



## **JOINT STATEMENT**

ATTENTION: Medicare providers, Medicare Advantage plans, and debt collectors  
DATE: October 31, 2024  
SUBJECT: Protecting Qualified Medicare Beneficiaries from improper bills

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The Consumer Financial Protection Bureau (CFPB) and the Centers for Medicare & Medicaid Services (CMS) remind you of your responsibilities to protect Qualified Medicare Beneficiaries from improper bills and collection on improper bills under the Social Security Act (SSA),<sup>1</sup> the Fair Debt Collection Practices Act (FDCPA), and the Fair Credit Reporting Act (FCRA).

Certain low-income older adults and people with disabilities – known as Qualified Medicare Beneficiaries or “QMBs” – qualify to have the State Medicaid agencies cover their Medicare premiums and Medicare Part A and B cost-sharing. QMB status is essential to the health and well-being of those enrolled, promoting access to Medicare-covered services, and helping free up an individual’s limited income for food, housing, and other life necessities. The SSA forbids Medicare providers and suppliers from billing QMBs for Medicare Part A and B cost-sharing (deductibles, coinsurance, and copays). Despite federal law, some providers and suppliers continue to improperly bill QMBs.

Today, CMS is releasing new resources that re-emphasize longstanding requirements, serving to remind providers and health plans of QMB billing protections and potential consequences of violating them. These resources describe how to identify QMBs and convey the requirement that any payments for Medicare-covered services collected from QMBs must be refunded to the individuals. CMS is also emphasizing that Medicare providers or suppliers who do not follow these billing prohibitions are violating their Medicare Provider Agreement or obligations under Medicare Part C and may be subject to sanctions.

The CFPB is clarifying today how the FDCPA and FCRA apply to attempts by debt collectors to collect improper bills from QMBs. Debt collectors may be strictly liable for violating the FDCPA when they attempt to collect from QMBs improper bills that are not actually owed or are in the wrong amount. Debt collectors also may violate the FCRA when they furnish inaccurate information, including improper bills. Such reporting also may demonstrate that furnishers lack reasonable written policies and procedures regarding the accuracy and integrity of information they furnish.

We urge healthcare providers, medical billers, and debt collectors to examine their practices to ensure that they comply with the SSA, FDCPA, and FCRA.

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<sup>1</sup> Sections 1902(n)(3)(B), 1902(n)(3)(C), 1905(p)(3), 1866(a)(1)(A), and 1848(g)(3)(A) of the [Social Security Act](#).

## **Background**

### *Who is Covered by QMB Billing Protections?*

QMBs qualify for Medicare based on their age or disability, and they qualify to have their state cover their Medicare costs (premiums and cost sharing), because their incomes and assets meet certain thresholds. Generally, their incomes are at or near the federal poverty line, and they have limited assets. In 2023, more than 8 million individuals (more than one out of eight Medicare beneficiaries) were enrolled in the QMB program.

### *Impact of Improper QMB Billing*

CMS and CFPB continue to receive reports and complaints of Medicare providers or suppliers inappropriately billing QMBs for Medicare cost sharing and sending unpaid bills to debt collection. CMS survey data indicates that about 9 percent of QMBs report having problems paying medical bills or having unpaid medical bills. Indeed, notwithstanding their legal protections, the percentage of QMBs reporting these issues is higher than that of other Medicare beneficiaries (6 percent).<sup>2</sup> Additionally, many of the complaints that the CFPB has received about Medicare over the past several years specifically reference QMB or dual eligibility status (enrolled in both Medicare and Medicaid), and most of those also report that a healthcare provider or debt collector attempted to collect debts not owed.<sup>3</sup> QMBs who are unaware of the billing restrictions or worried about weakening their relationship with their provider may simply pay the cost-sharing amounts.

Reports and complaints show that beneficiaries struggle to get a refund from improperly collected amounts when requested.<sup>4</sup> Some may experience distress when unpaid bills are referred to collection agencies. Others may avoid or delay seeking healthcare for fear of additional billing. According to many of these complaints, these debts appear on their credit reports and could impact their access to housing, utilities, and other forms of insurance.<sup>5</sup>

Among other things, the reports and complaints suggest the need to remind Medicare providers, billing agents, and debt collectors of QMB billing prohibitions and underscore the requirement to refund any amounts improperly collected from QMBs. The reports and complaints also suggest that Medicare Advantage and Part D insurance programs may not be accurately communicating QMB status to network providers, including pharmacies.

### *Previous CMS and CFPB efforts*

In 2016, CMS implemented protocols to advise and assist QMB callers to its national helpline, 1-800 MEDICARE, and launched coordinated outreach to promote awareness of QMB billing protections among Medicare beneficiaries and providers. CFPB and CMS promoted these efforts in [joint consumer advisories](#) in 2017 and 2019. In 2018, CMS implemented key changes to address information gaps to empower providers and suppliers with information

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<sup>2</sup> CFPB analysis of CMS data from *2021 Medicare Current Beneficiary Survey, 2021 MCBS Survey File Microdata PUF*, <https://www.cms.gov/Research-Statistics-Data-and-Systems/Downloadable-Public-Use-Files/MCBS-Public-Use-File/index>.

<sup>3</sup> CFPB, *Issue Spotlight: Medical Billing and Collections Among Older Americans*, (May 2023), <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-medical-billing-and-collections-among-older-americans/>.

<sup>4</sup> See CMS, *Access to Care Issues Among Qualified Medicare Beneficiaries (QMB)*, (July 2015), [https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/Downloads/Access\\_to\\_Care\\_Issues\\_Among\\_Qualified\\_Medicare\\_Beneficiaries.pdf](https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/Downloads/Access_to_Care_Issues_Among_Qualified_Medicare_Beneficiaries.pdf).

<sup>5</sup> See, e.g., Consumer Complaint 6139032, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/6139032>; Consumer Complaint 4861686, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/4861686>; and Consumer Complaint 3504282, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3504282>.

to improve adherence to QMB billing requirements and better inform Medicare beneficiaries of their financial protections.

CMS helps individuals and their providers and suppliers understand QMB status and associated billing protections. Before providers and suppliers submit claims, they can look up individuals' QMB status in an eligibility query system. Medicare administrative contractors also offer self-service tools (interactive voice response units or secure internet portals) where providers and suppliers can look up QMB status. In addition, when Medicare claims are processed, the remittance advice notice sent to providers and suppliers notifies them when an individual is a QMB and therefore cannot be billed for cost sharing for Medicare-covered items or services. In annual instructions to Medicare Advantage plans, CMS advises of their obligation to educate network providers about and ensure compliance with QMB billing rules. To help QMBs understand their status and billing protections, regular Medicare notices<sup>6</sup> sent to them provide individualized information about QMB status and protections in addition to summarizing the items and services providers and suppliers billed to Medicare.

### ***Current Guidance***

Today, CMS is releasing:

- **A new fact sheet<sup>7</sup>** reminding healthcare providers, both Original Medicare and Medicare Advantage providers, that they may not bill QMBs, and that Medicare providers or suppliers who do not follow these billing prohibitions are violating their Medicare provider agreement or obligations under Medicare Part C and may be subject to sanctions, and that healthcare providers must refund any amounts improperly collected from QMBs, including amounts sent to collections. The fact sheet also highlights ways providers can promote compliance with the QMB billing prohibitions, including leveraging federal and state systems and other information to identify the QMB status of patients; and
- **A new Health Plan Management System memo,<sup>8</sup>** which was last updated in relevant respect in 2018. The memo explains plan responsibilities and potential compliance actions related to accurate communication of QMB status to network providers, including pharmacies, and advising them of their responsibility to repay any amounts improperly collected from QMBs, including in cases where the Medicare plan provides incorrect QMB status. The memo provides resources for providers and suppliers to identify whether individuals are QMBs.

The CFPB also emphasizes that:

- **The Fair Debt Collection Practices Act (FDCPA)** prohibits the use of “any false, deceptive, or misleading representation or means in connection with the collection of any debt.”<sup>9</sup> This may include misrepresentations about whether individuals with QMB status owe particular debts or how much they owe. Debt collectors can be held strictly liable for violations under the FDCPA, i.e., they can be held liable for incorrect representations regardless of whether they base their representations on incorrect

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<sup>6</sup> More information about these Medicare Summary Notices (MSNs) is available at: <https://www.medicare.gov/basics/forms-publications-mailings/mailings/costs-and-coverage/medicare-summary-notice>.

<sup>7</sup> The Medicare Learning Network Matters article, *Prohibition on Billing Qualified Medicare Beneficiaries*, is available at: <https://www.cms.gov/outreach-and-education/medicare-learning-network-mln/mlnmattersarticles/downloads/se1128.pdf>

<sup>8</sup> The Health Plan Management System (HPMS) is CMS's official online information system for Medicare Advantage and Part D insurance programs. All HPMS memos are posted to this CMS public website on a weekly basis: [HPMS Memos Archive -- Weekly | CMS](#).

<sup>9</sup> 15 U.S.C. § 1692e.

information provided by healthcare providers or insurance companies.<sup>10</sup> Thus, debt collectors may violate the FDCPA by falsely claiming that a consumer is liable for costs that are covered by states based on QMB status.

- **The Fair Credit Reporting Act (FCRA)** prohibits persons from furnishing inaccurate information to any consumer reporting agency after receiving notice from a consumer that the information is inaccurate.<sup>11</sup> This may include misrepresentations about whether QMBs owe particular amounts and how much individuals owe. The FCRA and its implementing regulation also require furnishers to investigate consumer disputes to verify the accuracy of the information furnished, and to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information that they furnish. Reporting that a third party owes a debt to a healthcare provider when the underlying bill is prohibited by the SSA may demonstrate that furnishers have failed to establish or implement reasonable written policies and procedures regarding the accuracy and integrity of information they furnish. And a furnisher may also violate FCRA or Regulation V if it fails to meet its dispute obligations with respect to information related to such debts.

### ***Conclusion***

The CFPB and CMS are committed to monitoring medical billing practices and debt collection activities for violations of federal law. We request that Medicare providers, billing agents, and debt collectors examine their practices to ensure compliance with the SSA, the FDCPA, and the FCRA, and remediate any harm to consumers stemming from violations. We also encourage Medicare providers and their billing agents to notify debt collectors working on their behalf, which may include debt collection law firms and companies, of their ongoing obligations under the FDCPA and the FCRA.

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<sup>10</sup> See Debt Collection Practices (Regulation F); Deceptive and Unfair Collection of Medical Debt, 89 Fed. Reg. 80715, 80718 (Oct. 4, 2024).

<sup>11</sup> 15 U.S.C. § 1681s-2(a)(1)(B). The consumer must send the notice to the address specified by the furnisher for such notices. *Id.* If the furnisher has not specified such an address, then the furnisher is subject to the FCRA’s general prohibition against “furnish[ing] any information relating to a consumer to any consumer reporting agency if the person knows or has reasonable cause to believe that the information is inaccurate.” *Id.* § 1681s-2(a)(1)(A).