

Medicare & Transgender Older Adults



WHAT TRANSGENDER PEOPLE NEED TO KNOW

Transgender older adults have unique health care needs. Here's what Medicare is doing to address them.



It has been almost ten years since the Department of Health and Human Services (HHS) changed longstanding policy and began coverage of medically necessary gender-affirming surgeries. In that time there has been significant clarification of Medicare policies for many services to transgender adults. Here are some basics.

Gender Identification

Your gender does not appear on your Medicare card. Your Medicare records, however, include a gender marker based on your Social Security record. If you have changed your gender identifier with the Social Security Administration, that change will also be reflected in your Medicare records.

Surgeries

Medicare approves coverage of medically necessary gender affirming surgeries to address gender dysphoria on a case-by-case basis. The medical necessity standard is the same whether you get your Medicare coverage through Original fee-for-service Medicare or through a Medicare Advantage plan. Although determinations are on a case-by-case basis, Medicare looks to the guidelines contained in the World Professional



Association for Transgender Health (WPATH) Standards of Care. **When supporting your request for Medicare coverage, your provider should address how your case meets WPATH standards.**

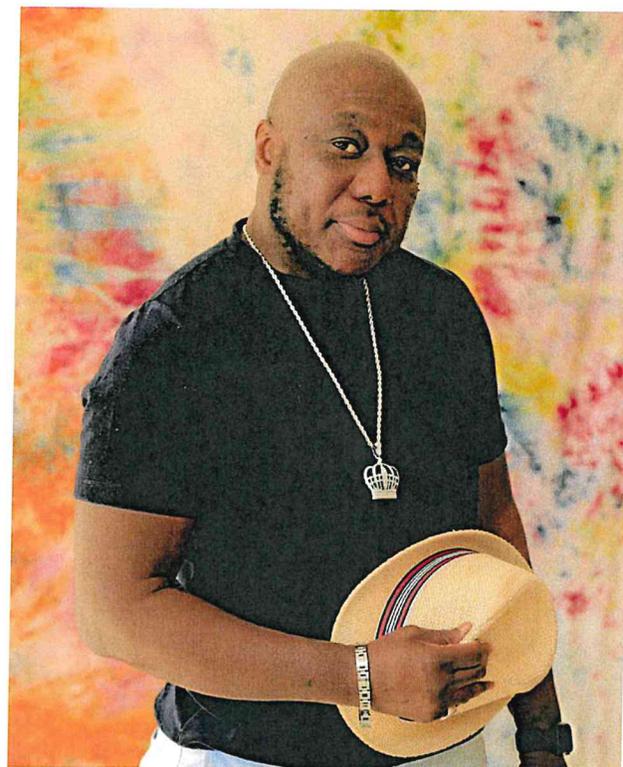
You must use doctors who take Medicare. If you are in a Medicare Advantage plan, you usually need to use doctors who are in your plan's network or get permission to go outside of the network.

Transition-Related Drugs

Medically necessary hormones to address gender dysphoria are generally covered under Medicare Part D. You usually need prior authorization before coverage will be approved.

Sex-Specific Procedures

Medicare will not deny coverage for procedures that are sex-specific just because the gender identifier in your Medicare record reflects a different gender identity. An identifier showing you as male, for example, cannot be the basis for denying coverage of a pelvic examination if it is medically appropriate for you. Medicare has created a special billing code, condition code 45, for such procedures. If your provider uses this code in connection with these procedures, it can help avoid improper denials of coverage.



POLICY WATCH

HHS recently proposed rules to strengthen protections against discrimination and expand the range of providers subject to its regulations. The proposed regulations are very specific in addressing the health needs of transgender people.

They would prohibit limits on health services based on gender assigned at birth or gender identity; denials of services for gender transitions or gender affirming care that would be provided to individuals for other purposes; and any policies or practices that would separate or treat individuals differently on the basis of sex in a way that is not consistent with the individual's gender identity.

In addition, the proposed rule clarifies that sex discrimination includes discrimination based not only on sexual orientation and gender identity, but also on the basis of sex stereotypes and sex characteristics, including intersex traits. Final rules are expected sometime in 2023.

If you are denied coverage for any surgery, procedures or drugs and believe the denial was incorrect, you can file an appeal. How to file will depend on whether you belong to a Medicare Advantage plan or are in Original Medicare. Directions on filing will be in your denial letter. **Getting the cooperation and support of your medical provider is important to a successful appeal.** It can also be helpful to consult with your local legal services program or a private attorney.

Discrimination in Health Care

Federal law protects you from discrimination based on sex—including sexual orientation and gender identity—by health entities or care providers who receive federal funds, either directly or indirectly. If you have experienced discrimination, you can file a complaint with the Office of Civil Rights at the Department of Health and Human Services (HHS), www.hhs.gov/civil-rights. If you receive Medicare through a Medicare Advantage plan, you can also file a grievance.

Choosing the Best Medicare Coverage

With the unique needs in transgender health, it is particularly important for transgender people to carefully choose among their Medicare coverage options. How you get your Medicare will determine whether you have access to the providers you need and trust. Affordability of prescription drugs also depends on your choices. Contact your local State Health Insurance Assistance Program (SHIP). SHIP provides unbiased help to Medicare beneficiaries, their families, and caregivers.

Local SHIP counselors can help you decide what coverage will best ensure access to the health care providers and the prescription medications you need, at no cost to you. The national SHIP website includes a locator for a SHIP in your area. The national SHIP website is www.shiphelp.org. You can also call 877-839-2675 or email info@shiphelp.org.

If you would like to learn how to prevent, detect, and report Medicare fraud, errors, or abuse contact your local Senior Medicare Patrol (SMP), www.smpresource.org, or call 1-877-808-2468.



MEDICAID: A COMPLICATED PICTURE

Currently over [half of state Medicaid programs](#) explicitly cover transgender care. The policies of most other states are silent, with a few explicitly banning coverage. Your state's Medicaid policies do not affect your right to any coverage under Medicare. Also, if you are enrolled in Medicaid, federal law protects you against discrimination by nursing homes, home health and other Medicaid services. You can file a complaint with the [HHS Office of Civil Rights](#) if you experience discrimination.

RESOURCES

The information in this fact sheet is current as of August 22, 2022. For more or updated information, visit:

GLBTQ Legal Advocates and Defenders
www.glad.org

Justice in Aging
www.justiceinaging.org

Lambda Legal
www.lambdalegal.org

National Center for Lesbian Rights
www.nclrights.org

National Center for Transgender Equality
www.transequality.org

National Resource Center on LGBTQ+ Aging
www.lgbtagingcenter.org

SAGE
www.sageusa.org

SAGE's Talk Before You Walk
www.sageusa.org/talkbeforeyouwalk

Transgender Law Center
www.transgenderlawcenter.org



The National Resource Center on LGBTQ+ Aging is supported, in part, by the Administration for Community Living (ACL), U.S. Department of Health and Human Services (HHS) as part of a financial assistance award totaling \$373,636.85 with 72% percentage funded by ACL/HHS and \$104,878.85 amount and 28% percentage funded by non-governmental source(s). The contents are those of the author(s) and do not necessarily represent the official views of, nor are an endorsement, by ACL/HHS, or the U.S. Government. All Rights Reserved.

Marriage, Medicare & Medicaid



WHAT SAME-SEX COUPLES NEED TO KNOW

Tips for same-sex couples who are married or thinking about marriage so you can understand how marriage affects Medicare and Medicaid rights.



Since the Supreme Court decision in *Obergefell v. Hodges* (2015) made same-sex marriage legal in every state, married same-sex couples have been able to get coverage under the same Medicare and Medicaid rules as married opposite-sex couples in all states. Where the couple lives or when or where they were married makes no difference.

MARRIAGE & MEDICARE

Qualifying for Medicare Part A coverage based on your spouse's work history.

Medicare Part A is the health benefit that covers hospital care. To qualify for free Medicare Part A, you must have 40 "quarters" of work history, roughly 10 years, based either on your own work record or your spouse's work record. If you or your spouse do not have a qualifying work history, the cost of Part A premiums can be as high as \$500 per month.

What are the rules about Medicare coverage for spouses?

- You must be a spouse in a **marriage** recognized by the jurisdiction in which it was performed. Registered domestic partnerships, civil unions and common law marriage do not
- You must have been married at least one year before you can qualify for Medicare based on your spouse's earnings record.
- If you are divorced, you can qualify, but only if your marriage lasted at least 10 years. If you start receiving the spousal benefit while



qualify you for a spousal benefit. **Medicare recognizes marriages performed in any state as well as marriages performed in other countries.**



Navigating Medicare



Preventing Medicare Fraud



married and then you divorce, the benefit will end unless your marriage lasted 10 years. This rule is the same for opposite-sex couples but it has more impact on same-sex couples who did not have the opportunity to marry earlier.

- If your spouse is alive, your spouse must be at least 62 years old. It is not necessary for your spouse to be on Medicare.
- If your spouse died, you must have been married at least nine months before your spouse's death. Your spouse's age at death does not matter.



Marriage and the Medicare Part D Low Income Subsidy (“Extra Help”)

The Medicare Part D Low Income Subsidy (LIS), which is also called “Extra Help,” helps pay for prescription drug costs for people who have low incomes. If you are not married, and don't have dependents, you are treated as a household of one, even if you live with a partner. So, your unmarried partner's income does not count for LIS. Married couples living together are treated as a two-person household and the incomes and assets of both spouses are counted. If you are getting LIS, and then you get married, your eligibility will be recalculated beginning the month that the Social Security Administration learns that you are married.

SPOUSAL BENEFITS

You may be able to qualify for spousal Social Security and related Medicare coverage if you were not able meet the nine-month marriage requirement because unconstitutional state laws prevented you from marrying or from marrying sooner.

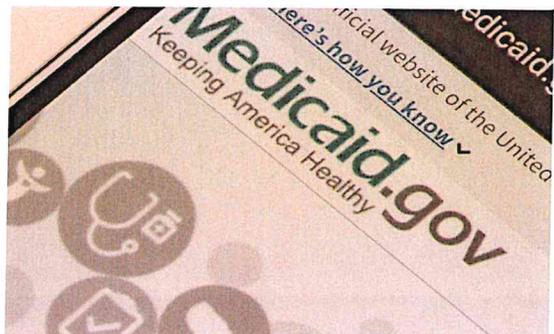
For questions related to Spousal Benefits, visit the Social Security Administration website at [Same-Sex Couples | SSA](#).

Marriage and Medicare Savings Programs

Medicare Savings Programs, administered by state Medicaid agencies, help pay for Medicare premiums and, in the case of the Qualified Medicare Beneficiary (QMB) program, can also pay for deductibles and co-insurance. Like the Low-Income Subsidy, married couples living together are treated as a two-person household while unmarried couples are not.

Marriage and Medicare Premiums

Some higher income tax filers have to pay more for Medicare Part B and Part D premiums based on income reported on IRS tax returns from two years prior. Depending upon how much income you and your spouse each have, marriage may either raise or lower the Part B and Part D premiums for you. The higher premium, known as income-related monthly adjusted amount (IRMAA) for married couples also may depend on whether you file tax returns separately or jointly. You can ask to have your premiums recalculated if a more recent marriage or divorce or the death of your spouse could lower your premium liability. If this might apply to you, seek tax advice to determine how these rules would affect your specific situation.



MARRIAGE & MEDICAID

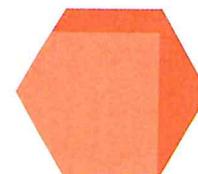
Many low-income Medicare beneficiaries rely on Medicaid for help in paying for long-term services and supports, either in the community or in a nursing home or other facility. State programs and rules vary greatly but here are some areas where marriage could make a difference for you:

Basic Eligibility: As with Medicare Savings programs, if you are married, other state Medicaid programs consider the assets and income of your spouse when determining eligibility for Medicaid programs.

Estate Recovery: State Medicaid agencies seek to recover certain Medicaid costs from the estate of beneficiaries. If you have a surviving spouse, the recovery is automatically postponed until your spouse dies. When your unmarried partner lives in the home, states often will also postpone recovery, but the protection is not automatic.

Spousal Impoverishment: When you or your spouse needs expensive long-term care, Medicaid programs allow the other spouse to keep a certain amount of the couple's income so that the spouse who is at home can continue to live in the community. Sometimes being married means that the at-home spouse can keep more to live on.

EACH COUPLE IS DIFFERENT



Joe and John

Joe, 66, and John, 60, have lived together for 25 years and are considering marriage. Joe's only source of income is a \$900/month Social Security benefit. He has \$5,000 in savings. He currently meets the income and asset limits for a single person for both the Low Income Subsidy (LIS) and his state's Qualified Medicare Beneficiary (QMB) benefit. John, who is working, earns \$2,500/month and has \$3,000 in savings. If Joe and John marry, Joe will lose both the LIS and QMB coverage because their joint income will be too high for a couple for each of those programs.

Molly and Michele

Michele, 68, has an income of \$1,000/month and assets of \$15,000. Her partner Molly, who is 62 and working, earns \$750/month and has \$4,000 in assets. Michele has Medicare, but her assets are too high for her to qualify for the Low Income Subsidy (LIS), so she does not receive the LIS benefit. If Michele and Molly marry, Michele will qualify for some LIS benefits, because their joint income and assets will be below the limits for a couple.



Couples considering marriage need to work out the numbers to know what they can lose or gain through marriage. Your local SHIP counselor can help you think about how marriage will affect your benefits. You can find your local SHIP at Home | State Health Insurance Assistance Programs (www.shiphelp.org).



Discrimination in Health Care

Federal law protects you from discrimination based on sex—including sexual orientation and gender identity—by health entities or care providers who receive federal funds, either directly or indirectly. If you have experienced discrimination, you can file a complaint with the Office of Civil Rights at the Department of Health and Human Services (HHS), www.hhs.gov/civil-rights. You can also file a grievance with your Medicare Advantage plan.

Local Help Navigating Medicare

SHIP is your local State Health Insurance Assistance Program. SHIP provides unbiased help to Medicare beneficiaries, their families, and caregivers. Whether you are new to Medicare, reviewing Medicare plan options, or have questions on how to use your Medicare, SHIP can help.

POLICY WATCH

New rules proposed by the Medicare agency would strengthen protections against discrimination and expand the range of health providers subject to its regulations. In addition, the agency clarified that sex discrimination includes discrimination not only based on sexual orientation and gender identity, but also on the basis of sex stereotypes and sex characteristics, including intersex traits. Final rules are expected sometime in 2023.

To find your SHIP, visit www.shiphelp.org or call 877-839-2675 and say “Medicare” when prompted.

If you would like to learn how to prevent, detect, and report Medicare fraud, errors, or abuse contact your local Senior Medicare Patrol (SMP), www.smpresource.org, or call 1-877-808-2468.

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National Resource Center
on LGBTQ+ Aging
www.lgbtagingcenter.org

SAGE
www.sageusa.org

SAGE’s Talk Before You Walk
www.sageusa.org/talkbeforeyouwalk

Transgender Law Center
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