

# CRS Report for Congress

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## **Social Security Disability Insurance (SSDI) and Medicare: The 24-Month Waiting Period for SSDI Beneficiaries Under Age 65**

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### **Summary**

Members of Congress frequently are asked to support legislation to alter or eliminate the required 24-month waiting period before a Social Security Disability Insurance (SSDI) beneficiary under 65 years of age may receive Medicare benefits. This paper explains the required 24-month waiting period and its legislative history. The report also provides information on other programs that may provide access to health insurance during the required waiting period. It also briefly describes legislation introduced in the 109<sup>th</sup> Congress (H.R. 2343, H.R. 2680, H.R. 2869, and S. 1217). This report will be updated to reflect legislative activity.

### **The 24-Month Medicare Waiting Period for Social Security Disability Recipients Under Age 65**

Title XVIII of the Social Security Act provides that Social Security Disability Insurance (SSDI) beneficiaries are eligible for Medicare hospital insurance (Part A). Individuals are also eligible to purchase Medicare supplementary medical insurance (Part B) or enroll in a Medicare Advantage plan (formerly known as a Medicare+Choice plan). Starting in 2006, SSDI beneficiaries will also be eligible for voluntary prescription drug benefits (Part D).<sup>1</sup>

Generally, SSDI beneficiaries under age 65 are eligible for Medicare coverage in the month after they have received 24 months of SSDI benefits. Because of the five-month waiting period from onset of the disabling condition for disabled individuals to be qualified to receive SSDI benefits, this results in a total of 29 months after the onset of

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<sup>1</sup> The SSDI program provides benefits to insured disabled workers under the full retirement age (and to some spouses, surviving disabled spouses, and children) in amounts related to the disabled worker's former earnings in covered employment. SSDI beneficiaries who are at least 65 years of age qualify for Medicare coverage on the basis of age.

the disability before an individual is eligible for Medicare benefits. *Thus, at the beginning of the 30<sup>th</sup> month since the onset of the qualifying disability, SSDI beneficiaries become eligible for Medicare coverage.*

**Exceptions to the 24-Month Waiting Period.** For SSDI beneficiaries under 65 years of age, there are exceptions to the required 24-month waiting period for certain diseases. Specifically, SSDI beneficiaries qualify for Medicare:

- after 24 months of receiving SSDI benefits (the general rule described previously); or
- at the first month of receiving SSDI benefits if the beneficiary has amyotrophic lateral sclerosis (ALS, or Lou Gehrig's disease); or
- after the third month when a beneficiary has end-stage renal disease (ESRD) or kidney failure; or
- in the month in which a beneficiary receives a kidney transplant.

The ALS exception went into effect July 1, 2001 as a result of P.L. 106-554. The ESRD provision was part of Social Security Amendments of 1972, P.L. 92-603.

**Other Persons Under Age 65 Who Are Eligible for Medicare Because of a Disabling Condition.** In addition to SSDI beneficiaries, other individuals who are under age 65 may be eligible for Medicare on account of a disabling condition as described below.

- Certain disabled local, state, and federal employees who do not receive SSDI benefits may be eligible after the analogous waiting period.
- Disabled widows and widowers ages 50 to 65 (and disabled divorced<sup>2</sup> widows and widowers ages 50 to 65) are eligible for Medicare after a 24-month qualifying period if they are receiving Social Security benefits based on disability. For disabled widows/widowers, previous months of eligibility for Supplemental Security Income (SSI) based on disability may count toward the qualifying period.
- Certain dependent adult children of Medicare beneficiaries are eligible for Medicare if they developed a permanent and severe disability before age 22 and thus qualify for SSDI benefits based on a parent's work history. The two-year waiting period applies and starts when an individual turns 18 (or when he or she is determined to be disabled if it is after age 18).
- A spouse or child may be eligible for Medicare, based on a worker's record, if the spouse or child is on continuing dialysis for ESRD or has a kidney transplant, even if no other family member participates in the Medicare program.

**Table 1** shows the number and percentage of persons under 65 years old who received Medicare in July 2003 due to disabling condition. Of the 41 million Medicare beneficiaries, approximately 6 million beneficiaries under the age of 65 received Medicare on account of disability status. Almost 41% of disabled beneficiaries were between the

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<sup>2</sup> The duration of the marriage must have been at least 10 years.

ages 55 and 64. More men (54.5%) than women (45.5%) received this benefit. The vast majority (73.9%) were white.

**Table 1. Persons Under Age 65 Who Receive Medicare on Account of Disability, 2003**

	All disabled	End stage renal disease only	All disabled	End stage renal disease only
<b>Age</b>				
<b>Under 35</b>	553,946	13,801	9.1%	0.2%
<b>35–44</b>	1,154,953	15,428	19.0%	0.3%
<b>45–54</b>	1,885,826	25,323	31.0%	0.4%
<b>55–64</b>	2,484,699	27,110	40.9%	0.4%
<b>Sex</b>				
<b>Men</b>	3,311,265	44,736	54.5%	0.7%
<b>Women</b>	2,768,159	36,926	45.5%	0.6%
<b>Race</b>				
<b>White</b>	4,495,109	37,913	73.9%	0.6%
<b>All other races</b>	1,571,271	43,551	25.8%	0.7%
<b>Unknown race</b>	13,044	198	0.2%	0.0%
<b>Total</b>	<b>6,079,424</b>	<b>81,662</b>	<b>100.0%</b>	<b>1.3%</b>

**Source:** The Congressional Research Service (CRS) tabulations from Annual Statistical Supplement, 2004, Table 8.B5 Hospital Insurance and/or Supplementary Medical Insurance: Number of enrollees under age 65 who are disabled or have end stage renal disease, by program, age, sex, and race, July 1, 1980–2003, selected years. Data downloaded on July 1, 2005 from [<http://www.ssa.gov/policy/docs/statcomps/supplement/2004/8b.html#table8.b5>].

In 2001 (the most recent data year available), on average each of these (non-ESRD) disabled beneficiaries used \$4,462 in Medicare services, which was substantially less than those (non-ESRD) individuals over the age of 65 used (\$5,961). On average, an ESRD beneficiary used \$29,399 in Medicare services.<sup>3</sup>

## Legislative History of SSDI Beneficiaries Medicare Eligibility

The Social Security Amendments of 1972, P.L. 92-603, extended Medicare to disabled people who had been entitled to Social Security Disability Insurance (SSDI) benefits for at least 24 consecutive months. The provision required the waiting period to begin with the first month of SSDI entitlement, which is five months after the onset of the disability.

**Congressional Reasoning for the 24-Month Waiting Period.** In 1971, the House Committee on Ways and Means Report recommended extending Medicare protection to the disabled and stated that the Committee felt it was “imperative to proceed

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<sup>3</sup> MEDPAC, *A Data Book: Healthcare Spending and the Medicare Program*, June 2004. See [[http://www.medpac.gov/publications/congressional\\_reports/Jun04DataBook\\_Entire\\_report\\_1inks.pdf](http://www.medpac.gov/publications/congressional_reports/Jun04DataBook_Entire_report_1inks.pdf)], pages 3-4.

on a conservative basis.” The Report stated that the 24-month waiting period was intended to:

... help keep the costs within reasonable bounds, avoid overlapping private health insurance protection, particularly where a disabled worker may continue his membership in a group insurance plan for a period of time following the onset of his disability and minimize certain administrative problems that might otherwise arise... Moreover, this approach provides assurance that the protection will be available to those whose disabilities have proven to be severe and long lasting.<sup>4</sup>

A similar statement was included in the report to the Senate from the Committee on Finance.

**Changes to the Waiting Period Criteria.** The Social Security Disability Amendments of 1980, P.L. 96-265, permitted an individual becoming reentitled to SSDI benefits to count the months of the earlier spell of disability in satisfying the 24-month waiting period if the spell occurred within the previous five years (seven years for disabled widow(er)s and those who were disabled since childhood). The amendments also provided that if an individual was in a trial work period after the termination of the SSDI benefits, and had not completed the 24-month waiting period, the months of the trial work period could count toward satisfying the required waiting period for Medicare eligibility.

Effective October 1, 2000, P.L. 106-170 (the Ticket to Work and Work Incentives Improvement Act of 1999) extended Medicare Part A coverage to certain working former SSDI beneficiaries for a total of 8.5 years.<sup>5</sup>

## Programs That May Provide Health Insurance During the 24-Month Waiting Period

**Medicaid.** Those SSDI beneficiaries who are poor may qualify for Supplemental Security Income (SSI) benefits. Under SSI, disabled, blind, or aged individuals who have low incomes and limited resources are eligible for benefits regardless of their work histories.<sup>6</sup> In most states SSI receipt will entitle a person to Medicaid benefits.<sup>7</sup> Certain working SSDI beneficiaries who had been receiving Medicaid benefits may be eligible for a Buy-In Option allowing maintenance of Medicaid coverage.<sup>8</sup> As of June 2005, 30 states provide this option (although Missouri will be discontinuing it shortly).

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<sup>4</sup> U.S. Congress, House Committee on Ways and Means, Report on H.R. 1, the Social Security Amendments of 1972, H.Rept. 92-231, 92<sup>nd</sup> Congress, 1<sup>st</sup> session. (Washington: GPO, 1971), p. 67.

<sup>5</sup> See CRS Report RL31157, *Ticket to Work and Work Incentives Improvement Act of 1999: Implementation Status*, by Karen Tritz. (Hereafter cited as RL31157, *Ticket to Work*.)

<sup>6</sup> See CRS Report RS20294, *SSI Income and Resource Limits: A Fact Sheet*, by April Grady.

<sup>7</sup> See CRS Report RL31413, *Medicaid: Eligibility for the Aged and Disabled*, by Julie Stone, p. 8.

<sup>8</sup> RL31157, *Ticket to Work*.

**Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA, P.L. 99-272).** Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA, P.L. 99-272) requires employers who offer health insurance to continue coverage for persons who would otherwise lose coverage due to a change in work or family status. Coverage generally lasts 18 months but, depending on the circumstances, can last for longer periods.<sup>9</sup> If the Social Security Administration (SSA) makes a determination that the date of an individual's onset of disability occurred during the first 60 days of COBRA coverage or earlier, the employee (and the employee's spouse and dependents) is eligible for an additional 11 months of continuation coverage. This is a total of 29 months from the date of the qualifying event (which must have been a termination or reduction in hours of employment). This provision was designed to provide a source of coverage while individuals wait for Medicare coverage to begin.

**Other Programs.** SSDI beneficiaries may qualify for other government programs including Veterans' programs for hospital and medical care.<sup>10</sup>

## Costs of the 24-Month Medicare Waiting Period

**Some SSDI Beneficiaries Die Within 24-Months.** According to recent research based on new SSDI beneficiaries in 1995 who qualified upon their own work record, 11.8% died within the waiting period, 2.1% recovered, and 86.1% became entitled to Medicare.<sup>11</sup> The study estimated hypothetical Medicare costs for the first 24 months of SSDI entitlement to be \$10,055 in 2000 dollars per person.<sup>12</sup> Costs varied substantially by diagnostic group and by whether the person died or recovered during the waiting period. On average, beneficiaries who died during the waiting period were estimated to cost \$25,864, whereas those who recovered were estimated to cost \$1,506.

**Medicare Costs.** One study suggested that eliminating the 24-month Medicare waiting period would cost \$5.3 billion<sup>13</sup> while another study estimated the cost at \$8.7 billion.<sup>14</sup> The differences in the estimates are because: (1) the \$5.3 billion used 2000 dollars while the \$8.7 billion is in 2002 dollars: (2) the \$5.3 billion estimate is for only

<sup>9</sup> See CRS Report RS30626, *Health Insurance Continuation Coverage Under COBRA*, by Heidi Yacker. While some SSDI beneficiaries may continue to work, current employer-sponsored health insurance is generally not available because of the limited earnings and limited work hours of this group.

<sup>10</sup> See CRS Report RL32548, *Veterans' Medical Care Appropriations and Funding Process*, by Sidath Panangala.

<sup>11</sup> Gerald F. Riley, "The Cost of Eliminating the 24-Month Medicare Waiting Period for Social Security Disabled-Worker Beneficiaries," *Medical Care*, vol. 42, no. 4 (Apr. 2004), pp. 387-394. (Hereafter cited as Riley, *The Cost of Eliminating the 24-Month Medicare Waiting Period*.)

<sup>12</sup> *Ibid.* (Persons with ESRD were excluded because their waiting period was only three months as were managed care enrollees). Costs were inflation adjusted to year 2000 dollars by using the Hospital Input Price Index for Part A and the Medicare Economic Index for Part B.

<sup>13</sup> Riley, *The Cost of Eliminating the 24-Month Medicare Waiting Period*.

<sup>14</sup> Stacy Berg Dale and James M. Verdier, *Elimination of Medicare's Waiting Period for Seriously Disabled Adults: Impact on Coverage and Costs*, The Commonwealth Fund, Issue Brief, July 2003, [[http://www.cmwf.org/publications/publications\\_show.htm?doc\\_id=221569](http://www.cmwf.org/publications/publications_show.htm?doc_id=221569)].

SSDI beneficiaries that qualified under their own work record while the \$8.7 billion estimate includes disabled adult children and disabled widow(er)s; and (3) each used substantially different estimation methodologies. Neither of these estimates include the cost of the prescription drug benefit that starts in January 2006.

**Medicaid Cost Savings.** In 2002, approximately 40% of SSDI beneficiaries in the Medicare waiting period were enrolled in Medicaid. One study estimated that the federal government would save \$2.5 billion in Medicaid if the 24-month waiting period was eliminated; however, these federal Medicaid savings would more than be offset by the aforementioned cost increases to the Medicare program. Additionally, the states would realize \$1.8 billion in Medicaid savings if the waiting period was eliminated.<sup>15</sup>

## Legislative Activity for 109<sup>th</sup> Congress

The elimination of the 24-month waiting period has been of sustained interest to Congress. Congressional concern about whether to provide Medicare benefits during the first two years of SSDI benefits continues to be centered around the following:

- the expected prohibitive cost;
- the difficulty in administration because many SSDI beneficiaries qualify retroactively;
- creating unintended economic incentives that would encourage enrollment and discourage work; and
- unintentionally crowding out private insurance markets.

Many bills have been introduced in the last three sessions of Congress to alter or eliminate the 24-month waiting period. Four bills have been introduced in the 109<sup>th</sup> Congress.

- H.R. 2343 would provide for the elimination of the 24-month waiting period for SSDI beneficiaries to become eligible for Medicare.
- H.R. 2680 would eliminate the 24-month waiting period for terminally ill individuals to be eligible for Medicare benefits.
- S. 1217 and H.R. 2869 would allow for a gradual reduction in the waiting period. For 2006, the waiting period would be 18 months; each subsequent year would have an additional two month reduction in the waiting period until 2015 when there would be no waiting period. The bills would also require that a list of conditions that are fatal without medical treatment be compiled; persons with those conditions would be exempt from the waiting period immediately.

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<sup>15</sup> Ibid.