

Opting Out of Medicare

Overview

- Doctors of optometry that participate with Medicare later decide to stop taking Medicare. This is known as “opting out”. There are specific rules to follow if you opt out (read below).
- When a doctor of optometry opts out of Medicare, Medicare will no longer cover services provided by that doctor of optometry (other than emergency services) and no Medicare payments will be made to that doctor.
- Opting out of Medicare allows doctors of optometry to provide services to Medicare patients through private contracts.
 - Under these private contracts, the mandatory claims submission and limiting charge rules of Section 1848(g) of the Act would not apply.
 - The beneficiary pays the doctor of optometry out-of-pocket.
- Doctors of optometry CANNOT opt out of Medicare if they intend to be a Medicare Advantage (Part C) provider or furnish services covered by traditional Medicare fee-for-service (Part B).¹
- Doctors of optometry should make individual decisions for their own business when determining to accept or opt out of Medicare.

Why Do Some Doctors of Optometry Opt Out of Medicare

- Doctors of optometry who do not see a lot of Medicare eligible patients often opt out of Medicare.
- Doctors of optometry who only provide certain therapies (i.e., vision therapy) not covered by Medicare often opt out of Medicare.
- According to the Kaiser Family Foundation, one percent of all non-pediatric physicians have formally opted-out of the Medicare program in 2023.²

How to Opt Out

If a doctor of optometry decides to opt out of Medicare, they must:

- Notify all patients and colleagues that may be impacted by their decision to opt out
- Submit an Opt-Out Affidavit to each carrier that has jurisdiction over the claims that they would otherwise file with Medicare ([list of carriers by state](#)) Your Medicare Administrative Contractor (MAC) may have a specific form that needs to be completed. As an example, NGS Medicare requires completion of [this form](#).
- Enter into a private contract for, and prior to, rendering any covered services to a Medicare Part B Beneficiary (if you plan on continuing to see Medicare Part B patients).
- Initiate office procedures to ensure that their office never files a Medicare claim, and never provides information to a patient that enables them to file a Medicare claim.
- Mark their calendar to have Medicare patients re-sign a new private contract every two years on the anniversary of their opt out effective date

¹ <https://data.cms.gov/provider-characteristics/medicare-provider-supplier-enrollment/opt-out-affidavit>

² <https://www.kff.org/medicare/issue-brief/how-many-physicians-have-opted-out-of-the-medicare-program/>

- Be legally authorized to practice optometry by the state in which such function or action is performed
- Be legally authorized to practice optometry by the state and otherwise meet Medicare requirements
- Once a doctor of optometry opts out of Medicare, they are opted out across the United States of America and territories. If the doctor of optometry goes from one Medicare Administrative Contractor (MAC) to another, an additional opt out affidavit is required to be submitted to the new MAC

How to Cancel (Terminate) a Medicare Opt-Out

A doctor of optometry may terminate an opt-out by submitting a written notice to their MAC no later than 30 days prior to the end of their two-year opt-out period. All MACs who received the doctor of optometry's opt-out affidavit must be sent a copy of the cancellation notice. If the MACs do not receive a cancellation notice 30 days before the end of the two-year opt-out period, the opt-out will auto-renew for another two years.

Implications of Failing to Opt Out Properly

The Centers for Medicare and Medicaid Services can sanction doctors of optometry who fail to properly opt-out, maintain opt-out, renew opt-out, privately contract, or properly cancel opt-out. Failure to properly opt-out includes failure to submit a valid or timely affidavit and signing a private contract before filing an affidavit. Failure to maintain opt-out includes:

- Knowing and willfully submitting a claim to Medicare when there is a valid affidavit and private contract
- Failure to enter into a valid private contract
- Failure to comply with emergency and urgent care service provisions
- Failure to keep a copy of private contracts during the opt-out period

Failure to opt-out or maintain opt-out status can result in:

- Private contracts and affidavit being held null and void
- Inability to collect fees from beneficiaries, except copay, deductible or coinsurance
- A refund to beneficiaries for amounts paid above Medicare charge limits
- Suspension of payment on claims related to private contracts
- Medicare reimbursement rate based on the provider's participation agreement (if previously enrolled) or Medicare limiting charges (if not previously enrolled)

AOA's practice success resources were developed by AOA to help doctors of optometry address common issues in practice. These resources are public source documents. We created this specific practice success resource with the goal of giving advice on how to respond to risk adjustment audits from payers. This information should be considered educational information and should not be considered legal advice.