

Registration and Responsibilities with Medicare as an Opt-Out Provider

Step-by-Step Guide

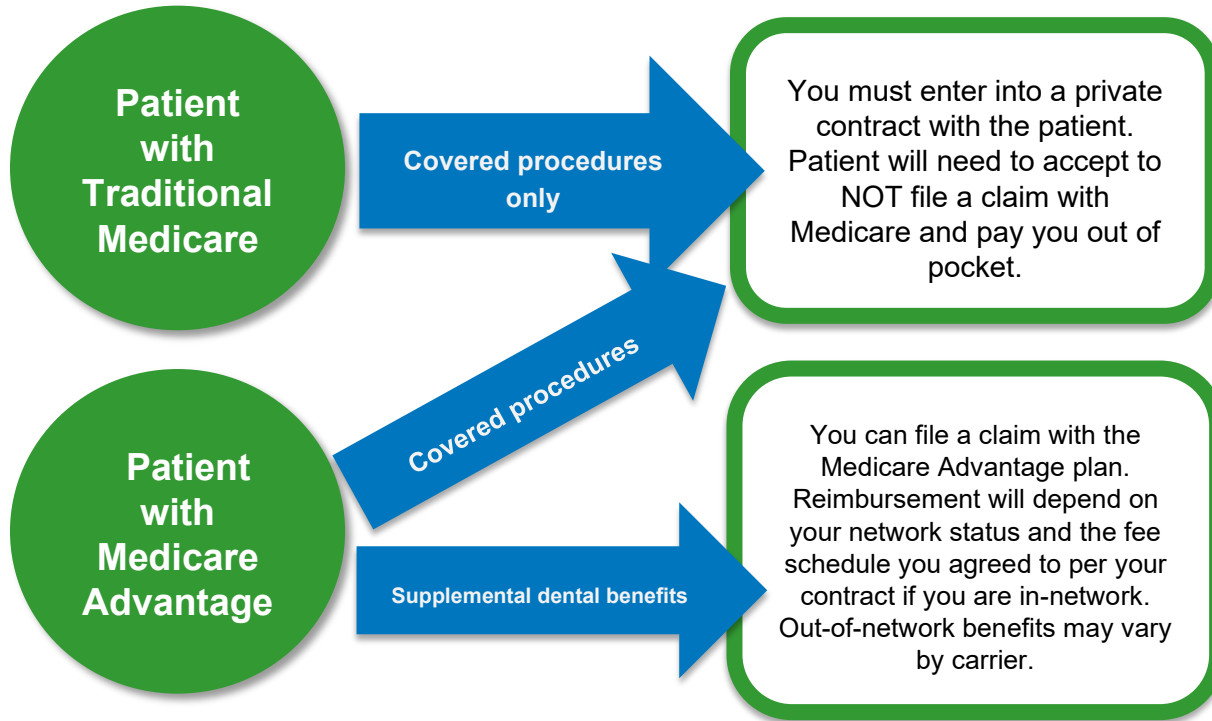


Figure: Scenarios of how billing occurs when a dentist has opted-out of Medicare

Opting-out of Medicare If you wish to provide covered services to beneficiaries but do not want to bill Medicare, you need to officially opt out of Medicare. By opting out, you are signifying to the Centers on Medicare & Medicaid Services (CMS) and Medicare Administrative Contractors (MACs) that both you and the patient will not be billing Medicare for services, and that the patient will be paying for services out-of-pocket. Once you have opted out of Medicare, you cannot submit a claim to Medicare for services to any beneficiary for a two-year period. However, coverage would still apply when you order or certify items and services.

In order to provide dental services to a Medicare patient, you must enter into a private contract. This contract will reflect the agreement between you and your patients, that they will pay out of pocket for services and that neither you nor the patient will submit the bill to Medicare for reimbursement. **Private contracting decisions may not be made on a claim-by-claim or patient-by-patient basis.** You must enter into a private contract with each beneficiary, for a period of two years. ADA provides [a template for private contracts for providers have opted-out of Medicare.](#)

To begin the opt out process for Medicare, [you must complete and send an affidavit](#) to each applicable Medicare Administrative Contractor (MAC) that services the state(s) where you practice. CMS has made available [a list of MACs by state \(linked to PDF on future website\).](#) You will need to send it to every Part B entity listed in the state(s) where you practice. Please remember that you are looking for the Part B physician and non-physician provider) addresses, not Part A.



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If a provider has not enrolled or participated in Medicare, the affidavit (as shown above) would need to be submitted within 10 days of entering into their first private contract. However, if a dentist or provider is currently enrolled as a participating or non-participating provider, an affidavit must be submitted within 30 days of the beginning of the quarter and their opt-out status would begin at the start of that quarter. If a dentist or provider waits past 30 days to submit an affidavit, then it will not be allowable to enter into a private contract until the start of the next quarter.

If you mistakenly file a claim with Medicare during your opt-out period, or your patient does, and you are contacted by the MAC or Carrier with a request for an explanation, you must be certain to respond within the time period allotted. Otherwise, your opt-out status may be rescinded, and you will no longer be able to do private contracting. If this happens, you will once again be tied to the laws of Medicare, but Medicare will not pay for any of your claims that occur during your original opt-out period.

Canceling an Opt-Out Status

To cancel your opt-out status, you'll need to mail a cancellation request to your MAC at least 30 days before your opt-out period is set to expire. If you don't submit your cancellation request before the 30-day period, your opt-out status will automatically renew for another two-year cycle.

Early Termination

You can terminate your opt-out status within the first 90 days of submitting an initial opt-out affidavit. (Once an opt-out has been automatically renewed, you can no longer terminate early.)

Are you unsure if you enrolled previously? [Check your status at CMS's Physician and Provider Look Up Tool.](#)

Are you unsure if you opted-out previously? [Check your status at CMS's Provider Opt-Out Affidavit Look Up Tool.](#)

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EXAMPLES OF RESPONSIBILITIES OF AN OPT-OUT PROVIDER

If you wish to provide covered services to beneficiaries but do not want to bill Medicare but instead have your Medicare patients pay you out of pocket, you need to [opt-out of Medicare](#) by filing an affidavit, and enter into private contracts with patients who are Medicare beneficiaries. Medicare coverage would still apply when you order or certify items and services.

1.) Submit an affidavit to Medicare Administrative Contractors (MACs)

Within ten days after the first Private Contract is executed, the you must complete, sign, and submit an original Affidavit to each Medicare Administrative Contractor having jurisdiction over Medicare claims the dentist would otherwise file with Medicare. The dentist must retain a copy of each Affidavit that he or she submits.

The date of when you are considered “opted-out” varies based on your previous provider status in Medicare. *If you have never previously enrolled in Medicare or were previously enrolled as a non-participating provider*, then your effective date for opting out will be the signature date on your affidavit. *If you were enrolled in Medicare as a participating provider*, then your effective date will be the first day of the following quarter (January, April, July, or October) if you have submitted a valid affidavit post-marked 30 days before the quarter began.

Once you have opted out of Medicare, you cannot submit a claim to Medicare for services to any beneficiary for a two-year period, with the exception of emergency or urgent care services (see below).

2.) Have patients who are beneficiaries sign a standard private contract

Private contracting decisions may not be made on a claim-by-claim or patient-by-patient basis. You must enter into a private contract with each beneficiary during the two-year period. While we have provided a sample private contract, please remember that the private contract must be signed by both the beneficiary or their legal representative and the provider and include the following per CMS regulation:

- Be in writing and in print sufficiently large to ensure that the beneficiary is able to read the contract;
- State that the beneficiary or their legal representative accepts full responsibility for payment of the physician's or practitioner's charge for all services furnished by the physician or practitioner;
- State that the beneficiary or their legal representative understands that Medicare limits do not apply to what the physician or practitioner may charge for items or services furnished by the physician or practitioner;
- State that the beneficiary or their legal representative agrees not to submit a claim to Medicare or to ask the physician or practitioner to submit a claim to Medicare;

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- State that the beneficiary or their legal representative understands that Medicare payment will not be made for any items or services furnished by the physician or practitioner that would have otherwise been covered by Medicare if there was no private contract and a proper Medicare claim had been submitted;
- State that the beneficiary or their legal representative enters into this contract with the knowledge that he or she has the right to obtain Medicare-covered items and services from physicians and practitioners who have not opted-out of Medicare, and that the beneficiary is not compelled to enter into private contracts that apply to other Medicare-covered services furnished by other physicians or practitioners who have not opted-out;
- State the expected or known effective date and the expected or known expiration date of the current 2-year opt-out period;
- State that the beneficiary or his or her legal representative understands that Medigap plans do not, and that other supplemental plans may elect not to, make payments for items and services not paid for by Medicare; and
- Clearly state whether the physician or practitioner is excluded from Medicare or is listed on CMS's Medicaid/Medicare exclusion list.

3.) Keep the affidavits and signed private contracts on file

Keep your private contracts and each affidavit you submitted on file so you can easily access them if needed, including in responding to any CMS or MAC questions regarding claims. Provide a timely explanation to CMS or a MAC if you or a patient mistakenly files a claim to Medicare during your opt-out period.

Information you should know related to electing opt out status:

- You may furnish emergency or urgent care services to a beneficiary with whom you:
 - Already have a private contract, with payment for those service determined by the terms of the private contract.
 - Have no private contract, and you may submit the claim to Medicare but your bill must not exceed the “limiting charge” that is generally 115% of the approved payment amount.
- A beneficiary Medigap policy will not pay anything toward services furnished under a private contract.
- If asked, you must tell a beneficiary the amount Medicare would pay for the service if furnished by a provider who accepts Medicare (refer to participating provider rate).
- You may still order or certify Medicare-covered items or services that are furnished by another provider.



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Both the Private Contracts and the opt-out are null and void if the dentist fails to properly opt out, or if the dentist fails to remain in compliance with Medicare's opt-out conditions and requirements during the opt-out period.

DISCLAIMER

This resource was current at the time it was published or uploaded onto ADA.org. Medicare laws and policy can and do occasionally change, so it is recommended to remain aware of changes.

This resource was prepared as an informational tool to assist providers and is not intended to grant rights or impose obligations. Although every reasonable effort has been made to assure the accuracy of this information, the ultimate responsibility for remaining in compliance lies with the provider of items and services. The American Dental Association makes no representation, warranty, or guarantee that this compilation of Medicare information is error-free and will bear no responsibility or liability for the results or consequences of the use of this resource, which is a general summary that explains certain aspects of the Medicare program, but it is not a legal document. The official Medicare program provisions are contained in the relevant laws, regulations, and rulings.