

Equitable Relief: Navigating the process

Equitable relief is an administrative process created under federal law that allows people with Medicare to request relief from the Social Security Administration (SSA) in the form of:

- Immediate or retroactive enrollment into Medicare Part B, and/or
- The elimination of your Part B premium penalty

Who can obtain equitable relief?

For SSA to grant equitable relief, it must determine that your failure to enroll in Part B was:

- “Unintentional, inadvertent, or erroneous” and
- Was the result of “error, misrepresentation or inaction of a federal employee or any person authorized by the federal government to act in its behalf”

For example, if you did not enroll in Part B because a Social Security representative told you that you did not need to enroll, you may have grounds for equitable relief.

How can you request equitable relief?

In order to request equitable you should write a letter to Social Security explaining that you received misinformation from a federal employee (someone at 800-Medicare, Social Security, or someone acting on the federal government’s behalf such as a Medicare private health plan). You can find the address of your local Social Security office by calling 800-772-1213 or visiting www.ssa.gov.

Be as specific as possible in your letter. Make sure to include the dates and times you spoke with the federal employee or representative and their name if possible. Also be sure to describe the outcome of the conversation. You must also state whether you want coverage going forward or retroactive coverage, and/or the elimination of your Part B penalty. Remember, if you are granted retroactive coverage, *you will have to pay premiums back to the time your coverage begins.*

You should always keep copies of the documents you send to Social Security. You should also follow up with your local office one month after you submit your letter. If you are having trouble contacting SSA, contact your Senator or Congressperson and ask them to follow up with SSA for you.

Problems with equitable relief

SSA is not required to respond to your request within any set timeframe, nor is there a formal decision letter that they will send you in response to your request. In the equitable relief process you have no formal rights and you do not have the right to appeal if your request is denied.

Equitable relief is not a formal legal process, but this should not deter you from filing for equitable relief. *Many people have been successful in their pursuit of relief.*

(see reverse side for a sample letter to SSA)

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 **[Medicare/Social Security/other federal agency/or federal agent such as a Medicare Private plan]** 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 or federal agent such as a Medicare Private plan including names and dates.]

42 U.S.C. § 1395p(h) states:

In any case where the Secretary finds that an individual's enrollment or nonenrollment in the insurance program...is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Federal Government, or its instrumentalities, the Secretary may take such action (including the designation for such an individual for a special initial or subsequent enrollment period, with a coverage period determined on the basis thereof and with appropriate adjustments of premiums) as may be necessary to correct or eliminate the effects of such error, misrepresentation, or inaction.

Pursuant to the above statute, 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]**