



The Medicare Hold-Harmless Provision

Health care expenses continue to be a significant part of a retiree's budget, and Medicare premiums are no exception. While the Medicare Board of Trustees is predicting premium increases for 2016, a special exception called the Hold-Harmless Provision can protect many retirees from the bulk of that increase. Not all retirees are covered under its provisions, but proper planning now may help minimize the impact of these Medicare premium increases.

Background on the Hold Harmless Provision

The Hold-Harmless Provision is a special rule for Medicare participants who have their premiums deducted from their Social Security benefits. The provision states that the increase in Medicare premiums due to annual cost of living adjustments (COLA) cannot exceed, in true dollar terms, the COLA increase for Social Security payments for the same year. In other words, Social Security recipients won't see a net reduction in their benefits due to increases in Medicare premiums.

The Board of Trustees for the Medicare program estimates that about 70% of those who receive Social Security disability or retirement benefits and are enrolled in Medicare Part B (coverage for doctor visits) are eligible for protection under this provision. Individuals who **do not qualify** for the hold harmless provision include:

- Those whose Medicare premiums are not withheld from their Social Security benefits.
- New Medicare enrollees (people not eligible to enroll in Medicare until after the premium increase occurs),
- Higher-income beneficiaries subject to the Income-Related Monthly Adjustment Amount (IRMAA) (modified adjusted gross income greater (MAGI) than \$85,000 for individuals and \$170,000 for couples)
- Beneficiaries whose Part B premiums are paid by their state through one of the Medicare Savings Programs (MSPs) because they are covered under Medicaid (in these cases, the state is responsible for paying the higher premium, not the individual).

It is important to note that the hold harmless provision only applies to Part B premiums. It does not apply to Part D premiums (for prescription drugs), even though they can be withheld from Social Security checks.

In order to be protected from increases to Medicare premiums under the hold-harmless provision, the retiree must meet four specific conditions. Social Security benefits are paid in arrears, while Medicare premiums are paid in advance, so it's important to recognize the timing of these events.

1. The individual is collecting Social Security benefits for the months of November and December of the year prior to the COLA increase to Medicare. The payments for these benefits would be received in December and January.
2. Medicare Part B premiums for December and January are deducted from those payments.



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3. The Social Security payment for December, which is received in January and is net of any Medicare premium paid, would be less than the net Social Security payment for November (and received in December).

Previous Examples of the Hold Harmless Provision Taking Effect

In most years, the hold-harmless provision is not applied, as even relatively small percentage increases in Social Security benefits are likely to be greater, in dollar terms, than the annual increase in Medicare premiums. Since 1988, when the provision was first established, it has only been applied twice—in 2010 and 2011, years when there were no Social Security COLA increases.

- *Example 1:* In 2010, Social Security benefits did not increase, while Medicare Part B premiums increased by 14.6%, from \$96.40 per month for 2009 to \$110.50 for 2010. Those who were held-harmless did not experience that premium increase. Again in 2011, the Social Security COLA was 0% while Medicare premiums rose another 4.4% to \$115.40. Those who were held harmless in 2010 and 2011 continued to pay the Part B premium of \$96.40 in 2011. Those held harmless only for 2011 paid the \$110.50 from 2010. In 2012, Social Security benefits increased by 3.6%. At that point, Social Security benefits increased, in dollar terms, enough that those who were previously held harmless finally saw their Medicare premiums increase. Because Medicare premiums could then be spread across 100% of enrollees, the Part B base premium actually decreased in 2012 to \$99.90, although those who were held harmless in both 2010 and 2011 saw a small increase to their premium.
- *Example 2:* In 2014, the average monthly Social Security benefit was \$1,306. The COLA for 2015 was 1.7%, which increased the average monthly benefit by \$22 to \$1,328. The Medicare Part B monthly premium in 2014 was \$104.90. For a person receiving the average Social Security benefit, their Medicare premium would have had to increase by more than \$22 dollars, **or almost 21%** in order for the hold harmless provision to kick in. In reality, Medicare premiums remained unchanged from 2014 to 2015. Because Medicare premiums are still relatively small in size when compared to the total size of a Social Security benefit, even small COLA increases in Social Security benefits are usually more than enough to offset increases in Medicare premiums, in dollar terms.

Medicare and Social Security Outlook for 2016

The Social Security Board of Trustees projects the Social Security COLA for 2016 will be 0%, while Medicare's trustees are projecting a substantial increase in Medicare premiums. Medicare premiums are targeted to cover 25% of total Part B costs, meaning the base Part B premium would need to rise from the current \$104.90 per month to \$120.70 in 2016. However, approximately 70% of Medicare enrollees are eligible for the hold-harmless provision, and therefore they will not see that increase because it would cause a decrease in their Social Security payments. The remaining 30% of Medicare enrollees will need to bear 100%



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of the 2016 premium increase. Because of this, it is projected that the base Medicare premium for those not held-harmless will increase from \$104.90 to \$159.30 in 2016, **an increase of 52%**. The below table shows the projected 2016 premiums for all income tiers:

MAGI Single	MAGI Married Filing Jointly	2015 Part B Premium	Projected 2016 Part B Premium
Under \$85,000	Under \$170,000	\$104.90	\$159.30*
\$85,001-\$107,000	\$170,001-\$214,000	\$146.90	\$223.00
\$107,001-\$160,000	\$214,001-\$320,000	\$209.80	\$318.60
\$160,001-\$214,000	\$320,001-\$428,000	\$272.20	\$414.20
Over \$214,000	Over \$428,000	\$335.70	\$509.80

* Premium amount shown only for those not held harmless. If held harmless, the premium would remain at \$104.90.

The above projections **are only estimates** at this point. The Health and Human Services Secretary does have the ability to set lower premiums if it is determined that Medicare has sufficient reserves to absorb the increase not passed on to Medicare enrollees.

Planning Opportunities to Avoid the Medicare Premium Increase in 2016

While most individuals are unable to control whether they are protected from Medicare increases under the hold-harmless provision, there are scenarios where planning can impact their eligibility.

The biggest opportunity is for those who are those at least age 65 and enrolled in Medicare, but have delayed collecting Social Security, including those who have filed for and then suspended their benefits. These individuals could consider filing for or resuming benefits for November and December of 2015, while making sure to have their Medicare premiums withheld from the Social Security payments. Then in 2016, they could suspend (or re-suspend) their benefits if they are at or beyond full retirement age in order to earn delayed retirement credits - the 8% per year increase in benefits from full retirement age to 70. A person could *not* withdraw their application and pay back the benefits they have already received. The withdrawal of one's application would result in the hold harmless provision not applying.

- *Strategy Example:* Sarah is age 67 and enrolled in Medicare, but has decided that it is in her best interest to wait until age 70 to collect Social Security benefits. Currently, she would not be held-harmless and would be subject to the increase in Part B premiums. To avoid this, she could file for Social Security benefits to begin in November 2015 (which must be done by October 31). Her Medicare premium would be withheld from the November payment (received in December), allowing her to be eligible for the hold-harmless provision for her 2016 Medicare premiums. After receiving her Social Security payment in January, she could suspend her benefit. Doing so would allow her to continue to be held harmless in 2016, but would also allow her to earn delayed retirement credits for Social Security, increasing her benefit by 8% per year until reaching age 70. She would lose 2 months' worth of delayed retirement credits for the time she was actually receiving a Social Security payment.
- *Cost Savings Example:* Aaron turns age 66 in November of 2015. His monthly Social Security benefit at his full retirement age of 66 is \$2,400. Aaron has previously enrolled in Medicare and is currently not subject to IRMAA increases. If he starts his Social Security benefit at his full retirement age in November 2015, he



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will be eligible to be held harmless in 2016 (because of the expected 0% COLA on Social Security for 2016). Based on the projected Medicare Part B premium increase in 2016, enrolling in 2015 would save him \$653 in Medicare costs in 2016. Assuming he collects his Social Security benefit for 12 months, he would lose one year of delayed retirement credits, worth \$192 per month. In this case, the Medicare premium savings for that year would be worth about 3½ months of delayed retirement credits. If avoiding the Medicare premium increase meant Aaron had to start his Social Security benefit more than 3½ months before he had intended, he would be better off paying the higher Medicare premium.

Individuals who are over age 65, still working, and are covered by an employer's plan where the employer has 20 or more employees also have options. The worker may want to try to stay in their employer's plan through 2016 and enroll in Medicare in 2017 or later—hoping that by then, Social Security will increase due to COLA and Medicare premiums would likely decline from the artificially higher 2016 amount, as they are now spread over the full base of Medicare enrollees (as happened in 2012).

Lastly, for those that cannot be held harmless in 2016 because they are subject to Medicare's income adjustments (IRMAA), it is too late to try to reduce their income to influence 2016 premiums, as 2016 premiums are based on 2014 income. However, for those that could have the ability to bring their income below the IRMAA thresholds in future years, continued tax planning could help them control their Medicare costs in future years.

Individuals who will enroll in Medicare Part B in 2016 will not be held harmless, as their Social Security check will not decrease due to the *combination* of a 0% Social Security COLA *and* an increase in Medicare premiums.