

## Medicare Disadvantage

During Medicare's open enrollment period, it has become virtually impossible to turn on the television without being hit by a barrage of slick, misleading advertising urging you to sign up for a Medicare "Advantage" (MA) plan. This incessant drumbeat of insurance company propaganda has had an impact: 2023 is expected to be the first year when more than half of all Medicare beneficiaries are enrolled in MA plans. Millions of Medicare beneficiaries didn't even have a choice; they were enrolled in MA plans by current or former employers.

Many people don't realize it, but MA plans are not original Medicare. Original Medicare is administered by Medicare; MA plans are sold and administered by private, and in most cases for-profit, insurance companies. In original Medicare, doctors and other providers submit claims to Medicare. In MA, they submit claims to private insurance companies. In original Medicare, Medicare decides when prior authorization is needed and whether it will be granted. In MA, private insurance companies make these decisions. Of course, unfavorable decisions can be appealed, but in original Medicare these appeals go to and are decided by Medicare; in MA, appeals go to and (at the first step) are decided by a private insurance company. Most people don't appeal denied claims and at the very least, denials cause delay of needed care.

For Well Spouses, the choice between original Medicare and MA plans can be especially important. Here's a word of advice if you are considering a switch to MA: look before you leap. The relatively healthy 65-year-olds who find MA plans' offers of free gym memberships enticing aren't thinking ahead, and they don't have the same medical care needs as most of our Ill Spouses.

Original Medicare doesn't cover everything, so most people who are enrolled in original Medicare find that they also need a supplemental Medigap policy. These Medigap policies don't come cheap. The insurance companies who peddle MA plans promise lower or zero premiums as compared with Medigap, plus an array of benefits not covered by original Medicare or Medigap such as partial dental and vision benefits, and more. Just ask yourself how they can pull this rabbit out of a hat, especially when their administrative costs are far higher than Medicare's (think of insurance company CEO pay, for example).

It's true that insurance companies get more money from the Federal government per MA enrollee than is spent per beneficiary by original Medicare. They achieve this result in part by well-documented fraud.<sup>1</sup> Insurance companies are paid a fixed amount per enrollee, adjusted by a complex formula based partly on the enrollee's medical condition. "Upcoding" or attributing non-existent medical conditions to MA enrollees is a widespread fraudulent practice that adds billions of dollars to insurance company bottom lines every year, at huge cost to the Federal government.

But padding per enrollee payments from the government probably explains only a small fraction of the insurance companies' enormous profits from MA plans. There is considerable

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<sup>1</sup> See, for example, <https://www.npr.org/sections/health-shots/2021/09/14/1036776812/medicare-advantage-fraud-data-mining> .

evidence that a more important explanation is MA plans' restriction of enrollees' access to care, compared with original Medicare.<sup>2</sup> This should be of great concern to Well Spouses, especially since sicker, more expensive MA enrollees tend to face even stricter insurance company barriers to getting needed care.

How, exactly, do MA plans restrict enrollees' access to care? Details vary from plan to plan, but there are several widely used techniques. Many MA plans restrict enrollee access to in-network doctors, hospitals and other medical providers. These networks are often far more limited than the huge network of providers who accept original Medicare. Requiring prior authorization for medical tests, procedures and more is another way private insurers' MA plans restrict access to care. The power to require prior authorization is the power to deny or delay care. Medicare also can require (and deny) prior authorization, but does so far more sparingly than private insurance-run MA plans. Even worse, 13% of prior authorization requests denied by MA plans met Medicare coverage rules and "likely would have been approved...under original Medicare," according to a U.S. Department of Health and Human Services Inspector General's report.<sup>3</sup>

Evidence on medical outcomes is mixed, but there is reason for concern that many MA plans may have worse outcomes than original Medicare especially for sicker patients. According to a recent report published in the *Journal of Clinical Oncology* cited by the Center for Medicare Advocacy and summarized in *U.S. News & World Report*, MA enrollees are "more likely to die within a month of undergoing complex cancer surgery, compared to those in traditional Medicare...Those covered by MA were 1.5 times more likely to die within a month after having their stomach or liver removed, and twice as likely if they had cancer surgery of the pancreas."<sup>4</sup> The researchers suspect that this large difference in outcomes was due to delays in care caused by MA's prior authorization requirements.

According to a *Journal of the American Medical Association* editorial cited by the Center for Medicare Advocacy, "many Medicare Advantage plans have narrow networks of physicians, and beneficiaries receive care from lower-quality hospitals, nursing homes and home health providers than those in traditional Medicare. MA beneficiaries who have greater health needs tend to disenroll from plans at a higher rate and they may face higher rates of prior authorization to receive care." As a recent *Washington Post* op ed put it, "it's usually when someone becomes seriously ill that MA's weaknesses become clear."

You may ask, if there are so many potential problems with MA, why not switch back to original Medicare and buy a supplemental Medigap policy? It turns out that it's easy to switch from original Medicare to MA, but not so easy to go back. During the annual open enrollment period, you can change to another MA plan, but if you go back to original Medicare, there is no guarantee that you will be able to buy an adequate supplemental Medigap policy. Affordable Care Act protections against insurance company discrimination based on pre-existing

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<sup>2</sup> See this excellent report from the Center for Medicare Advocacy: <https://medicareadvocacy.org/special-report-recent-articles-and-reports-shed-light-on-medicare-advantage-issues/> .

<sup>3</sup> See <https://oig.hhs.gov/oei/reports/OEI-09-18-00260.pdf> .

<sup>4</sup> See "Medicare Advantage: A Disadvantage for Complex Cancer Surgery Patients," *Journal of Clinical Oncology*, <https://ascopubs.org/doi/full/10.1200/JCO.21.01359> .

conditions do not apply to the Medigap market when people switch back from MA to original Medicare. In four states—New York, Massachusetts, Connecticut and Maine—state law prohibits Medigap insurers from discriminating based on pre-existing conditions. In the rest of the country, you may be unable to buy an affordable Medigap policy if you switch from MA to original Medicare.

Some politicians are starting to take an interest in addressing the problems with MA (see, for example, Rep. Pocan’s proposed “Save Medicare Act”).<sup>5</sup> But in view of the current deadlock in Congress and the power of the insurance industry lobby, serious regulation of MA is a long way off. Meanwhile, for Well Spouses, the best advice is to look before you leap into an MA plan.

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<sup>5</sup> See “It’s Time to End the Medicare Advantage Scam,” Rep. Ro Kanna, Rep. Mark Pocan and Wendell Potter, *The Nation*, Dec. 9, 2022.