

Equitable relief: Navigating the process

Supplementary material for MI Pro 3.4: Medicare Late Enrollment Penalties and IRMAA

Equitable relief is an administrative process that allows you to request the following from the Social Security Administration (SSA):

- Immediate or retroactive Medicare enrollment
- Elimination of the Medicare Part B late enrollment penalty (LEP)

To request equitable relief, you must have failed to enroll in Medicare due to the error, misrepresentation, or inaction of a federal employee, such as a Social Security or 1-800-MEDICARE representative. Equitable relief does not apply if you were misinformed about your Medicare rights and options by others, such as an employer.

Example: You did not enroll in Part B because a Social Security representative said you did not need to sign up. Because you failed to enroll due to an error cause by misinformation from a federal employee, you may have grounds for receiving equitable relief.

Requesting equitable relief

To request equitable relief, you or your representative should write a letter to your local Social Security office explaining that you received misinformation that caused you to delay enrollment. You can find the address of your local office by calling 800-772-1213 or visiting www.ssa.gov/locator.

Be as specific as possible in your letter, and include the name of the representative you spoke to, date and time of the conversation, outcome of the conversation, and any additional notes.

You should also indicate whether you want coverage going forward, retroactive coverage, and/or elimination of your Part B LEP. **Keep in mind that if you request retroactive coverage, you will have to pay premiums back to the time your coverage begins.**

Follow up with your request

Social Security is not required to respond to equitable relief requests within any set timeframe. They are also not obligated to send you a formal decision letter in response to your request.

Follow up with your local Social Security office around one month after submitting your request. You may also want to contact a legislative representative, such as a member of Congress, and ask them to follow up on the case. If you are denied equitable relief, there is no formal appeal process, but you can resubmit your request with more or different information as many times as you wish.

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Sample Letter to SSA for equitable relief

[Print on professional stationery, if possible]

[Date]

Social Security Administration
[Address of local office]

Re: Medicare Part B Premium Penalty
Beneficiary: [Name]
SSN: [Social Security Number]

Dear Sir/Madam:

I am writing to request that the Social Security Administration grant me equitable relief by waiving my Medicare Part B premium penalty **and allowing me to enroll in part B effective [immediately/retroactive] to [specific date]**.

The **[penalty/delay in Part B coverage]** is not reasonable because I followed the rules as they were explained to me by a **[Social Security/other federal agency]** representative.

[Explain why you did not enroll in Part B when first eligible. Be as detailed as possible regarding any misinformation you received from Social Security or other federal agency including names and dates. Best practice is to create a timeline of relevant contact with federal agents.]

HI 00805.170 Conditions for Providing Equitable Relief
<https://secure.ssa.gov/poms.nsf/lnx/0600805170>

SSA/CMS may take action to prevent or correct inequity to the individual when his/her SMI or Premium-HI enrollment, termination, or coverage rights are prejudiced because of the error, misrepresentation, or inaction of an employee or agent of the Government.

The actions include (but are not limited to) the designation of enrollment and coverage periods, and appropriate adjustment of premium liability.

Pursuant to the above citation, the Social Security Administration should **allow me to enroll in Part B effective [immediately or as of specific retroactive date] AND/OR remove my Part B penalty]**. Thank you.

Sincerely,

[Your name]

[Your title]

Attachments: [List any attachments]