

STEPS FOR OPTING OUT OF MEDICARE

Provisions in the Balanced Budget Act of 1997 give physicians and their patients the option of entering into private contracts to provide medical services outside of the Medicare system.¹ Physicians who opt-out of Medicare must agree not to bill Medicare for any services to any Medicare beneficiaries for two years from the effective date of the opt-out. Once the opt-out is effective, physicians are no longer subject to the Medicare limits on charges.

The following steps are required to effectively opt-out of Medicare:

1. Notify patients that you are opting-out of Medicare.
2. File an opt-out affidavit that meets Medicare requirements with all Medicare Administrative Contractors (MACs) with which you are enrolled. (Check your MAC's website for template affidavits.)
3. Enter into a private contract with all Medicare beneficiaries that meets Medicare requirements. (Again, your MAC's website may provide a model contract.) The private contract must, among other things:
 - Be in writing and in print sufficiently large to be read by the beneficiary;
 - State that the beneficiary (or legal representative) accepts responsibility for payment of the physician and understands that Medicare limits do not apply to what the physician may charge;
 - State that the beneficiary (or legal representative) agrees not to submit a claim to Medicare or ask the physician to submit a claim to Medicare;
 - State that the beneficiary (or legal representative) understands that Medicare payment will not be made and that the beneficiary has the right to obtain Medicare-covered items and services from a physician who has not opted-out of Medicare; and
 - Be signed by the beneficiary (or legal representative) and by the physician.

A physician who is participating in Medicare may opt-out at the beginning of any calendar quarter provided the affidavit is submitted at least 30 days before the beginning of that quarter. A non-participating physician may opt-out at any time by submitting the affidavit within 10 days of entering into his or her first private contract with a Medicare beneficiary. Physicians who have opted-out of Medicare may still order, certify the need for care, or refer a beneficiary for covered Medicare services provided the physician is not paid, directly or indirectly, for such services and has not been excluded from Medicare.

¹ See Section 1802(b) of the Social Security Act; 42 C.F.R. § 405.400 et. seq.