



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

Marriage, Medicare and Medicaid

What Same-Sex Couples Need To Know

Medicare and Medicaid rules for same-sex couples changed dramatically after two Supreme Court decisions. The first decision, *United States v. Windsor* (2013), overturned the Defense of Marriage Act, opening the door for coverage for some, but coverage depended on whether your state recognized same-sex marriage.

The second Supreme Court decision, *Obergefell v. Hodges* (2015), made same-sex marriage legal in every state. Now, married same-sex couples can 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.

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 benefits can be over \$400 per month.

Married same-sex couples can get coverage under the same Medicare and Medicaid rules as married opposite-sex couples in all states.

Where the couple lives or where they were married makes no difference. How long you have been married can affect your right to benefits, but this is true for opposite-sex couples as well.



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 qualify you for a spousal benefit. **Medicare recognizes marriages performed in any state as well as marriages performed in other countries.**
- 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 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 one year before your spouse's death. The age at which your spouse died does not matter.

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.

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.

Molly and Michele

Michele, 68, has an income of \$1000/month and assets of \$15,000. Her partner Molly is 62 and earns an income of \$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, 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.

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 are low income. 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 as of the month that the Social Security Administration learns that you are married.

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. Just 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 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 surcharge for married couples also may depend on whether you file tax returns separately or jointly. You can also 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 and 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 need 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.

For questions related to Social Security Spousal Benefits, visit the Social Security Administration website at [faq.ssa.gov/link/portal/34011/34019/ArticleFolder/452](https://www.ssa.gov/link/portal/34011/34019/ArticleFolder/452).

The information in this fact sheet is current as of June 13, 2016. 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 LGBT Aging

www.lgbtagingcenter.org

Services & Advocacy for GLBT Elders

www.sageusa.org

SAGE's Talk Before You Walk

www.sageusa.org/talkbeforeyouwalk

Transgender Law Center

www.transgenderlawcenter.org

The SHIP National Technical Assistance

Center (SHIP TA Center) serves as a central source of information for and about the national State Health Insurance Assistance Program (SHIP).

For more information:

National SHIP website that includes a SHIP locator for the general public:

www.shiptacenter.org

National toll-free number:

877-839-2675

National email address:

info@shiptacenter.org



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