "high income" by looking at income information from IRS tax returns filed for the tax year two years prior to the year that the individual is receiving the Part B coverage. If IRS income information for two years prior to the individual receiving Part B coverage is absent, then income information for the tax year three years prior to the individual's Part B benefit enrollment year will be used until the year two information is available.

Beneficiaries can submit an amended tax return for re-calculation of the premium-adjusted amount within three years after the end of the tax year for which an amended return was filed.

Information about "Major Life Changing Events" that affected a beneficiary's taxable income, resulting in a reduction in the individual's income can be submitted to the SSA to re-calculate the Part B premium that must be paid. The following are considered "Major Life Changing Events": 1) death of a spouse; 2) marriage; 3) divorce/annulment; 4) spouse or beneficiary experiencing a reduction in work hours or cessation of work; 5) decrease in income due to loss of income

producing property (so long as not due to sale or transfer of property – i.e., condemnation of property through eminent domain, Presidential/ Gubernatorial declaration of disaster area, destruction of livestock, crops by natural disaster; arson); and, 6) decrease or loss of income from insured pension plan termination, re-organization or cessation. The SSA has a form, the "Life Changing Event Form" that beneficiaries should use to inform SSA of life changing events that reduce their income.

If a Medicare beneficiary does not agree with the Notice he/she receives regarding an increase in his/her Part B premium, the beneficiary may request reconsideration by the SSA within 60 days after the beneficiary receives a Notice of Premium Increase. A new initial determination may be requested (rather than a reconsideration) if the beneficiary has more recent or different information about his/her income upon which the Part B premium should be based.

The Role of the Elder Law Attorney

The Medicare program can be confusing, and mistakes are sometimes made. Beneficiaries have rights to appeal Medicare denials. An experienced Elder Law attorney may be able to assist with such appeals. Because few lawyers are familiar with the Medicare program, it is suggested that one ask a prospective attorney about his or her experience with Medicare beneficiary rights.

