Chapter 6

"Medicare Savings Programs" (QMB, SLMB, QI), and QDWI

Scope of chapter. This chapter deals with four programs. Three of them are sometimes referred to as the "Medicare Savings Programs." These three are the Qualified Medicare Beneficiary Medicaid Program (QMB), the Specified Low-Income Medicare Beneficiary Medicaid Program (SLMB), and the Qualified Individual Program (QI). A fourth program that uses the same income exclusions and deductions is the Qualified Disabled Working Individual Program (QDWI). In addition to providing help with certain Medicare costs, the first three of these programs (QMB, SLMB, QI) have this feature: Eligibility for QMB, SLMB, and QI means the Medicare beneficiary has eligibility for the low-income subsidy – the "extra help" – in regard to Medicare Part D (the Medicare prescription drug program). Eligibility for QDWI may allow eligibility for the low-income subsidy, if the countable income of person eligible for QDWI is below 150% of the federal poverty income limit. Paragraph 12 contains a chart with income limits for the Medicare Savings Programs. This chapter contains several hyperlinks. Certain of the hyperlinks are necessarily to broader sections of background material (such as to a full statute section). This means that locating the exact point of reference (such as a sub-section or paragraph in a statute) may require scrolling once the hyperlink is accessed.

Chapter questions and answers. After some of the paragraphs there are questions relating to the materials covered in the paragraphs. An answer key is at the end of the chapter.

Overview of paragraphs.

- Paragraph 1 discusses the sources of law for the Medicare Savings Programs.
- Paragraph 2 provides a brief overview of the Medicare Savings Programs.
- Paragraph 3 discusses the role of the Social Security Administration's Program Operations Manual System (POMS) in determining what resources and income count for eligibility in the Medicare Savings Programs.
- Paragraphs 4 and 5 discuss certain points regarding the Medicare Savings Programs.
- Paragraph 6 includes a discussion of what resources do and do not count, using the Qualified Medicare Beneficiary Medicaid Program as the context to describe the treatment of resources.
- Paragraphs 7 through 9 discuss the other two Medicare Savings Programs, and also the QDWI program, including the varying income limits for these programs.
- Paragraphs 10 through 15 discuss how countable income is determined, and what the income limits are for the different Medicare Savings Programs.
- Paragraphs 16 through 24 discuss the benefits under the Medicare Savings Programs, and QDWI.

- Paragraphs 25 and 26 discuss the application and appeals process.
- Paragraphs 27 through 32 address the relationship between the Medicare Savings Programs and Medicare Supplement Insurance ("Medigap"), including:
    - The right of Medicaid recipients to a 24-month suspension of a Medigap policy, and
    - The requirement that Medigap policies not duplicate Medicaid benefits.
- Paragraphs 33 and 34 provide information about some additional sources of assistance in serving clients. As with other programs administered by the State of Texas, www.yourtexasbenefits.com is a Web site to explore eligibility and through which an application can be submitted.

Back-up and support. Any Benefits Counselor who has questions about the information in this chapter can call the Legal Hotline for Texans at the Benefits Counselor support number for further information. In certain paragraphs, Web sites are identified. Once the reader has located the level of a Web site page or link that the reader will be using time and again, the reader can, of course, bookmark that Web location.

1. **Sources of law.**

a. The Medicaid law is Title XIX of the Social Security Act. It is sometimes called "Title Nineteen," and when it is referred to in that manner, the reference is to Title XIX of the Social Security Act. The Medicaid law is *codified* at 42 United States Code Section 1396.

b. When a Public Law is said to be "codified" that means it has been assigned a place in the United States Code. The United States Code may be abbreviated as "U.S.C." The Medicaid law – codified at 42 U.S.C. §1396 – has *extensive* subparagraphs. For that reason, the particular part(s) of the federal Medicaid law that may bear on an individual's case may have several lower and upper case letters, and several numbers. The definitions of individuals covered by the programs discussed in this chapter are located at these sections of the U.S. Code:

- QMB: 42 U.S.C. §1396d(p)(1).
- SLMB: 42 U.S.C. §1396a(a)(10)(E)(iii).
- QI: 42 U.S.C. §1396a(a)(10)(E)(iv).
- QDWI: 42 U.S.C. §1396d(s).

Note: Once at the links above, one scrolls to the particular subsection. The federal Medicaid law (42 U.S.C. §1396 et seq.) requires that states operate their Medicaid programs under a State Medicaid Plan, which is a very extensive document. The

Texas State Medicaid Plan is available on the Internet at https://hhs.texas.gov/services/health/medicaid-chip/about-medicaid-chip/stateplan

c. Benefits Counselors who want assistance in obtaining the part(s) of the State Medicaid Plan or the parts of the federal Medicaid law that bear on a case, can call the Benefits Counselor support number at the Legal Hotline for Texans.

d. The Texas state statute which authorizes the Medicaid program is Chapter 32 of the Texas Human Resources Code. The state Medicaid administrative rules for the programs discussed in this chapter are found at https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=1&pt=15&ch=359&rl=Y The Texas Administrative Code can be accessed directly through the Web site of the Texas Secretary of State, at http://www.sos.texas.gov/tac/.

e. The federal Medicaid law requires states to provide Medicaid for low-income families, for persons receiving SSI, and for persons qualifying for Title XIX long-term care ("Nursing Facility Medicaid"). The law also requires states to provide a limited type of Medicaid for certain low-income persons who are enrolled in Medicare. These persons are called "dual eligibles." The programs they qualify for are now called "Medicare Savings Programs." States are not required to participate in Medicaid, but if they do, they are required to follow the federal Medicaid law (42 U.S.C. §1396). All states were participating in the Medicaid program as of January 1, 2019.

f. The Medicare Improvements for Patients and Providers Act of 2008, which is Public Law 110-275, was enacted by the 110th Congress in July of 2008. It is sometimes abbreviated "MIPPA." MIPPA included certain provisions regarding the Medicare Savings Programs. Most of these provisions took effect in 2010. One provision though, that had immediate effect in 2008, was the extension of the Qualifying Individual Program ("QI"). QI is the only one of the four programs discussed in this chapter that is not an entitlement, and so from time to time, Congress extended the QI program. However, that changed with the most recent extension in April of 2015, when Congress permanently extended the program with Section 211 of Public Law 114-10 ("Medicare Access and CHIP Reauthorization Act of 2015"). The most recent extension of the authorization of the QI program is codified at 42 U.S.C. §1305.

g. The state laws referred to in this chapter are accessible through the website http://www.statutes.legis.state.tx.us/. State administrative rules are codified by the Texas Secretary of State in the Texas Administrative Code, which is at https://www.sos.state.tx.us/tac/. Federal statutes are codified in the United States Code, which is at http://www.gpo.gov/fdsys/browse/collectionUScode.action?collectionCode=USCODE and http://uscode.house.gov/search/criteria.shtml. Federal administrative rules are codified in the Code of Federal Regulations, which is at http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.

Questions regarding sources of law (circle the correct answer):

i. The Medicaid law is Title XIX of which Act?

1. The National Recovery Act
2. The False Claims Act
3. The Social Security Act
4. The Data Quality Act

ii. The federal Medicaid law requires that states operate their Medicaid program under (circle the correct answer).

1. A State Medicaid Plan
2. An Interstate Compact
3. A State Sunset Law
4. An Interstate Non-Compete Agreement

iii. The Texas Administrative Code Sections pertaining to the Medicaid program can be accessed directly through the Web site of the (circle the correct answer).

1. Texas Department of Agriculture
2. Canadian River Municipal Water Authority
3. Texas Drought Preparedness Council
4. Texas Secretary of State

iv. The law that was enacted by the 112th Congress, by the "American Taxpayer Relief Act of 2012," extended the QI program to (circle the correct answer).

1. December 31, 2023
2. December 31, 2043
3. December 31, 2013
4. December 31, 2025

2. **Medicare Savings Programs.** There are three Medicare Savings Programs: Qualified Medicare Beneficiary Medicaid (QMB); Specified Low-Income Medicare Beneficiary Medicaid (SLMB); and Qualifying Individual (QI). The Qualified Disabled Working

Individuals program (QDWI) is not a "Medicare Savings Program," although it does use the same income exclusions and deductions as the Medicare Savings Programs. All four of the programs only assist persons who enroll or have already enrolled in Medicare. If a person is eligible to enroll in Medicare but has not done so because of the cost-sharing expense (such as the premium expense), the person can enroll as part of the steps in achieving eligibility for one of the Medicare Savings Programs. This may require coordination between the state Medicaid program and the Social Security Administration. Persons who achieve eligibility for a Medicare Savings Program or for the Qualified Disabled Working Individuals Program are sometimes referred to by the abbreviation for their particular Medicare Savings Program. The Medicaid benefits that QMBs, SLMBs, QIs, and QDWIs receive are limited. The benefits are payment of some or all of the Medicare cost-sharing amounts (premiums, co-insurance, and deductibles). In Texas, all of the Medicare Savings Programs and QDWI have always been exempt from what is called "Medicaid Estate Recovery." Persons who are eligible for QMB, SLMB, or QI are also considered to have met the eligibility requirements for the "extra help" (the low income subsidy) under Medicare Part D. Persons who qualify for QDWI and whose income is less than 150% of the federal poverty income limit can qualify on the basis of their income for extra help.

Questions regarding the Medicare Savings Programs (circle the correct answer):

i. To receive the help of the Medicare Savings Programs, a person needs to enroll or be enrolled in Medicare.

5. True
6. False

ii. In Texas, all of the Medicare Savings Programs are exempt from Medicaid Estate Recovery.

1. True
2. False

iii. Persons who are eligible for QMB, SLMB, or QI are eligible for "extra help" under Medicare Part D.

1. True
2. False

3. **The role of the Social Security Program Operations Manual System ("POMS").** The provisions of the Social Security Program Operations Manual System ("POMS") that relate to SSI's treatment of income and resources can be useful in resolving intricate questions concerning how income and/or resources are treated under the Medicare Savings Programs in Texas. The POMS can be accessed at the Web site of the Social Security Administration

– www.ssa.gov. The direct link to the POMS is https://secure.ssa.gov/apps10/poms.nsf/partlist!OpenView. ("SI" – the Supplemental Security Income area of the POMS – is the area that is most used in connection with Medicaid program.) SI 011 is the area of the POMS that deals with what counts as a resource under SSI (and hence, under the Medicare Savings Programs and under other Medicaid programs). In addition to being useful for the Medicare Savings Programs and other Medicaid programs, the POMS' primary purpose is to provide detailed treatment of the SSI programs and of the Social Security benefit programs.

4. **Relationship between Supplemental Security Income (SSI) and regular Medicaid in Texas.** It is important to keep in mind that in Texas, every person who receives *any* amount of SSI – so little as one dollar – also receives regular Medicaid. A recipient of regular Medicaid who is a Medicare beneficiary receives the benefits of the Qualified Medicare Beneficiary Medicaid (QMB) program as part of the regular Medicaid program. Thus, knowledge of the POMS can help the advocate to represent persons seeking SSI. Qualifying for SSI means eligibility for regular Medicaid, in Texas. For a Medicare beneficiary, the benefits of regular Medicaid include the benefits of QMB.

5. **Two further points about the Medicare Savings Programs and the SSI program in regard to resources.** Unlike the SSI program, there is no penalty for giving away property to qualify for any of the Medicare Savings Programs. Also, under the Medicare Savings Programs, if only one spouse of a couple has Medicare, the couple general resource exclusion nonetheless is used, not the individual general resource exclusion.

6. **Qualified Medicare Beneficiaries (QMBs).**

   a. A QMB is an aged or disabled Medicare beneficiary who has: (1) income at or below the Federal poverty line; and (2) resources not more than the maximum allowed under 42 U.S.C. §1395w-114(a)(3)(D) (thus, effective March 1, 2020, $7,860 for an individual and $11,800 for a couple). Inasmuch as all the Medicare Savings Programs use the same resource exclusions, a review of the resource exclusions under QMB is pertinent. These resource exclusions also apply to SLMB, QI, and QDWI. There is a list of excluded resources at POMS SI 01110.210. The most frequently encountered excluded resources will be the homestead, a vehicle used for transportation regardless of year, make, model, or value, household goods and personal effects, separately identifiable burial funds up to $1,500 and burial spaces. Under 42 U.S.C. §1395w-114(a)(3)(G), no part of the value of any life insurance policy is to be taken into account in determining eligibility for QMB. Under the POMS, these resources are excluded:

      i. The home serving as the principal place of residence, including the land on which the home stands and other buildings on that land. Thus, the homestead is excluded, regardless of value, number of rooms, size of dwelling, and regardless of acres (as long as the land is all contiguous with the land that the dwelling sits on);

ii. Funds from the sale of a home, if reinvested timely in a replacement home (within three full calendar months of receipt of the funds (POMS SI

01130.110)); iii. Jointly-owned real property which cannot be sold without undue hardship

(due to loss of housing) to the other owner(s); iv. Real property for so long as the owner's reasonable efforts to sell it are unsuccessful;

v. Restricted, allotted Indian land if the Indian/owner cannot dispose of the land without permission of other individuals, his/her tribe, or an agency of the Federal Government;

vi. One vehicle used for transportation;

vii. Burial space or plot held for an eligible individual, his/her spouse, or member of his/her immediate family (this is in addition to, and has no effect on, the burial funds exclusion (POMS SI 01130.400 A. 2.));

viii. Separately identifiable burial funds of $1,500 for the applicant and the applicant's spouse (POMS SI 01130.300 B. 4.);

ix. Certain prepaid burial contracts;

x. One vehicle used for transportation (regardless or year, make, model, or value);

xi. Household goods and personal effects; xii. Property essential to self-support;

xiii. Stock held by native Alaskans in Alaska regional or village corporations effective January 1, 1992 when the stock becomes a resource;

xiv. Retained retroactive SSI or RSDI benefits;

xv. Dedicated accounts;

xvi. Restitution payments for misused Title II, Title VIII, and Title XVI benefits;

xvii. Radiation Exposure Compensation Trust Fund payments;

xviii. German reparations payments made to World War II Holocaust survivors; xix. Austrian social insurance payments;

xx. Japanese-American and Aleutian restitution payments;

xxi. Federal disaster assistance received on account of a Presidentially declared major disaster, including interest accumulated thereon;

xxii. Cash (including accrued interest) and in-kind replacement received from any source at any time to replace or repair lost, damaged, or stolen excluded resources;

xxiii. Certain items excluded from both income and resources by other Federal statutes;

xxiv. Agent Orange settlement payments to qualifying veterans and survivors; xxv. Victim's compensation payments; xxvi. State and local relocation assistance payments; xxvii. Tax refunds related to Earned Income Tax Credits; xxviii. Grants, Scholarships, Fellowships, and Gifts; xxix. Ricky Ray Hemophilia Relief Fund; xxx. Payments to Veterans' Children with Certain Birth Defects; xxxi. State Annuities for Certain Veterans.

b. As mentioned above, the most frequently encountered excluded resources will be the homestead, a vehicle, household goods and personal effects, and separately identifiable burial funds up to $1,500, and burial spaces. But as the list above shows, there are many additional resources which, from case to case, can be excluded. The chart at POMS SI 01110.210 has links to more details regarding some of the more seldom encountered excluded resources. The Medicare Savings Programs' resource limits were affected by Sections 112 and 115 of the Medicare

Improvements for Patients and Providers Act of 2008 (Public Law 110-275) (MIPPA). Section 112 of MIPPA provided that, as of January 1, 2010, the resource limits for QMB will be the same as the resource limits for resources in the Low-Income Subsidy of the Medicare Prescription Drug Program ("Medicare Part D"). 42 U.S.C. §1396d(p)1)(C). Thus, the resource limits for QMB will be the same as those for the Low-Income Subsidy (LIS) found at 42 U.S.C. §1395w114(a)(3)(D), and they will be indexed for inflation. (Section 112 of MIPPA refers to 42 U.S.C. §1396(p)(1)(C), which is the resource limit for QMB. The sections of the U.S.Code that define SLMBs and QIs – 42 U.S.C. §§1396a(a)(10)(E)(iii) and (iv)(II) – appear to incorporate the QMB resource limits, so this MIPPA change also applies to SLMB and QI eligibility.) Section 115 of Public Law 110-275 amended 42 United States Code §1396p(b)(1)(B)(ii), so as to prohibit from January 1, 2010 onward, the use of estate recovery regarding benefits under the Medicare Savings Programs. (Texas never exercised the option to use estate recovery in regard to the Medicare Savings Programs.) It should be noted that the QDWI program does not use LIS resource limit, but rather uses twice the SSI resource limit of $4,000 for an individual and $6,000 for a couple, after using the exclusions available under SSI. This resource limit for QDWI is specified at 42 U.S.C. §1396d(s)(3).

c. To meet the QMB eligibility definition, the person must be entitled to Medicare Part A. Included is the relatively small group of aged persons who are not automatically entitled to Part A coverage, but who have bought (or could buy) Medicare Part A protection by paying a monthly premium. Not included in QMB are "Qualified Disabled Working Individuals" (QDWIs). Under 42 U.S.C. §1395i-2a, these individuals remain eligible for Medicare. They are individuals who have lost entitlement to Social Security Disability Benefits because they have earnings that exceed the "Substantial Gainful Activity" (SGA) threshold. (In 20, this threshold is

$1,260 monthly income for a disabled person who is not blind, and $2,110 monthly income for a person who meets the blindness criteria

of Social Security. See the Social Security Administration's Fact Sheet at https://www.ssa.gov/oact/cola/sga.html.) A person can be eligible for Medicare due to age (65); disability (receipt of 24 months of Social Security disability benefits which allows for Medicare eligibility with the 25th month), blindness, or due to end-stage kidney disease or amyotrophic lateral sclerosis (Lou Gehrig's disease).

i. For QMBs, Medicaid is required to pay Medicare premiums and cost sharing charges as follows: (1) Part B monthly premiums; (2) Part A monthly premiums paid by the limited number of persons not automatically entitled to Part A protection; (3) coinsurance and deductibles under Part A and Part B including the Medicare hospital deductible, the Part B deductible, and the Parts A and B coinsurance; and (4) coinsurance and deductibles that Medicare Advantage plans charge their enrollees.

Questions regarding QMB (circle the correct answer):

i. Only persons who are sixty-five (65) years of age can qualify for QMB, because there is no basis for qualifying for Medicare for persons who are not yet sixty-five (65).

1. True
2. False

ii. If a person eligible for QMB has to pay a premium for Medicare Part A QMB will pay the Medicare Part A and Part B premiums.

1. True
2. False

7. **Specified low-income Medicare beneficiaries (SLMBs).**

a. Medicaid is also required to pay Medicare Part B premiums for SLMBs. These are persons meeting the QMB criteria except that their income is slightly over the QMB limit. The resource limits for SLMB are the same as for QMB, detailed in paragraph 6 above. The SLMB resource limits, effective March 1, 2020, thus are $7,860 for an individual and $11,800 for a couple. The SLMB income limit is 120 percent of the Federal poverty line. SLMB is limited to payment of the Medicare Part B premiums.

b. The benefit of SLMB is payment of the Medicare Part B premium. Although this is the same benefit as the Qualifying Individual (QI) program has, there is this difference: SLMB is an entitlement program. QI is not an entitlement program, and whether it will be available depends on Congress periodically reauthorizing it (as Congress most recently did on December 31, 2012, by mean of Section 621 of Public Law 112-240).

Questions regarding SLMB (circle the correct answer):

i. What one statement is true about the homestead exclusion under SLMB?

1. The house cannot have more than one bathroom.
2. The lot cannot be more than one typical city lot in size.
3. If the applicant owns a lot in northeastern Louisiana as well as the house and lot in Texas, both lots can be considered part of the excluded homestead.
4. There is no limit on the value, number of rooms, size of dwelling, nor number of acres, but the only land that can be excluded is land that is contiguous with the land on which the homestead dwelling sits can be excluded (along with the dwelling).

ii. What one statement is true of the vehicle exclusion under SLMB?

1. To be excluded, the vehicle must be made in America.
2. To be excluded, the vehicle cannot have more than two doors.
3. One vehicle used for transportation regardless of year, make, model, or value, is excluded.
4. To be excluded, the vehicle cannot be newer than five years old.

8. **Qualifying individuals (QIs).** The Balanced Budget Act of 1997 required State Medicaid Programs, effective January 1, 1998 through December 31, 2002, to pay Part B premiums for beneficiaries with incomes of less than 135 percent of poverty. These persons are referred to as QIs. The resource limits for QI are the same as for QMB, detailed in paragraph 6 above. The QI resource limits, effective March 1, 2020, thus are $7,860 for an individual and $11,800 for a couple. The QI income limit is income less than 135 percent of the Federal poverty line. QI is limited to payment of the Medicare Part B premiums. The QI program is codified at 42 U.S.C. §1396a(a)(10)(E)(iv). Unlike the other Medicare Savings Programs, QI is not an "entitlement" and hence Congress

from time to time has extended it. The QI program's benefit is the same as the benefit of the SLMB program – payment of the Medicare Part B premium. And historically, Congress, from time to time, had to extend the program because QI is a block grant funded program. This simply means that Congress approves limited amounts of funds (block grant) to each state to pay for QI beneficiaries. Once the states deplete the QI funding, financial support for eligible QI individuals ends. However, in 2015, Congress passed the Medicare Access and CHIP Reauthorization Act which permanently funds the QI program and therefore there is no further need for reauthorizations. Please seehttps://www.gpo.gov/fdsys/pkg/PLAW-114publ10/pdf/PLAW-114publ10.pdf. Just as under QMB and SLMB, the QI general resource exclusion (after excluding those resources that do not count) is LIS general resource exclusion. QI excludes the same resources as QMB and SLMB.

Questions regarding QI (circle the correct answer):

i. Under QI, there is no exclusion from resources for any value of life insurance.

1. True
2. False

ii. Under QI, there is no exclusion from resources for any burial space for the applicant.

1. True
2. False

9. **Qualified Disabled Working Individuals (QDWIs). A**s noted, Medicaid is authorized to provide protection against Medicare Part A premiums for QDWIs. QDWIs are persons who were previously entitled to Medicare on the basis of a disability, who lost their entitlement based on earnings from work, but who continue to have the disabling condition. The statutory basis for the QDWI program is [42 U.S.C. §1396d(s)](). This occurs in the situation where a person became entitled to Medicare by virtue of having received 24 months of Social Security Disability Insurance (SSDI) benefits. Then, if the person begins to have earnings above the threshold at which earnings are considered evidence that the person is no longer disabled, the person usually becomes ineligible for SSDI. *Earned* income above the threshold is considered evidence that the SSDI recipient is now able to engage in "substantial gainful activity" (SGA). A person who is able to engage in SGA is not entitled to SSDI, since the ability to engage in SGA means that disability has ended or has been overcome. The SGA threshold increases each year. In calendar year 2019, the threshold is $1,220 monthly for disabled persons who are not blind. For persons who meet the blindness standard under SSDI, the threshold in 2019 is $2,040. *Unearned* income – such as interest or dividends – does not count toward the

SGA threshold. Under the "Qualified Disabled Working Individual Program" (QDWI) Medicaid is required to pay the Medicare Part A premium for persons who lost eligibility for SSDI due to *earnings* above the threshold if their countable income does not exceed 200 percent of the Federal poverty line (FPIL), their resources are below 200 percent of the SSI limit, and they are not otherwise eligible for Medicaid. For QDWI eligibility, countable income includes *both* earned and unearned income. Because of the narrow income band – countable income (earned and unearned) cannot exceed 200% of FPIL, yet the Medicare enrollee has to have lost SSDI due to *earned* income above the SGA threshold

– there are very few QDWIs. One study at the end of the 20th Century showed in the entire U.S. fewer than 50 QDWIs.

Note: The change in resource limits that MIPPA brought about for QMBs, SLMBs, and QIs, effective January 1, 2010 – see paragraph 6 b. above – does not appear in store for QDWIs. The statutory section that provides the resource limits for QDWIs – 42 U.S.C. §1396d(s)(3) – refers explicitly to the SSI resource limits, and Section 112 of MIPPA – 42 U.S.C. §1396d(p)(1)(C) – did not modify the QDWI resource limit provision. The QDWI countable resource limits are twice the SSI countable resource limits, hence $4,000 for a single person and $6,000 for a married person living with the spouse.

Questions about QDWI (circle the correct answer):

i. Under QDWI, what is the importance of the Social Security Disability "SGA" threshold?

1. It is the amount of earnings, at which point a person receiving Social Security Disability Insurance (SSDI) benefits will be considered to no longer be disabled.
2. It is the amount of earnings that a person must exceed in order to be eligible for Social Security Disability Insurance (SSDI) benefits.

ii. What is the benefit of the QDWI program?

1. Payment of the Medicare Part A premium.
2. Payment of the Medicare Part B premium.
3. Payment of the personal needs allowance.
4. Payment of the community spouse minimum monthly maintenance needs allowance.

10. **As noted, in the Medicare Savings Programs, SSI rules are used to determine what counts as income and what counts as resources.**

a. These Medicare Savings Programs all have income and resource rules that follow the SSI methods for determining what counts as income and resources. The POMS section that has the excluded resources chart, POMS SI 01110.210, has been addressed above.

b. The POMS chart that lists exclusions of unearned income is at POMS SI 00830.099. Commonly encountered excluded types of unearned income are food stamps (now called "Supplemental Nutrition Assistance" – SNAP), means-tested benefits (such as Temporary Assistance for Needy Families (TANF)), energy assistance, housing assistance, payments under the Foster Grandparents Program, payments under the Retired Senior Volunteer Program (RSVP), payments under the Senior Companion Program, assistance under the Women, Infants, and Children (WIC) Program, victims' compensation payments, and Holocaust reparation payments. However, the list at POMS SI 00830.099 has additional entries, and links for details concerning each of the unearned income exclusions.

c. One consequence of the use of SSI methods for determining income in the Medicare Savings Programs is that under POMS SI 00810.420, there is an exclusion of $20 of monthly unearned income. An eligible couple does not receive double the $20 exclusion; the $20 exclusion is used once whether one spouse or both spouses will be or are applying. This means that, in calculating eligibility for a married couple in which each spouse is applying for a Medicare Savings Program, the unearned income of the spouses is totaled and then the $20 exclusion of unearned income is taken against the combined unearned income of the spouses together.

d. *Earned* income also is subject to certain exclusions under the POMS, and hence, under the Medicare Savings Programs. The POMS that treats the earned income exclusions is POMS SI 00820.500. First, if there was little (or no) unearned income, whatever is unused of the $20 exclusion of unearned income is used to reduce earned income. Under POMS SI 00820.500, there is also an exclusion of the first $65 of monthly earned income and of one-half the rest of monthly earned income. As with the $20 exclusion of unearned income, the earned income of both spouses – if both spouses are applying – is totaled and then the $65 exclusion for earned income is taken against the total earned income of both spouses and then the exclusion of one-half the rest of the earned income is taken against the total earned income of both spouses.

e. Social Security benefits are an example of unearned income, and thus $20 is excluded from the gross Social Security benefits in calculating countable income. The gross Social Security benefit is the value of cash received from Social Security by direct deposit or by check, *plus* the amount of any Medicare premium(s) deducted from the gross Social Security benefit. Medicare premiums which are deducted from the gross Social Security benefit are added back in to determine the *gross* Social Security benefit, which is the amount against which the $20 exclusion of unearned income is taken.

f. Although the resource provisions of the POMS are useful for determining how resources will be treated under the Medicare Savings Programs, remember that one very important difference is this: There is *no* transfer of resources penalty under the Medicare Savings Programs. Under SSI, there may be a transfer of resources penalty if property is given away within 36 months of applying for SSI. The SSI transfer of resources penalty – which does not apply to the Medicare Savings Programs – is covered by POMS SI 01150.000. Under the Medicare Savings Programs there is no penalty for giving away resources to become eligible.

g. SSI income and resource provisions are also covered in Chapter Ten (Medicaid and Supplemental Security Income).

h. If only one spouse of a couple is a Medicare beneficiary, the couple's combined countable income is first compared to the couple income limit. If that limit is not exceeded, then the individual's countable income is compared to the individual income limit. If that limit is not exceeded, income eligibility exists.

i. A POMS section at HI 03020.055 shows how to calculate the $20 exclusion, the $65 exclusion of earned income, and the exclusion of the remaining 50% of earned income. The chart also shows the declining percentage of Medicare Part D low-income subsidy ("extra help"), as countable income above 135% of the federal poverty income limit approaches closer and closer to 150% of the federal poverty income limit. Medicare beneficiaries with countable income at or above 150%, are ineligible for the low-income subsidy pertaining to Medicare Part D. Income at or below 135% of the federal poverty income limit qualifies individuals otherwise eligible, for full premium subsidy for Medicare Part D. A reason why a Medicare beneficiary, with income low enough to qualify for QMB, SLMB, or QI, may nonetheless may be ineligible for QMB, SLMB, or QI, is if countable resources are too high. Under QMB, SLMB, and QI, the countable resource limit for a single person is $7,860, and for a married couple who live together (even if only one spouse is a Medicare beneficiary) is $11,800. But for the low-income subsidy, the countable resource limits are $14,610(single person) and $29,160 (married couple living together, even if only spouse is a Medicare beneficiary). Thus, there will be some Medicare beneficiaries, whose income is low enough for QMB, SLMB, or QI, but whose countable resources are too high for QMB, SLMB, or QI. Nonetheless, their countable resources may be low enough for the low-income subsidy. See POMS HI 03030.025 ("Resource Limits for Subsidy Eligibility").

Questions regarding the applicability of SSI rules in determining income and resources under the Medicare Savings Programs (circle the correct answer):

i. Non-attorneys are allowed to access the Social Security Administration's Program Operations Manual System (POMS).

1. True
2. False

ii. The transfer of resources penalty that is used in the SSI program is also used in the Medicare Savings Programs.

1. True
2. False

11. **The income limits for these programs change on or before April 1, and the value of the benefits changes every January.** The income limits for the Medicare Savings Programs are based on the federal poverty income limits (FPIL). Because the FPIL usually increases by each April 1, that is when the income limits for these programs usually will have increased, if not already in March. Since the vast majority of the beneficiaries of these programs receive Social Security, the annual Social Security cost-of-living increase (which occurs every January 1) is disregarded until the increase in the income limit takes effect. At that time, an automatic review of computer tape data occurs, to update the amount of countable Social Security. The value of the benefits under these programs increases each January 1, because that is when the Medicare premiums, deductibles, and cost-sharing amounts increase.

Questions about the income limits, resource limits, and value of benefits under the Medicare Savings Programs (circle the correct answer):

i. The income limits are based on the federal poverty income limit.

1. True
2. False

ii. The income limits change by every April 1.

1. True
2. False

iii. The value of the benefits changes every January 1.

1. True
2. False

12. **Income limits effective until changed in 2021.** The income limits for QMB, SLMB, QI, and QDWI are different percentages of the federal poverty income limits. In recent years, the upcoming federal poverty income limits have been announced in late January. It is up to each federal agency to determine when they will become effective. For the past several years, the QMB, SLMB, QI, and QDWI have made use of the federal poverty income limits (announced in January), starting March 1 or April 1. The resulting income limits, starting March 1, 2020, are: QMB, individual: $1,084, couple, $1,457. SLMB, individual: $1,296, couple, $1,744. QI, individual, $1,456 couple, $1,960. QDWI, individual, $4,339, couple, $5,833. See https://hhs.texas.gov/laws-regulations/handbooks/medicaid-elderly-people-disabilities-handbook/appendices/mepd-appendix-xxxi-budget-reference-chart . These income limits have built into them the $20 exclusion of unearned income. The following chart displays these income limits in a table:

Program	**Monthly Income Limit as Stated by Texas HHSC**	
	Single Person / + $20	**Couple / + $20**
QMB	$ 1,064 / 1,084	$ 1,437 / 1,457
SLMB	$1,276 / $1,296	$1,724 / $1,744

QI	$1,436 / $1,456	$1,940 / $1,960
QDWI	($2,128 x 2) + $20 *Also includes the $65 earned income exclusion	($2,874 x 2) + $20 * Also includes the $65 earned income exclusion

13. a. In calculating income, if a person is receiving Social Security and (as is typical) has the standard Medicare Part B premium deducted from the Social Security benefit, the actual countable Social Security benefit is the amount of Social Security direct deposited into the account of the beneficiary, or received by check plus the Medicare Part B premium.

b. As noted above, because SSI rules are used to arrive at countable income, there is the general exclusion of $20 of unearned income. The figures in paragraph 12 already have this $20 factored in. Applicants for and recipients of QMB, SLMB, QI, and QDWI can exclude the first $65 of earned income and one-half the remainder of earned income, since their income is calculated using SSI methods. Because QDWI by definition is for working individuals, those applying for or receiving QDWI very likely will be taking these deductions of the first $65 of earned income and one-half the rest of earned income. But those applying for or receiving any of the Medicare Savings Programs can take those deductions against earned income, if they have earned income.

Question regarding the calculation of income under the Medicare Savings Programs:

Typically, the Social Security benefit of a Medicare beneficiary is higher than the amount that Social Security direct deposits or sends in the form of a check.

1. True
2. False

14. As noted above, because of the use of SSI methods for arriving at countable income, if the individual (or couple) has earned income, the first $65 of monthly earned income is disregarded, and then one-half of the rest of the earned income is disregarded. (This exclusion is especially important for QDWI, but it is available under QMB, SLMB, and QI, for applicants or recipients who have earned income.) (If unearned income did not

totally consume the $20 disregard, whatever remains of that $20 disregard is also deducted from earned income.) **Example**: Couple has monthly unearned income (all Social Security) of $1,100 (the gross benefit). This is the gross Social Security benefit. The couple has monthly combined earned income from a home business of $445. Countable income is $1,100 minus $20 (thus, total countable unearned income of $1,080) plus countable earned income (which is $445 - $65, minus ½ the remainder; resulting in $380 (which is $445 - $65) minus one-half of $380, which is $190). Thus, countable income is $1,270, which is below the $1,457 income limit for a couple for QMB. Both spouses have end stage kidney disease and are enrolled in Medicare. Countable resources owned by the couple are $10,000 (which is below the $11,800 resource limit). The couple qualifies for QMB.

15. **Remember**:

a. In calculating income for a couple under the Medicare Savings Programs, the $20 exclusion for unearned income and the exclusion of the first $65 of earned income and one-half the rest of earned income can only be taken once in the chain of calculations – not one time for each spouse, but rather one time for the spouses together. In the case of married persons living together, the $20 is taken against total unearned income of the couple; they do not get to take the $20 deduction twice.) If unearned income is so low that the $20 exclusion is not fully used to off-set unearned income, then the remaining part of the $20 is deducted from earned income, before the $65 is deducted from earned income. In the case of a married couple living together, the deduction of $65 and one-half the remaining earned income is taken against the total earned income of the couple; they do get to take these deductions twice.

Question regarding calculation of income, in the case of a married couple:

i. Since a married couple living together involves two people, in calculating their income under the Medicare Savings Program, the $20 exclusion for unearned income is taken fully ($20) twice – it is taken against unearned income of one spouse and then fully again against the unearned income of the second spouse.

1. True
2. False

ii. Since a married couple living together involves two people, in calculating their income under the Medicare Savings Program, the $65 and one-half rest exclusion for earned income is taken fully ($65 and one-half the rest) twice – it is taken against unearned income of one spouse and then fully again against the unearned income of the second spouse.

1. True
2. False

16. **The value of the benefits in the year 2020.** Because the benefit of these programs is payment of all or some of the Medicare premiums, deductibles, and coinsurance amounts, when those amounts increase each January 1, the value of the benefit of these programs increases. Keep in mind that persons who are eligible for QMB, SLMB, or QI are also automatically eligible for the "extra help" – the low-income subsidy – under Medicare Part D. (QDWIs may qualify for the low-income subsidy depending on their income.) This link http://www.medicare.gov/your-medicare-costs/costs-at-a-glance/costs-atglance.html, ("Medicare Costs at a Glance") provides the cost information in paragraphs 17, 18, and 19 below, as well as further information regarding Medicare.

17. **QMB's benefits.** QMB, for persons certified for it, pays all of the person's Medicare Part A and Part B cost-sharing – premiums, co-payments, and deductibles. For most persons certified for QMB, the Medicare Part A premium is not a cost the person pays. Usually, Medicare beneficiaries have "paid" for Medicare Part A, through payroll taxes. But assume that a person certified for QMB has to pay the Medicare Part A premium. Assume it is the full, year 2019 Part A premium ($458 monthly), and not just the Part A premium for those who have at least 30 credits of Social Security coverage (a $252 monthly premium). For such a "QMB," the value of the benefit would be at least the $458 monthly Part A premium,

the \$144.60 standard monthly Part B premium, each Part A hospital deductible incurred (\$1,408 per benefit period), all hospital co-insurance amounts (\$352 per day for days 61 – 90, and \$704 per day for days beyond the 90th day in a benefit period (up to the maximum of 60 "lifetime reserve days")), the skilled nursing facility copayment (\$176 per day for days 21 – 100), the 20% deductible for durable medical equipment, the \$5 co-pay for hospice prescriptions, the 5% co-pay for hospice inpatient respite care, the \$185.00 Part B annual deductible, the 20% Part B copay for most doctor services, the 20% co-pay for Part B outpatient physical, occupational, and speech-language therapy, the 20% to 40% co-pay for outpatient mental health services, and all other Medicare Part B co-pays. (Most QMBs do not have a premium for Medicare Part A, so for most "QMBs" the benefit eliminates payment of the other items listed. But, if a QMB does have a Medicare Part A premium (either the full \$458 monthly premium, or the reduced \$252 premium), the QMB program pays *that* as well.)

18. The Medicare website identified in paragraph 16, has this information about mental health services under Medicare Part A. Under Medicare Part A, in regard to a hospital inpatient stay for mental health hospital services, in 2020, for days 1 – 60, there is the same \$1,408 deductible per benefit period for the stay as under Medicare Part A anyway.

For days 61 – 90 of a mental health inpatient stay, there is a \$352 per day coinsurance as under Medicare Part A anyway. For days 91 and beyond of a mental health inpatient stay, when the beneficiary is in the Medicare Part A "lifetime reserve day" pool of days, there is a \$704 per day as under Medicare Part A anyway. Beyond the "lifetime reserve days" for inpatient mental health stays, as under Medicare Part A in general, the beneficiary is responsible for all costs of a mental health inpatient stay. The Medicare website identified in paragraph 16 further notes, "There's no limit to the number of benefit periods you can have when you get mental health care in a general hospital. You can also have multiple benefit periods when you get care in a psychiatric hospital. Remember, there is a lifetime limit of 190 days." [This 190-day lifetime limit on inpatient psychiatric hospital services under Medicare is codified in rule in the Code of Federal Regulations at 42 CFR §409.62.] Under Medicare Part A, in regard to mental health inpatient stays, there is a 20% copay of the Medicare-approved amount for mental health services which the beneficiary receives from doctors and other providers while the beneficiary is a hospital inpatient. See "Medicare Costs at a Glance."

19. Mental health coverage under Medicare Part B, as described at Medicare Costs at a Glance, has the following copays:

"Outpatient mental health services "You pay:

"20% of the Medicare-approved amount for visits to a doctor or other health care provider to diagnose your condition or to monitor or change your prescriptions. The Part B deductible applies.

"If you get treatment in a hospital outpatient clinic or hospital outpatient department, you may have to pay an additional copayment or coinsurance amount of the hospital bill. This amount will vary depending on the service provided, but will be between 20-40% of the Medicare-approved amount.

"35% of the Medicare-approved amount for outpatient treatment of your condition (like individual or group psychotherapy) in a doctor or other health provider's office or hospital outpatient department.

"Partial hospitalization mental health services

"You pay a percentage of the Medicare-approved amount for each service you get from a doctor or certain other mental health qualified professional. You also pay a copayment for each day of partial hospitalization services provided in a hospital outpatient setting or community mental health center, and the Part B deductible applies."

Source: Medicare Costs at a Glance.

20. Because the Qualified Medicare Beneficiary Medicaid (QMB) program pays all Medicare Part A and B copays, as well as premiums and deductibles, the Medicare cost-sharing amounts set forth in paragraphs 17 – 19, above, are covered by QMB, for those Medicare beneficiaries with low enough countable income and low enough countable resources to qualify for QMB.

21. **SLMB's benefits, and QI-s.** Both the SLMB program and the QI program have the same benefit: Payment of the standard monthly Part B premium. In the year 2020, this is $144.60 monthly. (Although Medicare beneficiaries who file an income tax return and who have income greater than $87,000 (single) or $144,000 (married) pay a higher Medicare Part B premium, such persons, by virtue of that income, would be ineligible for any of the Medicare Savings Programs.)

22. **QDWI's benefit.** The benefit of QDWI is payment of the Medicare Part A premium. Thus, whichever premium the "QDWI" would have to pay – the full $458 monthly premium or the reduced $252 monthly premium – that is the value of the QDWI benefit.

23. Once a person is certified for QMB, SLMB, QI, or QDWI, the Medicare premium that the person was paying and which is a benefit of the Medicare Savings Program for which the person qualifies, will be paid by the program. That means, for instance, that QMBs, SLMBs, and "QIs" will no longer see the $144.60 reduction in their Social Security benefit, which occurs due to the standard monthly Medicare Part B premium being taken out of the Social Security benefit.

24. Benefits under the SLMB and QI programs can be paid retroactive for three months, if the person would have been eligible in those earlier three months before the person applied. This is provided for at 1 Texas Administrative Code §§359.105(e) and 359.107(e). QMB and QDWI do not have this "three-month prior" coverage. 1 Texas Administrative Code §§ 359.103(e); 359.109(c) (referring to 42 U.S.C. §1395i-2a(c), which is the federal statute regarding when QDWI Medicare coverage begins).

25. **The application form.** Applicants for these programs can use form H-1200 EZ at https://hhs.texas.gov/laws-regulations/forms/1000-1999/form-h1200-application-assistance-your-texas-benefits The application normally can be handled entirely by mail and phone; no face-to-face interview is required. *As with all applications for medical benefits, all information supplied must be truthful, and is subject to verification.* Any of the Medicare Savings Programs can also be applied for through the Web site Your Texas Benefits for which the Web address is www.yourtexasbenefits.com.

26. **Appeals.** The appeals process for these programs is governed by the same rules, as for regular Medicaid and long-term care Medicaid. Benefits counselors can refer clients who need to handle these appeals to the Legal Hotline for Texans.

27. **A few words about Medigap policies and the Medicare Savings Programs.** The Medicare law is Title XVIII of the Social Security Act. It is codified at 42 United States Code §§1395. As noted at the outset, the Medicaid law is Title XIX of the Social Security Act. It is codified at 42 United States Code §§1396. Medigap policies (formally called "Medicare supplemental health insurance policies") are regulated by a part of the Medicare law, namely 42 U.S.C. §1395ss.

28. At 42 U.S.C. §1395ss(q)(5)(A), one finds a requirement that Medigap policies be capable of suspension without penalty for a 24 month period, if a person becomes eligible for a Medicare Savings Program. This section of the Medicare law states, "Each Medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended at the request of the policyholder for the period (not to exceed 24 months) in which the policyholder has applied for and is determined to be entitled to medical assistance under subchapter XIX [the Medicaid program]." Because the Medicare Savings Programs are actually Medicaid programs, this right to suspend a Medigap policy covers people who enroll in a Medicare Savings Program.

29. In order to benefit from this right to suspend a Medigap policy, the person must notify the issuer of the policy within 90 days after the date that the person becomes entitled to Medicaid (within 90 days after the person becomes entitled to a Medicare Savings Program). If the person ceases to be entitled to a Medicare Savings Program (or to other Medicaid) the person has a right to be reinstated to the Medigap policy, if the person notifies the issuer of the policy within 90 days after the end of Medicaid entitlement. As noted, these concepts are set forth in 42 U.S.C. §1395ss(q)(5)(A).

30. The terms of the Medigap policy to which a person has a right to reinstatement must not require any waiting period for pre-existing conditions, must provide for coverage which is substantially equivalent to the coverage the person had before the person suspended the Medigap policy, and must provide for premiums which are at least as favorable as the person had before the Medigap policy was suspended.

31. Another aspect of the relationship between Medigap polices and the Medicare Savings Programs concerns the prohibition against selling a Medigap policy that duplicates Medicaid benefits. Under 42 U.S.C. §1395ss(d)(3)(A)(i), it is unlawful to sell a Medigap policy that duplicates coverage that a person would have under Medicare or Medicaid. However, this prohibition is not violated if the State Medicaid program pays the premiums for the Medigap policy, or if the person is entitled to QMB and the Medigap policy provides for coverage of outpatient prescription drugs, or the person is only entitled to payment of Medicare Part B premiums. Thus, it is lawful to sell a Medigap policy to a person entitled to QMB if the Medigap policy covers outpatient prescription drugs. However, with the arrival of the Medicare Prescription Drug Benefit under Medicare Part D, and given that eligibility for QMB means eligibility for premium- free access to the standard drug plan, the purchase of a Medigap policy will seldom if ever make sense for a person eligible for QMB. The Texas Department of Insurance, in its

booklet "Medicare Supplement Insurance Handbook and Rate Guide" states, "You might not need Medigap insurance if you are in the QMB program." It is lawful to sell a Medigap policy to persons entitled to SLMB or QI, whether or not the policy provides for coverage of outpatient prescription drugs.

Question about Medigap insurance and the QMB program (circle the correct answer):

What does the Texas Department of Insurance state concerning Medigap insurance in regard to persons who have QMB?

ii. Such persons do not need a Medigap policy.

iii. Such persons definitely should purchase a Medigap policy.

32. Of course, the decision of whether a Medigap policy should be bought is one that a person entitled to the SLMB, QI, and QDWI Program would have to evaluate, based on individual circumstances.

33. **Medicare Part D.** Under Medicare Part D, all recipients of QMB, SLMB, and QI will qualify as "full-premium low-income subsidy eligible individuals." They will not have to pay a premium for the standard Part D plan, nor a deductible.

34. **The Legal Hotline for Texans provides back-up and support.** Any benefits counselor of a Texas area agency on aging who needs back-up and support can call the Legal Hotline for Texans at special number for Benefits Counselor back-up and support.

Answer Key to Questions:

Paragraph 1:

The Social Security Act, State Medicaid Plan, Texas Secretary of State, December 31, 2013.

(3, 1, 4, 3)

Paragraph 2:

To receive the help of the Medicare Savings Programs, a person does need to enroll or be enrolled in Medicare.

In Texas, all of the Medicare Savings Programs are exempt from Medicaid Estate Recovery.

Persons who are eligible for QMB, SLMB, or QI are eligible for "extra help" under Medicare Part D.

(True, True, True)

Paragraph 6:

It is not true that only persons who are sixty-five (65) years of age can qualify for QMB, because there are bases for qualifying for Medicare for persons who are not yet sixty-five (65) – disability, end stage renal disease, Lou Gehrig's disease. If a person has to pay a premium for Medicare Part A and the person is eligible for QMB, QMB will pay the Medicare Part A and Part B premiums.

(False, True)

Paragraph 7:

The homestead exclusion under SLMB has no limit on the value, number of rooms, size of dwelling, nor number of acres, but the only land that can be excluded is land that is contiguous with the land on which the homestead dwelling sits.

In regard to the vehicle exclusion under SLMB, one vehicle regardless of year, make, model, or value, is excluded.

(4,3)

Paragraph 8:

Under QI, there is an exclusion of $1,500 face value of life insurance. There is also a burial space exclusion.

(False, False)

Paragraph 9:

Under QDWI, the SGA threshold is the amount of earnings, at which point a person receiving Social Security Disability Benefits (SSDI) will be considered to no longer be disabled.

The benefit of the QDWI program is payment of the Medicare Part A premium.

(1,1)

Paragraph 10:

Non-attorneys *are* allowed to access the Social Security Administration's Program Operations Manual System (POMS).

The transfer of resources penalty that is used in the SSI program is *not* used in the Medicare Savings Programs.

(True, False)

Paragraph 11:

Medicare Savings Programs' income limits are based on the federal poverty income limit.

The income limits change by every April 1.

The value of the benefits changes every January 1.

(True, True, True)

Paragraph 13:

Typically, the Social Security benefit of a Medicare beneficiary is higher than the amount that Social Security direct deposits or sends in the form of a check.

(True)

Paragraph 15:

Even in the case of a married couple, both of whom are applying for a Medicare Savings Program, the $20 exclusion for unearned income and the $65 and one-half rest exclusion for earned income ($65 and one-half the rest) are each taken fully only once. ("True" is correct for both questions)

Paragraph 31:

What does the Texas Department of Insurance state regarding Medigap insurance in regard to persons who have QMB?

Such persons do not need a Medigap policy.

(1)