The ABCs of Benefits Enrollment and Appeals

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(if you do not have a computer headset)
Housekeeping Notes

- We have muted all lines
- Please type your questions in chat
  - No need to raise your hand!
- Slides are available at: www.ncoa.org/ncboewebinars
  - Recording and post-event Q&A will also appear here
Agenda

- What is a benefit appeal?
- The role of benefits counselors in benefit appeals
- Part D Low-Income Subsidy/Extra Help: Overview, application, and appeal process
- Medicare Savings Programs: Overview, application, and appeal process
- SNAP: Overview, application, and appeal process
- Additional resources
What is a Benefit Appeal?

- Clients have a right to “due process” whenever an application for an entitlement or benefit is:
  - Denied
  - Terminated or reduced in scope
  - Remains unadjudicated, delayed, or not acted upon in reasonable promptness (45 days in most cases)

- Client has a state and federally protected right to receive:
  - Adequate written notice of administering agency’s action
  - Meaningful opportunity for a (fair) hearing to review those decisions before an impartial decision-maker
What is a Benefit Appeal? (cont.)

- Appeals are not complaints about:
  - Non-responsive eligibility workers
  - Arguments that methods for submitting applications are too difficult
  - Arguments that applications are too lengthy and complicated
The Role of a Benefits Counselor

- Prevent the need for appeal by ensuring the benefits applications are properly completed
- Help the aggrieved client understand the notice received (cited reason for action, i.e., denial or reduction in benefit)
- Explain to the client the options available so an informed next step can be made
- Recognize that the client or authorized representative “owns” the decision on how to proceed
- Know the deadlines and rules for filing an appeal and help the client comply with the requirements
The Part D Low-Income Subsidy (LIS)/Extra Help
Extra Help/LIS Eligibility Guidelines

- Helps Medicare beneficiaries with limited income and resources pay for prescription drug coverage
  - Eligible beneficiaries receive subsidized premiums, deductibles, and copayments and donut hole coverage
- Administered by Social Security Administration
- Two levels of Extra Help:
  - Full: For those with lowest income & resources
  - Partial: For those with slightly higher income & resources
  - Major difference between levels is that Partial Extra Help has a small deductible and 15% copayment at pharmacy after meeting deductible (up to annual out-of-pocket maximum)
Eligibility for Extra Help

- **Important**: CMS has released 2018 resource limits; income limits are still at 2017 level until release of Federal Poverty Guidelines.


<table>
<thead>
<tr>
<th></th>
<th>2017 Annual and Monthly Gross Income</th>
<th>2018 Resources</th>
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<tbody>
<tr>
<td>Single</td>
<td>$18,330/yr or $1,528/mo</td>
<td>$14,100</td>
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<tr>
<td></td>
<td>Alaska: $22,830/yr or $1,903/mo</td>
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<tr>
<td></td>
<td>Hawaii: $21,030/yr or $1,753/mo</td>
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<tr>
<td>Couple</td>
<td>$24,600/yr or $2,050/mo</td>
<td>$28,150</td>
</tr>
<tr>
<td></td>
<td>Alaska: $30,675/yr or $2,556/mo</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hawaii: $28,245/yr or $2,354/mo</td>
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</table>
Application and Determination Process

- Can submit application for Extra Help:
  - Online directly through the [www.socialsecurity.gov/extrahelp](http://www.socialsecurity.gov/extrahelp) or BenefitsCheckUp® at [www.benefitscheckup.org/medicare-rx-extra-help-application-intro-page](http://www.benefitscheckup.org/medicare-rx-extra-help-application-intro-page)
  - Over the phone by calling Social Security at 1-800-772-1213 (TTY 1-800-325-0778)
  - On paper at local Social Security office

- Social Security makes all eligibility determinations

- Must mail a written notice when an LIS application:
  - Awarded
  - Denied,
  - Level of LIS is changed, or
  - LIS is completely discontinued
Counseling Considerations on LIS Applications

For all applications:

- Enter client’s name and number **exactly** as they appear on the Social Security or Railroad Retirement Board card
- Check only one box per question
- If the client is single, widowed, divorced or not living with their spouse, do **not** complete question 2 (marital information), and do **not** write in any boxes anywhere on the form that ask for spousal information
- Keep a copy of the submitted application or print or save the receipt for an online application

Mail-in applications:

- Submit only original applications; copies are not acceptable
- Complete the application in black ink – all applications are first scanned by computer
Pre-Decision Notice

- A pre-decision notice is advance notification that the application for Extra Help will likely be denied
  - Notice identifies the reason for ineligibility, i.e., the client’s income is too high
  - Provides an opportunity to correct information misrepresented on the application
    - Correction must be submitted within 10 days from the date on the notice to correct the information and can be submitted by calling SSA or visiting the local SSA office listed on the form
    - A call to the national SSA hotline at 1-800-772-1213 is also an option
Denial Notice

- A denial notice is automatically generated if an applicant does not contact SSA within 20 days of being sent a pre-decision notice, or if the information an applicant provides in response to the pre-decision notice does not change SSA’s determination.

- The following notices can be appealed to SSA:
  - Notice of Denial for Extra Help OR
  - Notice of Award for partial Extra Help
Appealing an Extra Help Decision

- Request a case review or “hearing” within 60 days of receiving a Denial Notice by calling SSA or submitting SSA-1021 Extra Help appeal form
  - A benefits counselor can help complete this form
- Determine the preferred format of the reviews
  - “Hearings” are conducted by phone and allow the beneficiary to speak directly with SSA. A mailed notice confirms the hearing date and provides the toll-free number to call. This notice will also explain how to send in evidence supporting your case.
  - “Case review” allows SSA to review new and re-examine previously submitted documents.
- SSA will send a notice with the final decision on the case
  - The post hearing decision is considered final
  - Any additional appeals must be filed in Federal District Court
  - Legal assistance or other advocacy partners should be brought into the picture at this time (see Resources later)
Ongoing LIS Redeterminations or Notices

- Extra Help recipients are passively reevaluated for ongoing eligibility for the benefit, but may have to submit response to Social Security’s letters

- Your clients should look out for:
  - A notice on gray paper sent in September to people who will no longer automatically qualify for the LIS. People may still qualify, but they need to re-apply.
  - A redetermination notice with an "Income and Resources Summary" sheet. They must respond within 30 days or risk losing LIS.
  - A notice on orange paper in early October to those who continue to qualify for Extra Help but will have a change in their co-payment level

Learn more: https://www.ncoa.org/resources/medicare-part-d-extra-help-continued-assistance-redeeming-redetermination-and-reassignment/
Additional LIS Resources

- Social Security/POMS guidance on income/household eligibility:
  https://secure.ssa.gov/poms.nsf/lnx/0603020055

- Social Security/POMS guidance on resources and full/partial Extra Help:
  https://secure.ssa.gov/apps10/poms.nsf/lnx/0603001005

- SSA appeal form instructions:

- NCOA’s LIS eligibility & benefits chart:
    - Cheat sheet on counting income/assets:
      https://www.ncoa.org/resources/part-d-extra-help-cheat-sheet/
Medicare Savings Programs (MSPs)
MSPs are a Part of Medicaid

- MSPs are Medicaid-administered programs
  - Federal eligibility guidelines, but states have flexibility to be more generous/eliminate resource limits, etc.
- Help cover Medicare premiums and cost-sharing for those with Medicare who have limited incomes and resources and don’t qualify for full Medicaid
- Known by acronyms/different names in some states (QMB, SLMB, QI, QDWI, Medicare Buy-In Programs, Medicare Assistance Programs)
- Pay Part B premium ($134/month in 2018)
  - QMB pays other cost-sharing in Part B, plus Part A premium (if applicable)
## Current (Federal) Eligibility Rules

### Financial eligibility criteria*

<table>
<thead>
<tr>
<th></th>
<th>QMB</th>
<th>SLMB</th>
<th>QI</th>
<th>QDWI</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2017 Monthly Income</strong></td>
<td>Up to 100% FPL: $1,005 single/$1,353 married</td>
<td>Between 100-120% FPL: $1,206 single/$1,624 married</td>
<td>Between 121-135% FPL: $1,357 single/$1,827 married</td>
<td>Up to 200% FPL: $2,010 single/$2,707 married</td>
</tr>
<tr>
<td><strong>2018 Resource Limit</strong></td>
<td>$7,560 single/$11,340 married</td>
<td>$7,560 single/$11,340 married</td>
<td>$7,560 single/$11,340 married</td>
<td>$4,000 single/$6,000 married</td>
</tr>
<tr>
<td><strong>Type of Benefit</strong></td>
<td>Entitlement</td>
<td>Entitlement</td>
<td>Block grant to states</td>
<td>Entitlement</td>
</tr>
<tr>
<td><strong>Retroactivity</strong></td>
<td>None</td>
<td>90 days if eligible</td>
<td>90 days if eligible</td>
<td>90 days if eligible</td>
</tr>
</tbody>
</table>

* These amounts are higher in Alaska and Hawaii. Income thresholds change with release of FPL data; resource levels are already set for 2018.

**Notes:** Income limits do not include $20 standard income disregard per household. Resource limits do not include $1,500 per person burial allowance.
MSP Application and Determination Process

- Contact the local Medicaid office for exact rules on how to submit an application in your state.
- Applications typically can be submitted:
  - Online,
  - On paper (mail)
  - In person at the Medicaid office
- Client must cooperate in providing necessary information/documentation and verification within the time frames specified.
- Also must meet the interview requirements (if applicable).
- Re-determination for MSP occurs annually; enrollees must comply with requests for additional information.
Counseling Considerations for MSP Applications

- Countable income does vary by state and some states allow for higher income. All states count:
  - Social Security benefits
  - Pensions
  - Interest from bank/savings accounts
  - Wages from employment

- Income never counted includes:
  - First $20 of all income
  - First $65 of monthly wages
  - One-half of your monthly wages (after the $65 exclusion)

- The following resources are never counted, even though you may be asked to list on application:
  - Primary home and car
  - Household goods and jewelry
  - Burial spaces
  - Burial fund for up to $1,500 for applicant and spouse
  - Life insurance with cash value of less than $1,500
Prior Written Notice of Adverse Action

- Notice describes the action the state intends to take, and reason(s) for the intended action (including both the law or policy supporting the proposed action)

- Notices must explain:
  - Right to a hearing
  - Method to obtain a hearing (usually 90 days from date of mailing)
  - That the person may represent herself or be represented by legal counsel or someone else

- Notice must be provided 10 days before a proposed termination, suspension or reduction of benefits
Continuation of Benefits or Aid Paid Pending

- Beneficiaries currently receiving services or benefits have the right to request that services continue until a hearing decision is issued.
- To invoke this right, a beneficiary must request a hearing before the date of the state agency’s intended action, within the 10 day advance notice period.
- After the 10 day advance notice period expires, a beneficiary keeps the right to a hearing, but the state agency has the right to reduce or discontinue benefits while appeal is pending.
### State Agency Appeal Process

Client receives notice and requests a hearing…

<table>
<thead>
<tr>
<th>Hearings (1st Tier)</th>
<th>Fair hearing (2nd Tier)</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>• State can structure as:</td>
<td>• If local level hearing is unfavorable, client can appeal to get a fair hearing within 15 days of decision</td>
<td></td>
</tr>
<tr>
<td>o Administrative fair hearing (skip to next level)</td>
<td>o Favorable = decision is implemented</td>
<td></td>
</tr>
<tr>
<td>o Local level evidentiary hearing, with right to appeal to fair hearing if unfavorable</td>
<td>o Unfavorable = client can seek judicial review in state court as available</td>
<td>• Decision must occur within 60 days of receipt of request for hearing</td>
</tr>
<tr>
<td>o Favorable = decision is implemented</td>
<td></td>
<td>• Must be in writing and include decision and reason</td>
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</tbody>
</table>
Fair Hearing Procedural Rights

- Hearing requests can be dismissed by the state agency only if the applicant withdraws the request in writing or if the applicant fails to appear at a scheduled hearing without good cause.

- The state agency must make available any policy materials that would help the applicant determine whether to request a hearing.

- Applicant must have the opportunity to examine their case file and all records that will be used during the hearing.

- Applicants must be allowed to bring witnesses, establish all pertinent facts, present an argument without undue interference, refute testimony or evidence, and have the opportunity to confront and cross-examine adverse witnesses.
Guidance on MSP Hearings & Decisions

- All hearings must be conducted at a reasonable time, date, and place and only after adequate written notice
  - CMS directs state agencies to make special provisions for the convenience of beneficiaries, holding hearings at client’s homes for people who are homebound
  - Often conducted by phone

- State agencies must make provisions to secure an interpreter for beneficiaries with limited English proficiency

- Decisions are binding on state agencies
  - If a hearing decision is favorable to the beneficiary, the agency must promptly make corrective payments, retroactive to the date the incorrect action was taken
  - If the hearing decision is not favorable, the agency also must notify beneficiaries of their right to seek judicial review in state court
Additional MSP Resources

- Medicaid federal policy guidance: [https://www.medicaid.gov/federal-policy-Guidance/index.html#.WljoweRRV5g.link](https://www.medicaid.gov/federal-policy-Guidance/index.html#.WljoweRRV5g.link)
- State Options to Streamline Eligibility for MSP: [https://www.ncoa.org/resources/state-options-to-streamline-eligibility-for-medicare-savings-programs/](https://www.ncoa.org/resources/state-options-to-streamline-eligibility-for-medicare-savings-programs/)
Supplemental Nutrition Assistance Program (SNAP)
SNAP Administration and Eligibility

- SNAP allows people of all ages to purchase food at participating vendors
- SNAP is administered at Federal level by USDA Food and Nutrition Service (FNS)
  - State SNAP agencies apply state policies
- Seniors (aged 60+) and persons with disabilities must meet net income guidelines
  - Net income = Gross income minus all applicable deductions
    - Should be at/below 100% poverty level
  - Resources of $3500 or less
SNAP Administration and Eligibility (cont.)

- Several deductions are applied to calculate net income:
  - Earned income
  - Standard
  - Dependent care
  - Medical expenses
  - Shelter expenses

- States have flexibility in setting more generous thresholds (e.g., to 150% FPL), eliminating resource test, and determining what counts/doesn’t as income and resources
  - Find your state’s SNAP guidance at: https://www.cbpp.org/research/snap-online-a-review-of-state-government-snap-websites
SNAP Application and Determination Process

How to apply:

- 44 states have online applications
- Can print and mail paper applications (download at www.benefitscheckup.org/getSNAP) to local SNAP office

Once application is received, client will be asked to verify information and complete interview
- May be in person or over the phone

Client typically receives determination notice within 30 days
Common Issues for SNAP Appeals

- SNAP application denied
- Benefit amount is lower than estimated
- Incomplete accounting for deductions
- Benefit revoked
### How to Appeal

<table>
<thead>
<tr>
<th>Client gets notice</th>
<th>Fair hearing</th>
<th>Decision</th>
</tr>
</thead>
</table>
| • Have 90 days to appeal  
  o Can make request orally or in writing  
• If currently getting SNAP, have 10 days to launch appeal and continue to receive benefits | • Client receives fair hearing at local office  
  o Can bring a representative  
  o Can examine case file beforehand | • Decision must occur within 60 days of receipt of request for hearing  
• Must be in writing and include decision and reason |
Dealing with Delays

- If client has not heard anything on application status:
  - Call number on application
  - Speak with operator, then supervisor if necessary
  - Determine need to resubmit documents

- States are incentivized by FNS to make decisions in timely manner
SNAP Resources

- NCOA/Center on Budget & Policy Priorities webinar on troubleshooting SNAP: [www.ncoa.org/resources/webinar-snap-troubleshooting-handling-appeals/](http://www.ncoa.org/resources/webinar-snap-troubleshooting-handling-appeals/)
- Find your state’s application & hotline: [www.benefitscheckup.org/getSNAP](http://www.benefitscheckup.org/getSNAP)
General Appeal Resources

- **Social Security Act § 1902(a)(8):** State plans for medical assistance programs

- If you require legal expertise in benefits appeals:
  - Senior legal hotlines: [http://www.legalhotlines.org](http://www.legalhotlines.org)
  - Pro bono assistance through American Bar Association: [findlegalhelp.org](http://findlegalhelp.org)

- Federal agency regional offices:
  - Social Security: [https://www.ssa.gov/slge/specialists.htm](https://www.ssa.gov/slge/specialists.htm)
  - CMS: [https://www.cms.gov/About-CMS/Agency-Information/RegionalOffices/index.html](https://www.cms.gov/About-CMS/Agency-Information/RegionalOffices/index.html)
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