



SENIOR HEALTH NEWS



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Call The Pennsylvania Health Law Project
Help-Line to Sign Up -1-800-274-3258 or 1-866-236-6310 TTY



Marketing Problems with Medicare Plans

The Pennsylvania Health Law Project has heard complaints from consumers and national advocates about problems with marketing Medicare Part D plans, particularly Medicare Advantage plans. Consumers have complained that they were enrolled into a plan that they did not need or want to be in and ended up paying higher premiums than necessary or lost their providers or were told that the plan would cover their providers only to later find out that the plan does not cover their providers. This has left some consumers with high out-of-pocket costs. The confusion that many Medicare beneficiaries feel over the Medicare prescription drug benefit and the many plans that offer coverage makes it easier for Medicare beneficiaries to end up in a plan that they do not need.

One kind of plan that can be particularly problematic are Private Fee-For-Service plans (PFFS). These plans provide coverage in the same way that traditional Medicare does, only under a private plan. That means that consumers enrolled in a PFFS are not limited by a network as might be the case in a Medicare Advantage plan, **however**, the plan will only pay providers who accept the plan's conditions and payments. Beneficiaries can be hit with bills from their providers or could lose providers who decide not to accept the terms of the plan. In marketing PFFS plans, many agents also give beneficiaries bad information, either out of con-

fusion or through a desire to reap bigger commissions by enrolling beneficiaries into more expensive plans. For example, national advocates have said that some dual eligible beneficiaries were told that the PFFS would provide extra benefits such as dental coverage or eyeglasses, which are covered by Medicaid, or that they had to sign up with a PFFS to keep their benefits.

Many of the providers of Medicare Prescription Drug Plans and Medicare Advantage plans also have Private Fee-For-Service plans so consumers should be clear which plan they are signing up with or what they are switching to if contacted by their plan. Plans can cold call Medicare beneficiaries about signing up with plans and can make in-home visits to sign people up, though plans cannot show up at a person's home without an invitation.

In recent publicized cases where beneficiaries have been wrongly enrolled into a plan, the health plans has blamed the insurance agents who sold plans to beneficiaries. In Pennsylvania, the insurance agents are regulated by the Department of Insurance. However, the Medicare Part D plans and Medicare Advantage plans are overseen by the Centers for Medicare and Medicaid Services (CMS), the federal agency that runs Medicare. While CMS has regulations and guidance on marketing, the plans are largely left to their own oversight.

(Continued on page 2- Medicare Marketing)

Who is eligible for Waivers? Changes Underfoot?

In order to be admitted into the Aging Waiver, a consumer must be found to be "Nursing Facility Clinically Eligible" (NFCE). Who is nursing facility clinically eligible appeared to be a moving target for several months within the state agencies that oversee the Aging Waiver. When a formal tightening of the requirements for being found nursing facility clinically eligible first became publicly available at the end of March, 2007, PHLP and colleagues at CLS immediately addressed the change with the state.

Many things were concerning. First, the policy change was implemented without any new regulations or chance for consumer input. Second, the new NFCE standard is much stricter than the previous standard. Many individuals who were eligible under the previous standard may be found ineligible under the new NFCE standard. In fact, in Philadelphia, for example, numerous older adults who were in Waiver programs for many years, have recently been terminated from their waiver programs for suddenly not meeting the standard of being nursing facility clinically eligible. In many cases these consumers were over 80 years old and much sicker than when they first became eligible!

It is critically important that advocates and consumers understand that applicants for the Aging Waiver do not need to have skilled needs and do not need to have a skilled level of care in order to be served under the Aging Waiver. The state has been asked to reinstate all consumers who may have been terminated over the past year and a half due to the slow, behind the scenes tightening of the standard. Additionally, the state has been asked to immediately rescind any writings such as policy statements or handbooks that include the tightening. The state has been specifically asked to communicate statewide that despite any documents that may suggest otherwise, an applicant for Aging Waiver services does NOT have to have a skilled level of care need before she can be approved for Aging Waiver services. The state is working to develop a new articulation of what it means to be nursing facility clinically eligible that would comply with federal law and that would be more descriptive so as to better guide the public and the Area Agencies on Aging in their eligibility determinations. The state has been asked to make sure consumers have a chance to provide input on the new NFCE standard and how it is to be applied. Consumers and advocates statewide should be on the lookout for cases in their area where Waiver applications are being denied, or Waiver enrollments are being terminated, despite the need for in-home supports. Advocates and consumers are encourage to report and/or to refer such cases to PHLP so we can assist these clients and report these cases to DPW. Contact the PHLP Helpline at 1-800-274-3258/ 1-866-236-6310 TTY.

(Continued from page 1- Medicare Marketing)

Consumers who have been wrongfully enrolled into a plan can complain to CMS, though the regional office for Pennsylvania at 215-861-4140 or by emailing PartDComplaints_RO3@cms.hhs.gov. Consumers can also complain to the Pennsylvania Department of Insurance about individual agents by calling toll-free 1-877-881-6388. Consumers can also contact the Pennsylvania Health Law Project at 1-800-274-3258/ 1-866-236-6310 TTY for assistance.



Personal Care Homes in the News

Supreme Court Upholds New Personal Care Home Regulations:

As previously reported, the Personal Care Home regulations released in winter of 2005 to take effect in October 2005 were challenged by a group of personal care home providers. In 2006, the Commonwealth Court upheld the regulations and denied the providers' claims. The providers appealed to the Pennsylvania Supreme Court. On March 26, 2007, the Pennsylvania Supreme Court upheld last year's decision by the Commonwealth Court that found Pennsylvania's new regulations on personal care homes to be valid.

Newspapers Statewide take on Conditions in Personal Care Homes:

A four part expose in February's Philadelphia Inquirer was just one of the articles across the state to raise concerns about licensure and enforcement and the resulting conditions in the Commonwealth's Personal Care Homes. The articles prompted a joint legislative oversight hearing in April by the House Aging and Older Adult Services and the House Health and Human Services Committees. The hearing focused on conditions, the cost of provider compliance with the new regulations, and the Department's backlog of inspections that need to be conducted and on where Assisted Living licensure would fit into the mix.

In 2002, the Pennsylvania Health Law Project did extensive research and produced an important report on the state of personal care homes in Pennsylvania. To view the report, go to www.phlp.org, scroll down the "search by topic" list to "personal care homes", click there and find the link to the 2002 White Paper.

Legislative Budget and Finance Committee Report on Personal Care Home Regulations:

An April report by LBFC seeks to evaluate whether the cost estimates for implementing the personal care home regulations promulgated in 2005 were accurate. The LBFC found that several of the estimates were less than the actual costs and numbers of homes impacted by the changes. Most of the actual figures, however, while not precisely in line with the estimate, were extremely close to the estimated figures. To see the report, go to www.lbfc.legis.state.pa.us and click on reports released. Then scroll down to the reports on public welfare to find the PCH report.

Understanding Personal Care Home Rules and Residents' Rights

For more information about the rights of personal care home residents, download the manual put together by North Penn Legal Services and the Pennsylvania Health Law Project, available on our website: go to www.phlp.org, scroll down the "Search by topic" list to "Personal Care Homes", click there and find the link to the Advocate's Guide. Or, call us for a hard copy.

Assistance for Personal Care Home Residents

Remember that the Pennsylvania Health Law Project is available to assist personal care home residents throughout Pennsylvania who have any complaints or concerns about the services or conditions provided by their personal care home. For assistance, please call the PHLP helpline at 1-800-274-3258/ TTY 1-866-236-6310.

Need Help With Medicare Part D costs? Apply for the Medicare Savings Program and get Extra Help Auto- matically!

Individuals with limited income and assets can apply for the Low-Income Subsidies or “extra-help” with their Medicare Part D through the Social Security Administration. Or, they can get a whole lot more by applying for the Medicare Savings Program through the Pennsylvania Department of Public Welfare. This program will cover the Medicare Part B premium of \$93.50 per month (for 2007) and will make a person automatically eligible for the Medicare Part D Low-Income subsidy (LIS) or “Extra Help.” Many believe this is the swiftest way of getting the low-income subsidy approved and all agree that the consumer ends up with additional benefits. Please use or post the attached flyer to help spread the word.

How the Medicare Savings Program and the Low Income Subsidy Can Help You

- If you qualify for the MSP, you can save \$1122 per year on your Medicare Part B premiums, since the state pays the premium for you.
- If you qualify for the MSP, you can change your plan any time during the year.
- If you qualify for the MSP, you are automatically eligible for a full Medicare Part D low income subsidy
- If you qualify for a low-income subsidy, you will get help paying your Part D premium, your annual deductible will either be lowered or eliminated completely, your Part D co-pays will be lowered, and you will not have a coverage gap or donut hole where you have to pay 100% of your drug costs.
- If you have Medicare but you have not enrolled in Part D yet, qualifying for the low-income subsidy will give you a chance to enroll in Part D outside of normal enrollment periods and you will not have to pay a late enrollment penalty! Once you get an award letter telling you that you qualify for this help, you will qualify for a Special Election Period to enroll in Part D!

An application for the MSP can be done on-line at www.compass.state.pa.us or through the mail. Or, call the Pennsylvania Health Law Project at 1-800-274-3258/ 1-866-236-6310 TTY for an application, information, or assistance.

The income and asset guidelines for the Medicare Savings Programs are as follows:

	Income	Assets
Single Person	Up to \$1,149/ month (\$13,788/ year)	Less than \$4000
Married Couple	Up to \$1,540/ month (\$18,480/ year)	Less than \$6000

(Continued on page 6- MSP & LIS)



WOULD YOU LIKE \$93.50 EACH MONTH? OR MORE?

Did you know?

If you have **Medicare** and your monthly income is below \$851 (single) or \$1151 (married), you may qualify to get:

1. \$93.50 more each month in your Social Security Check.
2. No monthly premiums for your Medicare Drug Coverage (Part D).
3. No premiums, deductibles, or copayments for Your Medicare Healthcare (Parts A and B).
4. Additional healthcare services at little or no cost through the Pennsylvania Medicaid program.

**Call the
Pennsylvania Health Law Project's**
toll-free helpline at
(800)274-3258 or (866)236-6310 TTY
for more information and free confidential assistance on
saving money and getting better healthcare.
We can also advise you on how to use your
Medicare Drug coverage.

Visit us online at www.phlp.org!

(Continued from page 4- MSP & LIS)

It is important to know that some income is not counted when determining eligibility for a subsidy. For example, if you and/or your spouse are still working, only about half of that earned income will be counted! Also, certain assets (i.e., the house you live in, cars, and more) do not count to qualify for the LIS.

If a Medicare beneficiary doesn't qualify for the MSP, she can apply for the Low-Income Subsidy only using the LIS application available through Social Security. She can apply either through the Pennsylvania Department of Public Welfare or through the Social Security Administration. She can also apply on-line at www.ssa.gov.

There is no deadline to apply for this help! Applications are available at Social Security Administration Offices, County Assistance Offices and various other community organizations.

The 2007 LIS guidelines are as follows:

Full Subsidy

	Income	Assets
Single Person	Less than \$1,149/month (\$13,788/year)	Less than \$6,120
Married Couple	Less than \$1,540/month (\$18,480/year)	Less than \$9,190

Partial Subsidy

	Income	Assets
Single Person	\$1,149-\$1,276/mo (\$13,788-\$15,312/year)	Less than \$10,210
Married Couple	\$1,540-\$1,711/mo (\$18,480-\$20,532/yea)	Less than \$20,410

If you are already enrolled in Part D and you qualify for the LIS, you will qualify for a Special Election Period to change your Part D Plan once before the end of the year.

For more information about the LIS, see our website at www.phlp.org or contact the HELPLINE at 1-800-274-3258 or 1-866-236-6310 (TTY).

Aging Waiver or OPTIONS Program? Which can you use for supportive services in your home?

If you are over the age of 60 and need services to stay in your home, you may be eligible for help through the Pennsylvania Department of Aging Waiver program (PDA Waiver) funded by the Department of Public Welfare or the Options Program funded by the Pennsylvania Lottery. The programs, while similar, have many differences in eligibility. This chart provides a comparison:

	PDA Waiver	OPTIONS
What is the cost to the consumer?	None	Sliding scale cost sharing starts at 125% of the Federal Poverty Level (\$1064/one person, \$1426/for married couple) . For more information on cost sharing, see: http://www.aging.beta.state.pa.us/aging/lib/aging/03-01-03_OPTIONS_Cost_Sharing.pdf
What are the Income Limits for Eligibility?	300% Supplemental Security Income (SSI) Federal Benefit Rate (\$1,869/month for 2007)	None
What are the Resource Limits for Eligibility?	\$8000	None unless asking for exception to \$625/month cap on services. Then, the resource limit is \$10,000.
What Functional Need must one have for Eligibility?	Nursing Home Level of Care	None
Do the Spouse's Resources Count?	Yes	N/A
Do Spouse's Income Count?	No	Yes
Is there Estate Recovery?	Yes	No
Are there limits on Services?	Cost of Services can not exceed of 80% of aggregate Nursing Home cost	Cost cap of \$625 (if exception granted, can not exceed 80% of aggregate Nursing home cost)

(Continued on page 8- PDA waiver vs Options)

(Continued from page 7- PDA waiver vs Option)

- Personal Care Services
- Home Health Visits
- Home Health Aide
- Older Adult Daily Living Centers
- Environmental Modifications
- Personal Emergency Response System
- Companion Services
- Extended State Plan Physician Services
- Counseling Services
- Home Support Services
- Home Health Services (Occupational Therapy, Physical Therapy, Speech Therapy)
- Home Delivered Meals
- Attendant Care Services
- Specialized Medical Equipment and Supplies
- Transportation Services
- Transition Services
- Respite

If you have questions or need assistance in obtaining home and community based services, contact your local area agency on aging. If you have any problems getting into the Waiver or Options Programs or getting any services that you need once you are in the programs, contact the Pennsylvania Health Law Project at (800) 274-3258/ 1-866-236-6310 TTY.

Congress Starts to Address Problems with Medicare Part D and the Low Income Subsidy

Congress is beginning to explore reported problems with Part D and Low Income Subsidies. Hearings have been held or will soon be held before the House and Senate committees on issues from concerns about Medicare Advantage plans, Drug Pricing, Private-Fee-For-Service Plans and Marketing issues (like those raised on page 1 of this edition of Senior Health News), Low-Income Subsidy problems, and more.

Bills have been introduced to address Drug Price Negotiation, Eliminating the Delayed Enrollment Penalty, expediting admission to the Low-Income Subsidy, raising the asset level of the low-income subsidy, adding Special Election Periods for all Low-Income Subsidy Eligibles (regardless of whether they are dual eligibles) and other areas where changes have been suggested.

For more information about federal initiatives around Part D and Low-Income Medicare beneficiaries, please contact us at 1(800)274-3258 or (866)236-6310 TTY.

Medicare Part D Training: Helping Consumers Overcome Barriers

PHLP is conducting FREE trainings for advocates and providers in Southwestern PA working with Medicare consumers with physical, sensory, and/or developmental disabilities to help them overcome barriers to getting their prescription drugs through Part D.

1. First part of the training will focus on information to help overcome barriers many consumers are still facing such as enrollment, the low-income subsidy, "new dual eligible" issues, and Part B vs. Part D coverage.
2. Second part of the training will focus on the Part D appeals and grievance processes so you can help the consumers you work with navigate the appeals process and get the medications they need.

Trainings will be held at the following locations in Southwestern PA:

Waynesburg, PA-June 12, 2007 (10am-Noon)

Eva K. Bowlby Public Library
Meeting Room, Lower Level
311 N. West Street
Waynesburg, PA 15370

Beaver, PA-June 13, 2007 (10am-Noon)

Beaver Area Memorial Library
Large Meeting Room
100 College Ave
Beaver, PA 15009

Indiana, PA—June 14, 2007 (1:30-3:30)

Indiana Free Library
Conference Room
845 Philadelphia Street
Indiana, PA 15701

Monessen, PA-June 19, 2007 (10am-Noon)

Monessen Public Library & District Center
Meeting Room
326 Donner Ave
Monessen, PA 15062

Monroeville, PA-June 21, 2007 (10:00am-Noon)

Monroeville Public Library
Program Room, Lower Level
4000 Gateway Campus Blvd.
Monroeville, PA 15146

To RSVP, please call the PA Health Law Project Helpline to RSVP at 1-800-274-3258 (voice) and 1-866-236-6310 (TTY). You can also RSVP by e-mailing equay@phlp.org. Please let us know if you require any special accommodations for persons with hearing and/or vision needs.

To request a similar training in your part of the state, please call 1-800-274-3258 (voice) and 1-866-236-6310 (TTY). Training requests are approved based on staff availability and resources.

Comprehensive Guide to Medicare Part D Now Available!

Staff in PHLP's Pittsburgh Office just completed a comprehensive guide to the Medicare Part D Program entitled Medicare Part D: A Guide For Advocates and Providers Who Work With Older Adults in Southwestern Pennsylvania. This 45 page Manual provides an overview of the Medicare Prescription Drug Program and how it works. There are chapters on all aspects of Part D including:

- Medicare Basics
- Part D Plan Coverage Options
- Choosing a Plan
- Enrolling in a Plan
- Using the Part D Benefit
- Appeals and Grievances
- The Low Income Subsidy (a/k/a "Extra Help")

With this Manual providers and advocates will be able to assist their consumers who have been denied a low-income subsidy as well as assist those having problems using their Part D Plan or having problems getting the medications they need from their Part D Plan. The Guide also provides detailed information on how certain senior populations (for example, dual eligibles, those on PACE/PACENET, those in the Chronic Renal Disease Program) are specifically impacted by Medicare Part D. This Guide is now available to be read and downloaded through PHLP's website at www.phlp.org.



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