

(5) Any other remedial action which may be necessary to correct or eliminate the effects of such error, misrepresentation, or inaction.

[48 FR 12536, Mar. 25, 1983. Redesignated at 51 FR 41338, Nov. 14, 1986. Further redesignated at 56 FR 38080, Aug. 12, 1991]

### **Subpart D—Special Circumstances That Affect Entitlement to Hospital Insurance**

#### **§ 406.50 Nonpayment of benefits on behalf of certain aliens.**

(a) Hospital insurance benefit payments may not be made for services furnished to an alien in any month in which his or her monthly social security benefits are suspended (or would be suspended if he or she were entitled to those benefits) because the alien remains outside the United States for more than 6 months.

(b) Benefits will be payable beginning with services furnished in the first full calendar month the alien is back in the United States.

[48 FR 12536, Mar. 25, 1983. Redesignated at 51 FR 41338, Nov. 14, 1986. Further redesignated at 57 FR 58717, Dec. 11, 1992]

#### **§ 406.52 Conviction of certain offenses.**

(a) *Penalty that affects entitlement.* (1) If an individual is convicted of any of the crimes listed in § 406.11(c) (1) and (2), the court may impose, in addition to all other penalties, a penalty that affects entitlement to hospital insurance, beginning with the month of conviction.

(2) The additional penalty is that the individual's income (or the income of the insured individual on whose earnings record he or she became or seeks to become entitled) for the year of conviction and any previous year may not be counted in determining the insured status necessary for entitlement to hospital insurance.

(b) *Effect of pardon.* If the President of the United States pardons the convicted individual, that individual regains (or may again seek) entitlement effective with the month following the month in which the pardon is granted.

[48 FR 12536, Mar. 25, 1983. Redesignated at 51 FR 41338, Nov. 14, 1986. Further redesignated at 57 FR 58717, Dec. 11, 1992]

## **PART 407—SUPPLEMENTARY MEDICAL INSURANCE (SMI) ENROLLMENT AND ENTITLEMENT**

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AUTHORITY: 42 U.S.C. 1302, 1395p, 1395q, and 1395hh.

## § 407.1

SOURCE: 53 FR 47204, Nov. 22, 1988, unless otherwise noted.

### Subpart A—General Provisions

#### § 407.1 Basis and scope.

(a) *Statutory basis.* The supplementary medical insurance (SMI) program is authorized by Part B of title XVIII of the Social Security Act.

(1) Section 1831 of the Act establishes the program.

(2) Sections 1836 and 1837 set forth the eligibility and enrollment requirements.

(3) Section 1838 specifies the entitlement periods, which vary depending on the time and method of enrollment and on the basis for termination.

(4) Section 1843 sets forth the requirements for State buy-in agreements under which States may enroll, and pay the SMI premiums for, eligible individuals who are also eligible for cash assistance or Medicaid.

(5) Section 104(b) of the Social Security Amendments of 1965 (Pub. L. 89-87) specifies the limitations that apply to certain aliens and persons convicted of subversive activities.

(6) Sections 1836(b) and 1837(n) of the Act provide for coverage of immunosuppressive drugs as described in section 1861(s)(2)(J) of the Act under Part B beginning on or after January 1, 2023, for eligible individuals whose benefits under Medicare Part A and eligibility to enroll in Part B on the basis of ESRD would otherwise end with the 36th month after the month in which the individual receives a kidney transplant by reason of section 226A(b)(2) of the Act.

(b) *Scope.* This part sets forth the eligibility, enrollment, and entitlement requirements and procedures for the following:

(1) Supplementary medical insurance. (The rules about premiums are in part 408 of this chapter.)

(2) The immunosuppressive drug benefit provided for under sections 1836(b) and 1837(n) of the Act, hereinafter referred to as the Part B-Immunosuppressive Drug Benefit (Part B-ID).

[53 FR 47204, Nov. 22, 1988, as amended at 87 FR 66505, Nov. 3, 2022]

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#### § 407.2 General description of program.

Part B of Title XVIII of the Act provides for voluntary “supplementary medical insurance” available to most individuals age 65 or over and to disabled individuals who are under age 65 and entitled to hospital insurance. The SMI program is financed by premiums paid by (or for) each individual enrolled in the program, plus contributions from Federal funds. It covers certain physicians’ services, outpatient services, home health services, services furnished by rural health clinics (RHCs), Federally qualified health centers (FQHCs), ambulatory surgical centers (ASCs), and comprehensive outpatient rehabilitation facilities (CORFs), and other medical and other health services.

[57 FR 24980, June 12, 1992]

#### § 407.4 Basic requirements for entitlement.

(a) An individual must meet the following requirements to be entitled to SMI:

(1) *Eligibility.* The individual must meet the eligibility requirements specified in § 407.10(a).

(2) *Enrollment.* The individual must enroll for SMI, or must be enrolled by a State under a buy-in agreement as specified in § 407.40.

(b) SMI pays only for covered expenses incurred during an individual’s period of entitlement.

### Subpart B—Individual Enrollment and Entitlement for SMI

#### § 407.10 Eligibility to enroll.

(a) *Basic rule.* Except as specified in paragraph (b) of this section, an individual is eligible to enroll for SMI if he or she—

(1) Is entitled to hospital insurance under any of the rules set forth in §§ 406.10 through 406.15 of this chapter; or

(2) Meets the following requirements:

(i) Has attained age 65. (An individual is considered to have attained age 65 on the day before the 65th anniversary of his or her birth.)

(ii) Is a resident of the United States.