



American  
Society  
**on Aging**

June 2, 2023

**ASA Chicagoland Roundtable**

**Making Medicare Work for All**

# About the ASA Chicagoland Roundtable

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**The [American Society on Aging](https://aging.rush.edu/policy/asa-chicagoland/) Chicagoland Regional Roundtable brings together Chicago area professionals in aging every other month around important topics related to aging**

- Hosted by Rush's Center for Excellence in Aging and planned by a local planning committee
- <https://aging.rush.edu/policy/asa-chicagoland/>

**Events are hosted on the first Friday of the month from 8:30-10:30am CT during the months of February, April, June, August, October, and December**

- You can sign up for ASA's Chicagoland Regional Roundtable listserv at <https://bit.ly/3KPGdhi>

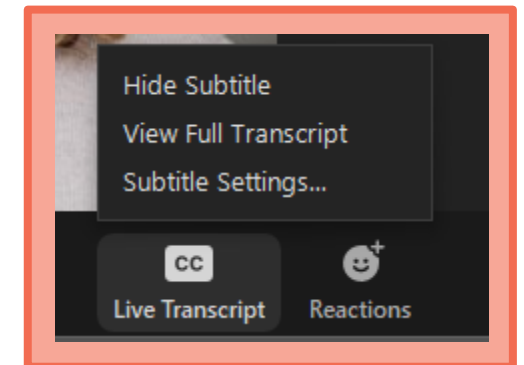
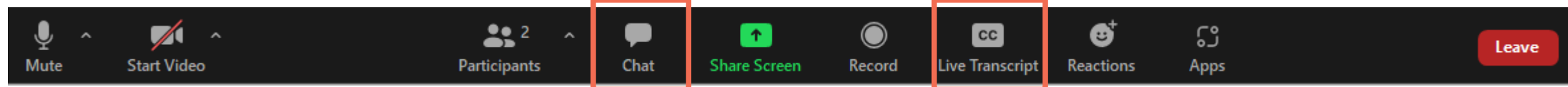
# Logistics

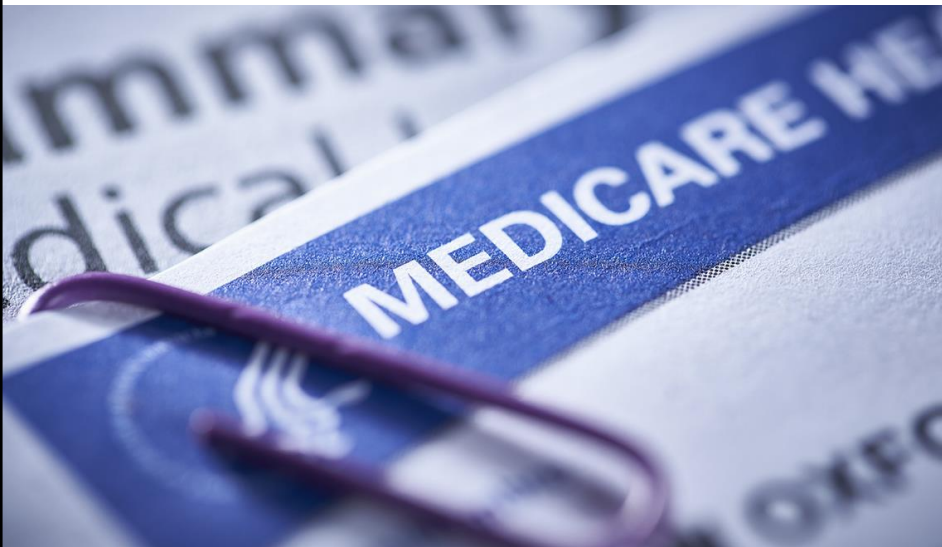
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**Submit questions or comments into the chat box**

**Slides and a recording will be shared with registrants**

**Closed captioning available by clicking on “Live Transcript”**





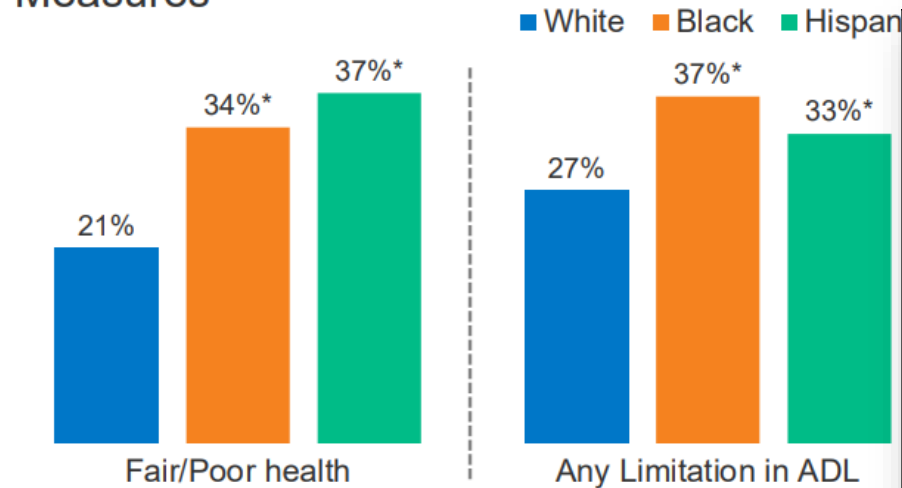
**How *doesn't* Medicare work for all now?**



# Continued inequities in outcomes and in access

Figure 11

Larger Shares of Black and Hispanic Beneficiaries Than White Beneficiaries Report Relatively Poor Health Across Selected Health Measures

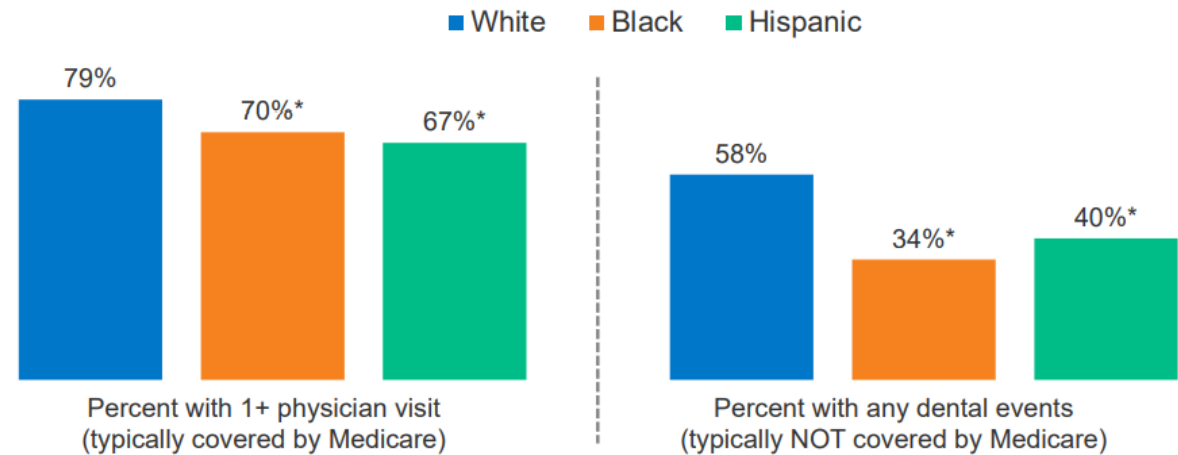


NOTE: \*denotes statistically significant difference at the 95% confidence level from Whites. Definitions of fair/poor health and activities of daily living (ADL) are detailed in KFF issue brief, "Racial and Ethnic Health Inequities and Medicare." Percentages shown and is not available for other specific groups beyond those shown due to small sample size. Persons categorized as Hispanic; other groups are non-Hispanic.

SOURCE: KFF analysis of the Centers for Medicare & Medicaid Services Medicare Current Beneficiary Survey, 2018 Cost File.

Figure 18

Among Beneficiaries in Traditional Medicare, Black and Hispanic Beneficiaries Were Less Likely Than White Beneficiaries to Report a Physician or Dental Visit in the Last Year



NOTE: \*denotes statistically significant differences at the 95% confidence level from whites. Analysis excludes beneficiaries enrolled in Medicare Advantage. Physician office visit may include an office visit with a nurse practitioner or physician assistant.

SOURCE: KFF analysis of the Centers for Medicare & Medicaid Services Medicare Current Beneficiary Survey, 2018 Cost File.



# Underutilized services

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## In 2022, CMS invited comments on potentially underutilized services and how to improve access to them

- Preventive Services;
- Annual Wellness Visits;
- Diabetes Management Training;
- Screening for Diabetes;
- Referral to appropriate education/prevention/training services
- Immunizations/vaccinations
- Cancer screenings
- Cardiac rehabilitation services
- Intensive Behavioral Therapy for obesity
- Opioid treatment programs
- Complex/Chronic Care Management
- Cognitive Assessment & Care
- Behavioral Health Integration Services

***“We believe that some high value Medicare services may be potentially underutilized by beneficiaries. In some cases, limited use of these kinds of services occurs disproportionately in underserved communities.”***

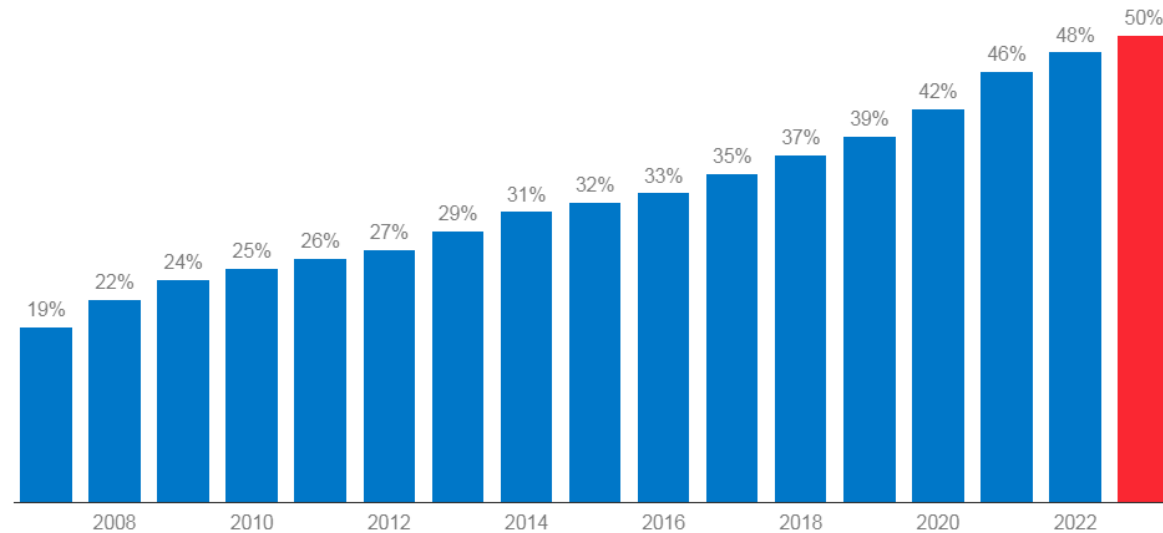


# Growing enrollment in Medicare Advantage

Figure 1

Half of All Eligible Medicare Beneficiaries Are Now Enrolled in Private Medicare Advantage Plans

Medicare Advantage Enrollment as a Share of the Medicare Part A and B Population, 2007-2023



NOTE: Includes Medicare Advantage plans: HMOs (including POS), PPOs (local and regional), PFFS, and MSAs. Excludes cost plans, PACE plans, HCPPs, and MMPs. About 59.82 million people are enrolled in Medicare Parts A and B in January 2023.

SOURCE: KFF analysis of CMS Medicare Advantage Enrollment Files, 2007-2023; Medicare Chronic Conditions (CCW) Data Warehouse from 5 percent of beneficiaries, 2007-2017; CCW data from 20 percent of beneficiaries, 2018-2020; and Medicare Enrollment Dashboard 2021-2023. • PNG

KFF

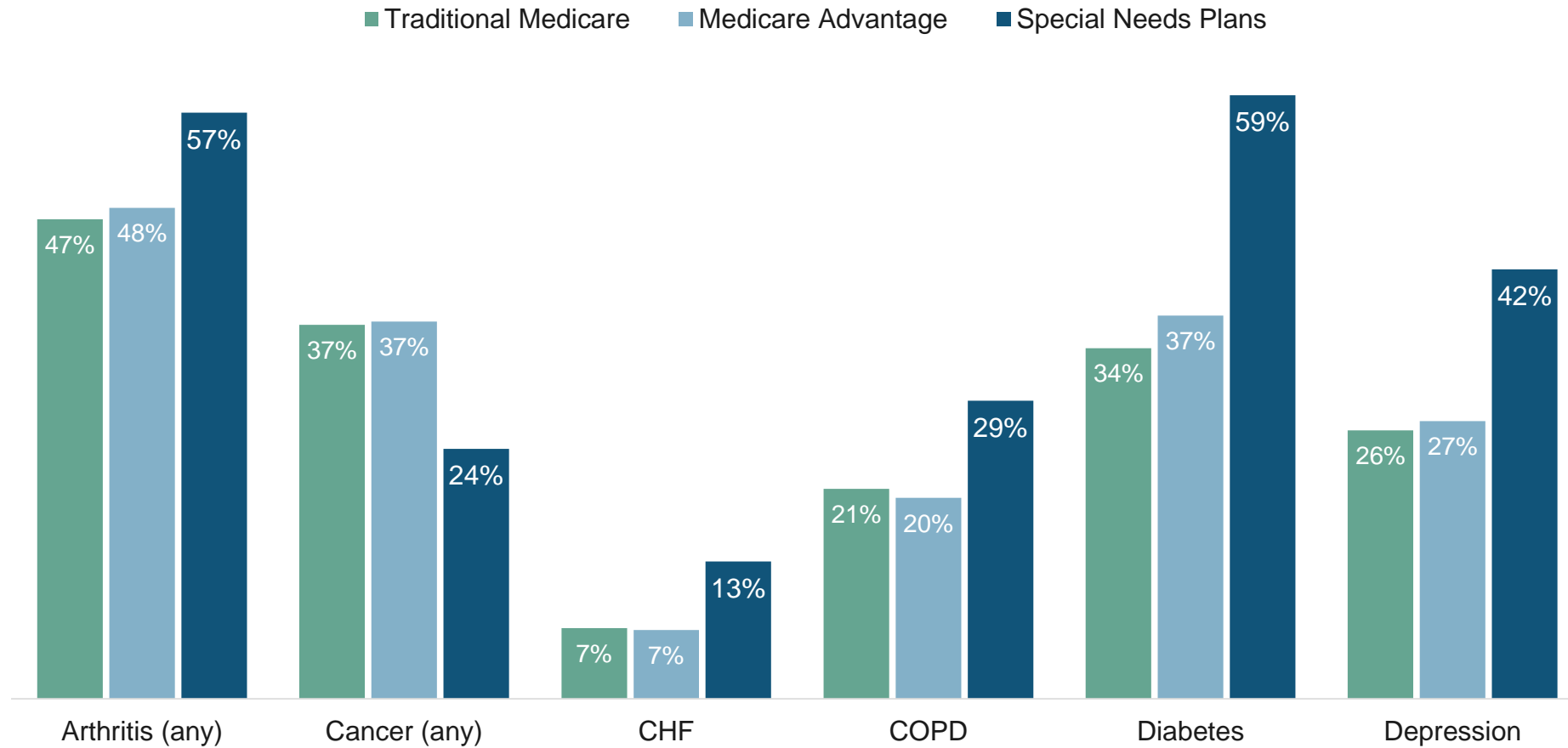
**“The growth in enrollment is due to a number of factors, including the attraction of extra benefits offered by most plans, such as vision, hearing, and dental services, and the potential for lower out-of-pocket spending, particularly compared to traditional Medicare without supplemental coverage.”**

**Medicare Advantage plans also offer the simplicity of one-stop shopping, in that enrollees do not need a separate Part D prescription drug plan or supplemental coverage.”**



EXHIBIT 4

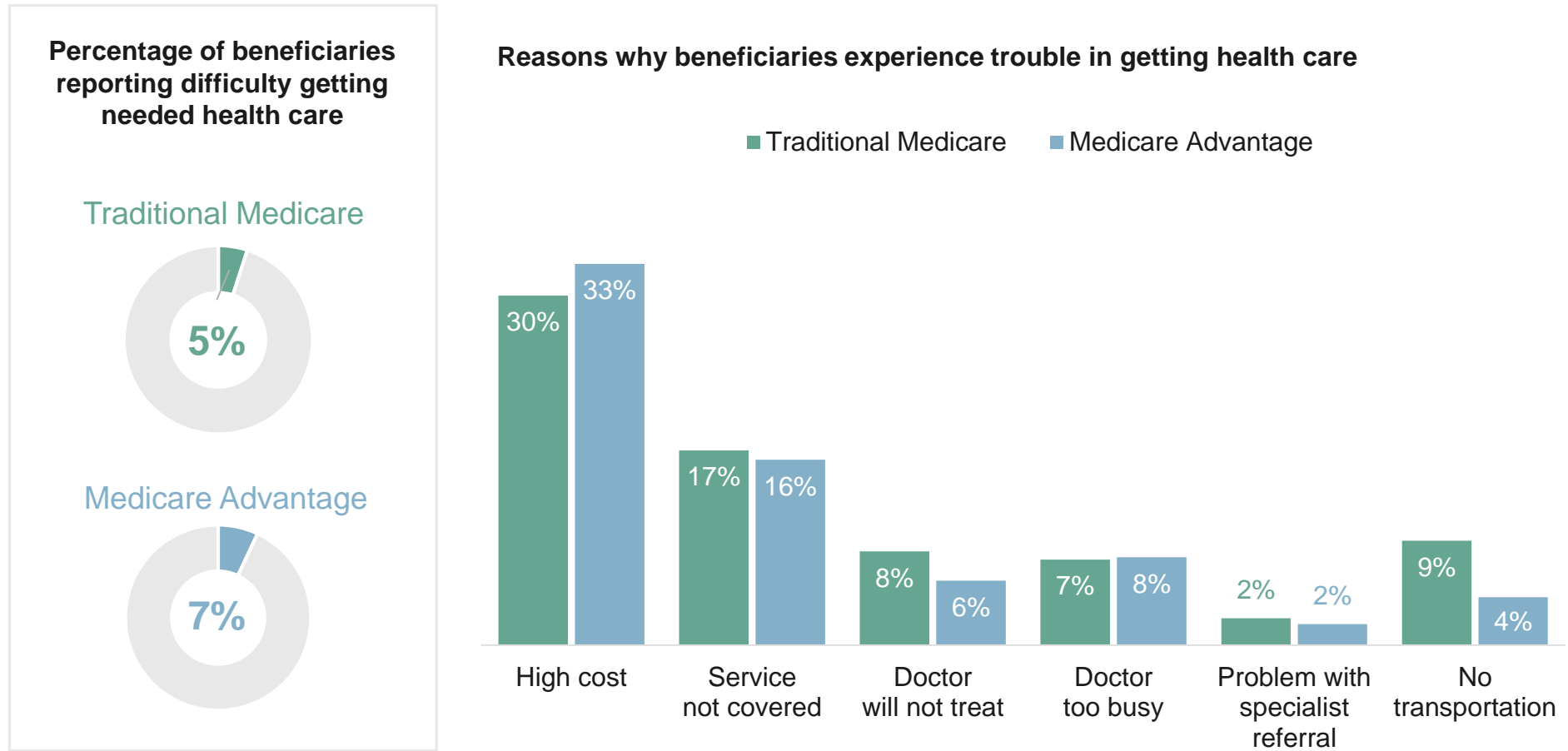
# The prevalence of many chronic conditions is similar for beneficiaries in traditional Medicare and Medicare Advantage enrollees, after separating Special Needs Plans.



Notes: Medicare Advantage plans as shown do not include Special Needs Plans (SNPs). CHF = congestive heart failure; COPD = chronic obstructive pulmonary disease, emphysema, and/or asthma. Across all listed chronic conditions, differences between SNPs and other types of Medicare coverage are significantly different,  $p < .05$ . Data represent community-dwelling beneficiaries. Beneficiaries in SNPs were determined using plan identifiers reported in the MCBS.  
Data: Analysis of the Medicare Current Beneficiary Survey, 2018.



# Among Medicare beneficiaries who report difficulty obtaining care, one-third identified high costs as the source of difficulty.



Notes: Medicare Advantage plans as shown do not include Special Needs Plans (SNPs). Data represent community-dwelling beneficiaries. Data for beneficiaries in SNPs are not reported as these data do not meet reliability thresholds. Only respondents who reported that they experienced difficulty in obtaining needed care are included in these data. None of the differences between traditional Medicare, Medicare Advantage plans, and Special Needs Plans are statistically significant.

Data: Analysis of the Medicare Current Beneficiary Survey, 2018.

# “Switching”

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## Beneficiaries can between Medicare and Medicare Advantage

### “Medicare switching behavior has changed over time”

- **Research in last decade showing that individuals with higher care needs are more likely to transfer from Medicare Advantage to traditional Medicare**
  - 2015 data: “High-need and dual-eligible enrollees have substantially higher disenrollment rates when compared with non-high-need enrollees. This finding aligns with that of the recent Government Accountability Office report on disenrollment and other recent examples from the literature that suggest that MA plans may not currently meet the preferences of high-need enrollees.”
- **2017-2020: rates of switching to MA are now higher than rates of switching to traditional Medicare**
  - People switching to Medicare Advantage make up a significant amount of growth in Medicare Advantage (67% of new MA enrollees in 2020)



# Need for better data and further research

## 2022 Kaiser Family Foundation review finds gaps in data and research on Medicare and Medicare Advantage

- Reviewed 62 studies published since 2016 on beneficiary experience, affordability, utilization, and quality in Medicare and Medicare Advantage
- Included peer-reviewed academic literature, government reports, and other sources
- Significant gaps in data and research
  - ~ Half of studies did not include data on race and ethnicity
  - Few studies included data on language proficiency
  - Few studies included data on social determinants of health
  - Few studies included data on health status
  - Just one study included people with end-stage renal disease

U.S. Department of Health and Human Services

Office of Inspector General

Data Brief

June 2022, OEI-02-21-00100



Inaccuracies in Medicare's Race and Ethnicity Data Hinder the Ability To Assess Health Disparities



# Medicare Advantage consistently delivers high margins

Figure 2

Gross Margins Per Enrollee, 2014-2021

Year	Individual Market	Group Market	Medicaid Managed Care	Medicare Advantage
2014	\$60	\$773	\$605	\$1,449
2015	-\$71	\$793	\$641	\$1,425
2016	\$192	\$815	\$591	\$1,698
2017	\$834	\$862	\$542	\$1,608
2018	\$1,515	\$912	\$626	\$1,727
2019	\$1,167	\$832	\$586	\$1,819
2020	\$1,317	\$958	\$845	\$2,257
2021	\$745	\$689	\$768	\$1,730

NOTE: Gross margins per enrollee are the amount by which total premium income exceeds total claims costs, divided by the number of enrollees. Gross margins include administrative costs, tax liability, and profits.

SOURCE: KFF analysis of data from Mark Farrah Associates Health Coverage Portal TM • Get the data • PNG



# “Tens of millions of denials are issued each year”

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## *Medicare Advantage Plans Often Deny Needed Care, Federal Report Finds*

Investigators urged increased oversight of the program, saying that insurers deny tens of thousands of authorization requests annually.

*“Federal investigators say there is troubling evidence that plans are delaying or even preventing Medicare beneficiaries from getting medically necessary care.*

*The new report from the inspector general’s office of the Health and Human Services Department looked into whether some of the services that were rejected would probably have been approved if the beneficiaries had been enrolled in traditional Medicare.*

*Tens of millions of denials are issued each year for both authorization and reimbursements, and audits of the private insurers show evidence of ‘widespread and persistent problems related to inappropriate denials of services and payment,’ the investigators found.”*



# Several MA insurers accused of fraud and overbilling

TheUpshot

*'The Cash Monster Was Insatiable':  
How Insurers Exploited Medicare for  
Billions*

## Top 10 Medicare Advantage Providers

	Accused of fraud by whistle-blower	Accused of fraud by U.S. government	Overbilled, according to Inspector General
UnitedHealth Group 27.1% of market	✓	✓	✓
Humana 17.4%	✓		✓
CVS Health 10.7%			✓
Elevance Health 6.5%		✓	✓
Kaiser Permanente 6.1%	✓	✓	
Centene 5.0%			
Blue Cross Blue Shield of Mich. 2.2%			✓
Cigna 1.9%	✓	✓	✓
Highmark 1.3%			✓
Scan Group 0.9%	✓	✓	✓

Note: The lawsuit against Scan was settled in 2012, and the lawsuit against Humana was settled in 2018. Lawsuits against other insurers are ongoing, and the insurers have disputed the claims. The government has joined the lawsuit against Cigna, but will not file detailed allegations until later this month. • Source: Market share data from Mark Farrah Associates • The New York Times



# Today's speakers

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- **Bill Bianchi**, Board member with Jane Addams Senior Caucus
- **Sergio Mojarro**, Medicare Training Specialist with Illinois Department on Aging
- **David Lipschutz**, Associate Director and Senior Policy Attorney with Center for Medicare Advocacy
- **Mary Ellen Winkelman**, Board member with Jane Addams Senior Caucus
- **Moderator: Bonnie Ewald**, Manager in the Social Work and Community Health department at RUSH University Medical Center

Medicare Advantage

**Bill Bianchi**



**Jane Addams Senior Caucus**

**THE SENIORS WHO MAKE CHANGE HAPPEN**



# Medicare Privatization

Medicare Advantage

# Changes in Medicare Enrollment

- Privatization of Medicare = Medicare Advantage plans
- Medicare Advantage enrollment doubled (2007 to 2022)
- Nearly 50% of seniors enrolled in Medicare Advantage
- From: Kaiser Family Foundation: *Medicare Advantage in 2022: Enrollment Update and Key Trends*. August 25, 2022.

# Traditional Medicare      Medicare Advantage

- Managed by the federal government
- Medicare A & B
- Premium payments for supplemental insurance

- Managed by corporations
- Replaces Medicare A & B
- No premium payments
- Marketed to the public
  - TV, mail, phone calls
- PRIORITY is PROFIT



# Disadvantages of Medicare Advantage

- **Many different plans**
- **Coverage varies by plan and geographic location**
- **Plans limit access to care with:**
  - **Limited provider networks**
  - **Referral from the primary care provider**
  - **Prior approval for diagnosis and treatment**



# State Health Insurance Assistance Programs (SHIPs)

Sergio Mojarro, SHIP Trainer  
Illinois Department on Aging (IDoA)

# What is the State Health Insurance Assistance Program (SHIP)?

SHIP is a national program available in every U.S. state and U.S. territory that offers **FREE** one-on-one assistance, counseling, and education to Medicare beneficiaries, their families, and caregivers to help them make informed decisions about their care and benefits.

# SHIPs are federally funded

The SHIP program was established by Congress and their work is funded by the U.S. Administration for Community Living at the U.S. Department of Health and Human Services.

This project was supported, in part, by grant number 90SATC0002 from the U.S. Administration for Community Living, Department of Health and Human Services, Washington, D.C. 20201. Grantees undertaking projects under government sponsorship are encouraged to express freely their findings and conclusions. Points of view or opinions do not, therefore, necessarily represent official Administration for Community Living policy.

# How can SHIP help?:

- Understanding your Medicare choices
- Knowing how to enroll
- Comparing plans
- Understanding coverage and costs
- Paying for Medicare and prescriptions
- Troubleshooting billing issues
- Submitting appeals
- Making decisions during Open Enrollment
  - October 15 – December 7 each year
- Referrals to other helpful resources
  - Assess potential **Medicare fraud** and refer to Senior Medicare Patrol for assistance





Every state administers their SHIP program slightly differently, but they are all there to help Medicare beneficiaries, their families, and/or friends.



Local assistance



Unbiased information



Confidential



Knowledgeable



In-person, over phone,  
or virtual

Since every state administers their own SHIP program, SHIP programs across the country may have slightly different names.

**Illinois: Senior Health Insurance Program (SHIP)**

We encourage everyone to refer their out-of-state friends and family members to their state's SHIP program when in need of assistance.



# SHIP

State Health Insurance  
Assistance Program

**Find your local SHIP.**

Visit [shiphelp.org](http://shiphelp.org)  
or call 877-839-2675.



 Find Local Medicare Help

- **Use the orange buttons** at [www.shiphelp.org](http://www.shiphelp.org) to find the SHIP in your state.
- **If you call**, say “medicare” when prompted to be transferred to your state SHIP.

# Illinois SHIP General Structure

Illinois SHIP  
Administrator: IDoA

Area Agencies on  
Aging (in some areas)

In Illinois we have:

\* **Over 900** active SHIP  
counselors

\* **Over 200** SHIP sites

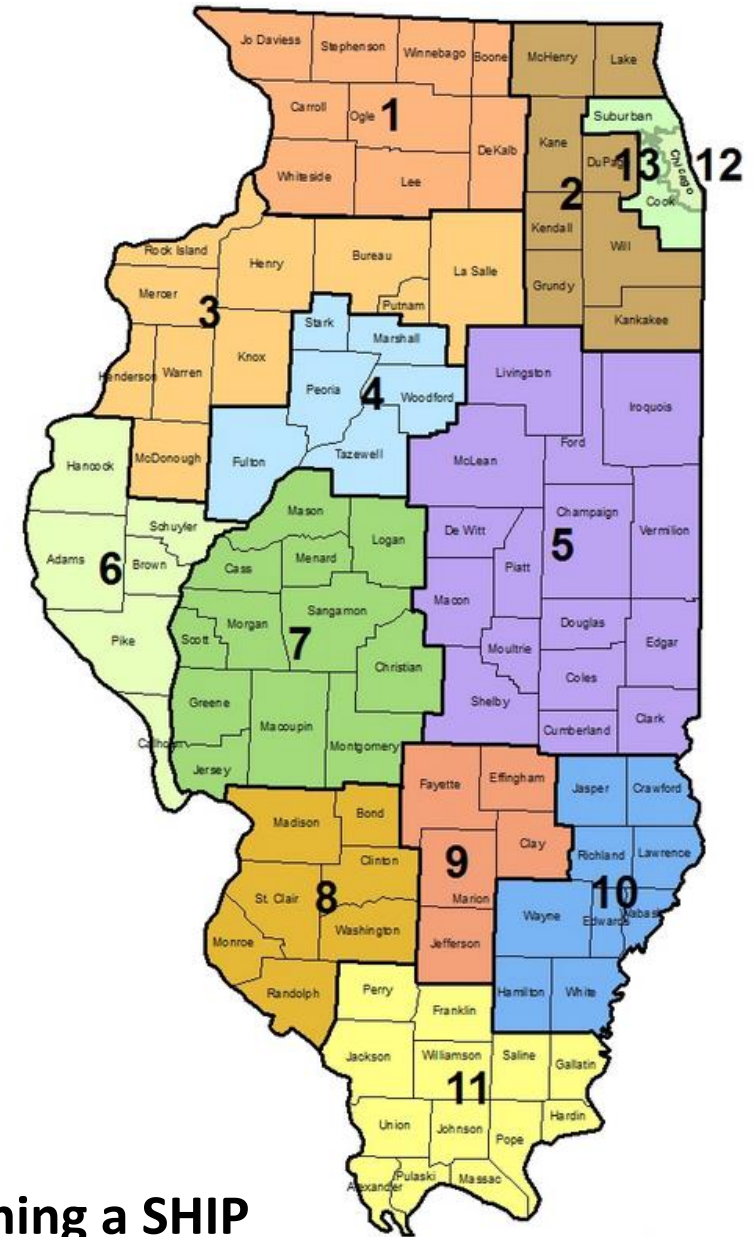
Local SHIP  
site

Local SHIP  
site

Local SHIP  
site

# About Illinois SHIP sites – A Hybrid Model

- Area Agencies on Aging
- Senior Centers
- Hospital systems
- Federally Qualified Health Centers (FQHCs)
- Non-profit Social Service agencies
- Some Care Coordination Units (oversee senior home services rendered by IDoA)
- Townships
- Counties
- Churches
- and more...



**Is your agency interested in becoming a SHIP site?** Reach out to us at [Aging.SHIP@illinois.gov](mailto:Aging.SHIP@illinois.gov)

# Illinois SHIP Counselor Certification Process

**SHIP training only happens during our “training season” between mid/late Spring through early Fall.**

- SHIP trainees must interview with a current SHIP site Coordinator to be assessed for SHIP counseling training
  - Some SHIP sites accept volunteers for SHIP counseling while others only have their staff trained
- Per federal requirement, all SHIP trainees must be background checked every three years
- Training is 4 full days in length, split between 2 weeks (2 days per week) when in-person.
  - During the pandemic we started training virtually. The training was split over 6 half-days.
- SHIP trainees must pass a SHIP Certification Exam after their training. They only become certified if they pass the SHIP Certification Exam.

Any potential new SHIP site must have at least one SHIP Counselor trained, though we highly encourage more than one—at least three would be best—due to the high demand of Certified SHIP Counselors. We encourage anyone with questions to reach out to us to inquire:

[Aging.SHIP@illinois.gov](mailto:Aging.SHIP@illinois.gov).



# SHIP: Grant Year 2021

Apr. 1, 2021 – Mar. 31, 2022

## One-On-One Contacts

- **1,781,925** individual **contacts** with Medicare beneficiaries, their families or caregivers
- **11%** with individuals **under 65** years of age receiving Medicare due to disability
- **84%** include **enrollment assistance**

## Outreach

- **2,680,276** people reached via **39,739** events\*

## Team Members

- **12,210 total** team members; **43%** are **true volunteers**, 37% are in-kind (i.e. not paid for with SHIP dollars)
- **49%** (6,032) team members have been with SHIP **more than 5 years**

# Contact Information



## SHIP, Illinois Department on Aging

- o (800) 252-8966
- o [Aging.SHIP@illinois.gov](mailto:Aging.SHIP@illinois.gov) - where you can ask a SHIP rep!
- o <https://www2.illinois.gov/aging/ship>

## Medicare

- o **1-800-MEDICARE** (1-800-633-4227) **Open 24/7!!** (except federal holidays)
- o Medicare.gov







Center for  
**Medicare Advocacy**

MedicareAdvocacy.org

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# **Access to Care Issues in Medicare**

## **ASA Chicagoland Roundtable**

**June 2, 2023**

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David Lipschutz, Associate Director/Senior Policy Attorney  
Center for Medicare Advocacy



MedicareAdvocacy.org

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The Center for Medicare Advocacy is a national, non-profit law organization founded in 1986 that works to advance access to comprehensive Medicare and quality health care. Based in Washington, DC and CT, with additional attorneys in CA and MA.

- Staffed by attorneys, advocates, communication and technical experts
- Education, legal analysis, writing, assistance, and advocacy
- Systemic change – Policy and Litigation
  - Based on our experience with the problems of real people
- Medicare coverage and appeals expertise
- Medicare/Medicaid Third Party Liability Projects

# Ongoing Access to Care Issues

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- Access to care/coverage challenges persist in various care settings, including:
  - Skilled Nursing Facilities (SNF)
  - Home Health (HH)
  - Inpatient Rehab Facility (IRF) (*not discussed today*)
- Inappropriate application of coverage rules, including *Jimmo* issues
- Medicare Advantage – access to care challenges often exacerbated

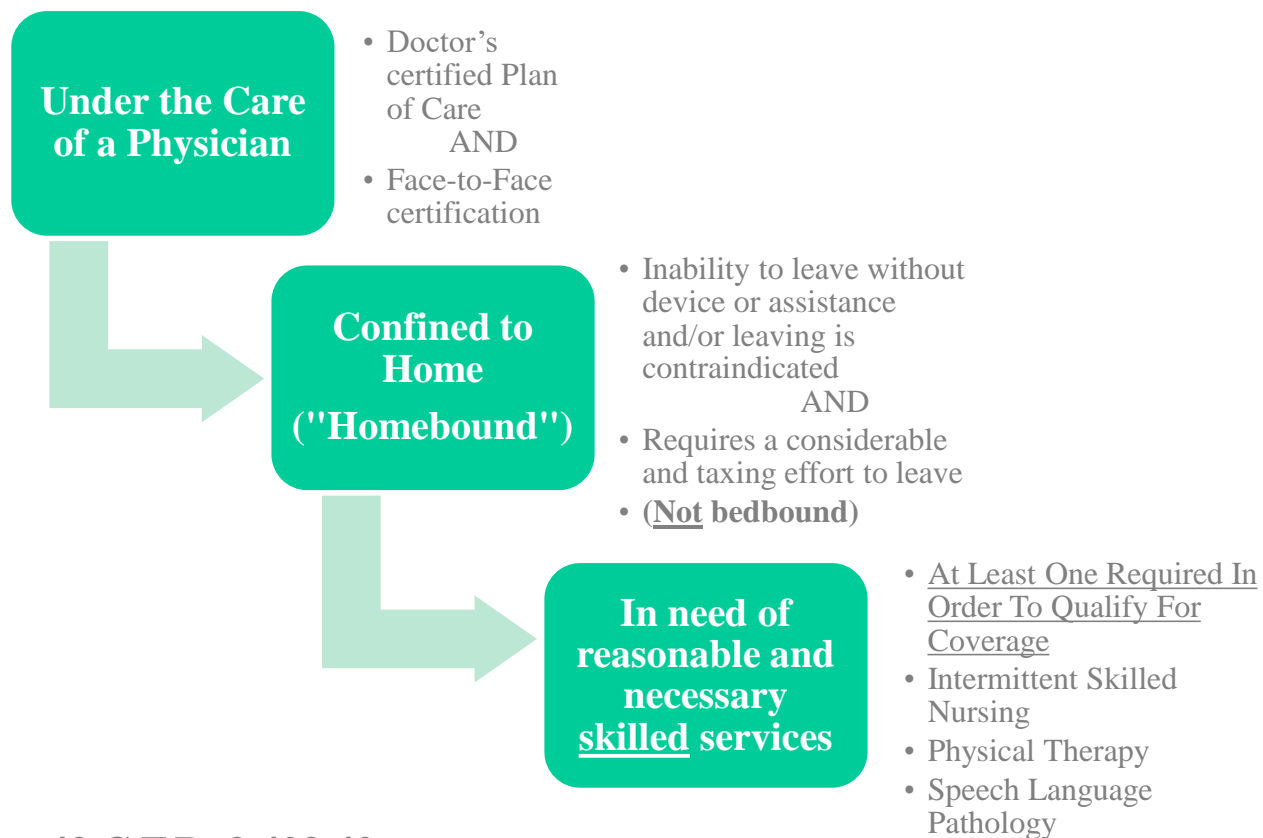
# Medicare Coverage Criteria for Skilled Nursing Facility (SNF) Care

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- With a doctor's order, a patient requires/receives daily skilled care
  - “*Daily*” is 7 days a week of skilled nursing and/or therapy OR 5 days a week of therapy.
  - “*Skilled*” is a task that can be safely and effectively performed (or supervised) only by professional or technical personnel (Nurse, PT, OT, SLP).
  - Care must be medically reasonable and necessary.
- Generally, admitted to a SNF within 30 days of a 3-day inpatient hospital stay (most MA plans waive)

# Medicare Home Health (HH) Coverage Criteria

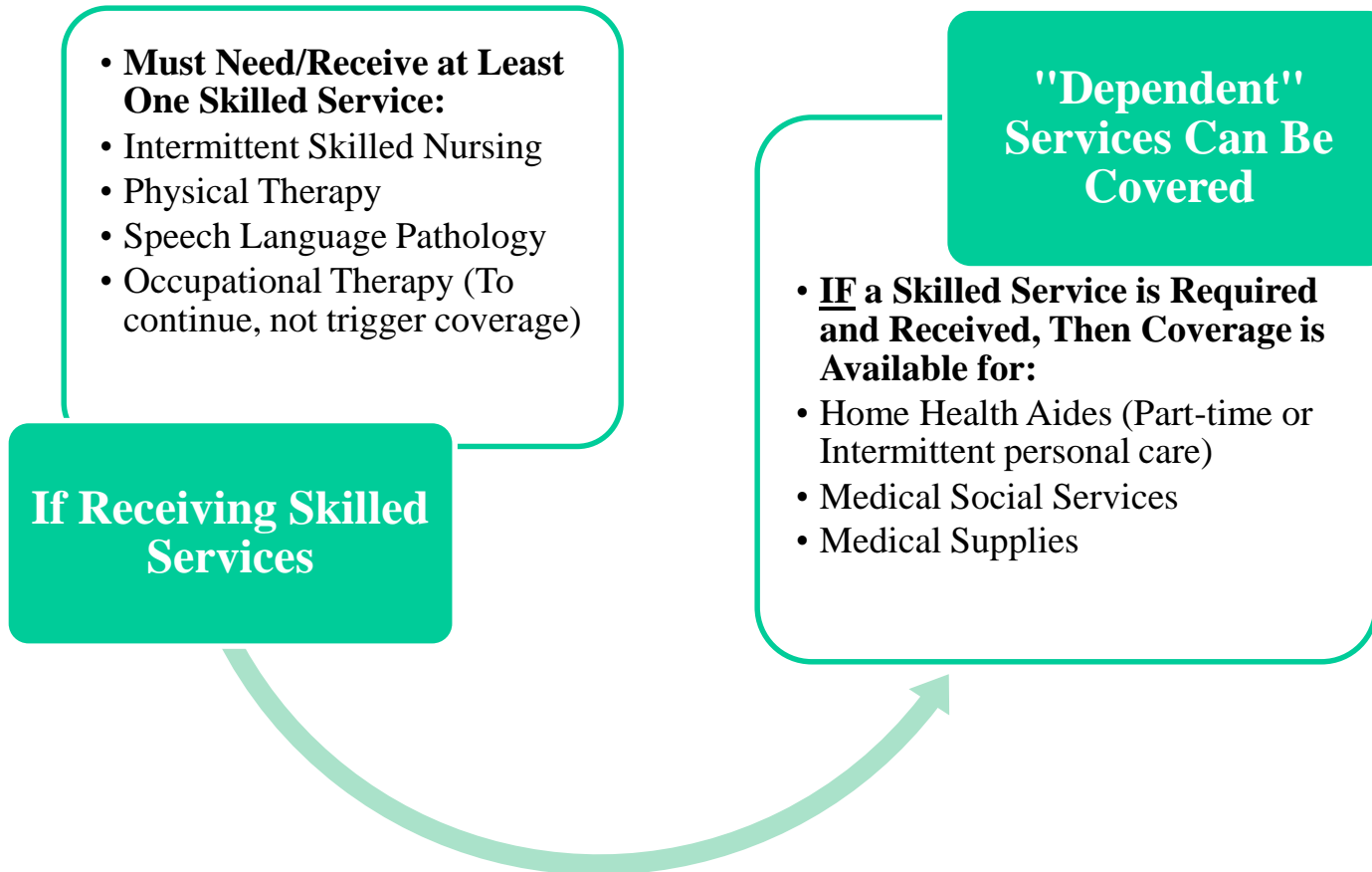
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Reference: 42 C.F.R. § 409.40 et seq

# Medicare Home Health Covered Services

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# Home Health Coverage

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- Home Health coverage can be available for long periods if coverage criteria are met
  - Medicare home health coverage is not just a short-term, acute benefit; unlike SNF or hospital, no duration of time limit under Medicare for home health
- Medicare law authorizes up to 28 (and in some circumstances 35) hours a week of home health aide personal hands-on care and nursing services combined, as well as therapies and medical social services
  - However, the number of aide visits per 60-day episode of home health care has declined by 90% since 1998
- Particularly important for people with MS, Alzheimer's, Parkinson's, paralysis, other chronic conditions

# *Jimmo v. Sebelius* (D.VT. 1/24/2013)

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- 2011: Filed. Individuals and organizations. National class action
- 2013: Settlement approved by court – **Is skilled care required, NOT is individual improving? Care to maintain condition or slow decline IS covered**
  - Medicare manuals greatly edited to reflect these standards
- 2017: Corrective Action Plan – CMS required “to **affirmatively disavow**” an **improvement standard** and maintain *Important Message About Jimmo* on CMS.gov
- Medicare must make “Individualized Assessment”
- **Longstanding Regulation: Restoration potential is not the deciding factor**
  - **42 CFR §409.32(c)**
- Reiterated in various CMS transmittals 2020, 2022



# Care Settings *Jimmo* Applies To

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- Skilled nursing facility (SNF)
- Home health (HH)
- Outpatient therapy
- Inpatient rehabilitation facilities (IRFs)
  - (To a lesser extent)

# What *Jimmo* Settlement Means: No Denials Based on Improvement Standard

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- Coverage turns on whether skilled care is required
- Medicare coverage is improperly denied for skilled nursing or rehabilitation services when the denial is based on:
  - Individual's stable or chronic condition
  - No expectation of improvement in a reasonable period of time
- Services can be skilled and covered even when:
  - Individual has “plateaued”
  - Services are “maintenance only”
- Rules of thumb should not be used

# *Important Message About the Jimmo Settlement (CMS.gov, 12/12/2017)*

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“The *Jimmo* Settlement Agreement may reflect a change in practice for those...who may have erroneously believed that the Medicare program covers nursing and therapy services under these benefits only when a beneficiary is expected to improve. **The *Jimmo* Settlement is consistent with the Medicare program’s regulations** governing maintenance nursing and therapy in skilled nursing facilities, home health services and outpatient therapy (physical, occupational, and speech) and nursing and therapy in inpatient rehabilitation hospitals for beneficiaries who need the level care that such hospitals provide.”  
[Emphasis added]

Court Mandated Statement from CMS:(<https://www.cms.gov/center/special-topic/jimmo-center>; Last visited 5/15/2023)

*Jimmo = Clearly Established Law*

# Medicare Advantage (MA) Denials and Prior Authorization

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- Nearly all MA enrollees (99%) are in plans that use PA for some services - “most often required for relatively expensive services, such as Part B drugs (99%), skilled nursing facility stays (98%), and inpatient hospital stays (acute: 98%; psychiatric: 94%), and is rarely required for preventive services (6%)” (KFF, Aug. 2022)
- KFF (Feb 2023) – in 2021, 6% of all prior auth determinations were denied in full or in part
  - Just 11% of prior auth denials were appealed
  - Of those that were appealed, 82% resulted in fully or partially overturning the initial denial
- Also see HHS OIG (2018): plans overturn 75% of prior auth and payment denials, but beneficiaries and providers appeal only 1% of denials; (2022): among sample of 2019 denials, found 13% of prior auth denials met Medicare coverage rules

# Final Part C & D Rule

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- CMS recently published a final rule for 2024 re: Medicare Advantage and Part D, available in the Federal Register at 88 Fed Reg 22120 (April 12, 2023) – see [here](#)
- The rules make meaningful improvements to MA prior authorization, marketing and other changes
  - See CMA [Special Report](#) for summary (May 2023)
  - See CMS [Fact Sheet](#) (April 2023)
- In short, PA should only be used to confirm diagnoses or other criteria, to ensure item/service is medically necessary

# CMA Resources

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- <https://medicareadvocacy.org/webinars/>
  - “Pressing Beneficiary Issues and Stories” (5/25/23):  
<https://register.gotowebinar.com/recording/3107219191953446494>
- <https://medicareadvocacy.org/take-action/self-help-packets-for-medicare-appeals/>



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For further information, to receive the Center's free weekly electronic newsletter, *CMA Alert*, update emails and webinar announcements, contact:

**Communications@MedicareAdvocacy.org**

Or visit

**MedicareAdvocacy.org**

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Care over Cost  
Campaign

Mary Ellen  
Winkelman



Jane Addams Senior Caucus  
THE SENIORS WHO MAKE CHANGE HAPPEN

# Care over Cost

**Claims Denials Process**

# Care Over Cost Campaign

- **GOAL:** Overturn denials by insurance for health services
- Jane Addams Senior Caucus identifies individuals
- People's Action provides pro bono lawyers



# Process for overturning denials

**Intake**

**Referral to  
lawyers**

**Lawyers  
complete  
appeal**

# Care over Cost

**Case Study**

# Victory!!!!!!

- Denial overturned!!!
- Davita has a new wheelchair!



Davita Brooks



# Escalation!

- **Direct Action: Insurance company headquarters**





# Identifying seniors with denials

- Local Senior Centers
- Senior housing
- Case workers
- Contact Lilly Lerner at Jane Addams Senior Caucus:  
[lilly@seniorcaucus.org](mailto:lilly@seniorcaucus.org) or 708-986-1792

# Discussion

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- **Bill Bianchi**, Board member with Jane Addams Senior Caucus
- **Sergio Mojarro**, Medicare Training Specialist with Illinois Department on Aging
- **David Lipschutz**, Associate Director and Senior Policy Attorney with Center for Medicare Advocacy
- **Mary Ellen Winkelman**, Board member with Jane Addams Senior Caucus
- **Moderator: Bonnie Ewald**, Manager in the Social Work and Community Health department at RUSH University Medical Center

*Please put questions or comments into the chat!*

# Thank you!

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Please complete brief evaluation survey: <https://forms.gle/U2m1RsujGSs9jFzA6>

View recordings from recent sessions at <https://aging.rush.edu/policy/asa-chicagoland/>

**Please join us our upcoming Roundtable**

- Next session Friday 8/4/2023, 8:30-10:30am
- Registration / details will be shared in July via ASA listserv
  - *Bonnie will also share registration details in follow-up from today's event*