

*State Medicaid Agencies
Medicare Modernization Act —Final Rule
Fact Sheet*

Guidance for States to Implement the Medicare Drug Benefit

CMS is announcing new steps to assist states with the implementation of new, comprehensive prescription drug coverage to low-income Medicare beneficiaries.

- CMS will provide a point of contact for each state to assist with state-specific issues in the drug benefit transition, to help ensure that states get the maximum savings from the new Medicare drug coverage with the least possible administrative burden.
- As noted below, CMS will develop further guidance for states on key transition issues through an ongoing collaborative process with state organizations and representatives. These issues include: low-income subsidy determinations, transitioning dual-eligible enrollees, making phased-down state contributions to a portion of the costs of drug coverage for dual eligibles, continuing state coverage for drugs excluded from the Medicare drug benefit, modifying financing arrangements with nursing homes to account for Medicare's payments for prescription drugs dispensed to residents, using state savings to wrap around the new Medicare coverage, and other state concerns that may arise.

Low-Income Subsidy Activities—State Responsibilities

- States are required to take and process applications for the low-income subsidy program.
 - States are strongly encouraged to use the Social Security Administration's (SSA) application and eligibility determination process for the low-income subsidy unless an individual requires that the state make the low-income subsidy eligibility determination. If an individual demands to have a state determination, or refuses to use the SSA application, the state must take and process the application, which must be consistent with the CMS final rule, using the state's own eligibility determination process. The state is responsible for appeals and redeterminations associated with state eligibility determinations.
 - Based on the eligibility determination procedures in the final rule and in the SSA low-income subsidy process, CMS will work with state organizations to develop guidance for states to conduct the required eligibility determinations effectively and without unnecessary administrative burdens.
 - As part of making an eligibility determination, states are required to screen applicants for the Medicare Savings Program and offer enrollment if the individual meets that state's Medicare Savings Program requirements. Information on people found to be eligible for the low-income subsidy through SSA will be shared with the States for use in MSP determinations.
 - States may receive administrative matching funds for these administrative activities.

- States are required to submit monthly data on dual eligibles and those eligible under Medicare Savings Programs (QMB, SLMB and QIs). CMS will use this data to deem these beneficiaries eligible for the low-income subsidy, for auto-enrollment of full-benefit dual eligible individuals, and the state phase-down contribution (see below). CMS expects to use these data to start the auto-enrollment and deeming processes for Medicaid beneficiaries eligible for the low-income subsidy in the spring of 2005.
- States may inform beneficiaries when they lose Medicaid benefits that they must reapply for the Part D low-income subsidy in the next year.
- States may perform outreach and education related to the Part D drug benefit and low-income subsidy. CMS will provide outreach, coordination, and support services for these state activities, as part of its overall outreach and education campaign on the drug benefit. SSA, in coordination with CMS, will also provide outreach and education on how to apply for the low income subsidy. Examples of Medicare beneficiaries, who live in states that are likely to help them take advantage of the low-income subsidy, include seniors and people with disabilities who participate in other state-sponsored low-income programs or who have recently lost Medicaid benefits. Working with the States and others, CMS hopes to identify and enroll as many of these beneficiaries as possible in the low-income subsidy program by the fall of 2005.

Low-Income Subsidy Activities—CMS Responsibilities

- CMS will notify those deemed eligible for the low-income subsidy that they are deemed eligible for the low-income subsidy for the 2006 calendar year and that they do not need to apply for the low-income subsidy. These mailings will begin in early summer 2005.
- CMS will inform the deemed individual that he/she will have to apply for the low-income subsidy if he/she becomes ineligible for Medicaid or SSI benefits, and will let the beneficiary know how to apply.
- CMS will inform plans offering the Medicare prescription drug benefit, through data match, who is eligible for the low-income subsidy.
- CMS will provide guidance for how low-income subsidy eligible individuals will be informed regarding late enrollment penalty fees, since the low-income subsidy covers 80% of any late enrollment penalty for full subsidy eligibles only. Low-income beneficiaries generally pay no premium for Medicare drug coverage, and they can avoid higher costs for drug coverage later by enrolling during Medicare's open enrollment period (which starts November 15, 2005 and ends May 2006).
- CMS will work with SSA on a process to provide subsidy eligibility determinations to states for purposes of identifying individuals who apply at SSA and who may also qualify for Medicare Savings Programs under the state's Medicaid program.

Low-Income Subsidy Activities - SSA Responsibilities

- SSA will determine low-income subsidy eligibility using a simplified application process that can be completed on paper and mailed in, on the internet in person, or over the phone. SSA's recently finalized its application form based on broad-based input from States and other stakeholders.
- SSA will conduct a comprehensive, national outreach campaign to encourage potentially eligible beneficiaries to apply for the low-income subsidy. Outreach strategies include direct mailings, several thousand community events, and partnering with stakeholders such as States. SSA will mail an application to potentially eligible beneficiaries in the June of 2005. SSA will begin processing applications July 1, 2005.
- SSA will share low-income subsidy determinations with CMS and CMS in turn will communicate with states (within privacy guidelines) to assist states in identifying individuals potentially eligible for Medicare Savings Programs.

Low-Income Subsidy Activities – Part D Plan Responsibilities

- Part D plans must provide CMS with information on a transition process for new enrollees, including dual eligible individuals, into their new plan.
- Part D plans will be required to provide confirmation to CMS that premiums and cost sharing reductions have been implemented for the subsidy eligible population.
- Part D plans must implement a transition process for new enrollees, including dual eligible individuals, into their new plan. If a beneficiary is asked to change any medications based on the drug plan formulary, the change must be medically appropriate and the process must provide for a medically appropriate transition.
- Part D plans will be required to reimburse individuals (as well as organizations who pay on behalf of an individual) for any cost sharing related to excess premiums and cost sharing paid before someone is determined subsidy eligible.
- Part D plans will be required to track cost sharing of subsidy eligible individuals (including cost sharing amounts paid by organizations or states) towards the out-of-pocket threshold. CMS will provide support for conducting these transactions.

Other State Impacts

- States may continue to cover the drugs in §1927(d)(2) of the Social Security Act (except smoking cessation drugs, which will be covered by Part D) and receive Federal Financial Participation.
- In the MMA statute, Medicaid agencies are identified as entities that are required to notify Part D eligible individuals regarding the drug coverage they provide, and whether or not it is creditable prescription drug coverage—meaning the drug coverage is at least as good as Medicare Part D drug coverage. CMS is working with state organizations to develop guidance regarding creditable prescription drug coverage disclosure notices, including the form and manner of providing these

notices. Our intent is to reduce as much as possible the administrative burden on the States. For example, CMS notification to full benefit dual eligibles through our deeming process for the Low Income subsidy could be used to provide notice of creditable coverage.

- As Medicare takes over the costs of providing prescription drugs in LTC pharmacies, some states may need to modify their payments to LTC facilities if they have bundled payments for drugs into other Medicaid payments, e.g., per diem payments or other services associated with dispensing drugs. CMS will work with states to provide guidance on how to modify these LTC financing arrangements to reflect the new Medicare drug payments.

Special Assistance in Enrolling in Part D Coverage

- CMS may auto-enroll full-benefit dual eligible individuals. Auto-enrollment for full-benefit dual eligibles will occur in the early fall, providing time for a beneficiary to choose a different plan if they prefer but assuring that beneficiaries will be in a plan ahead of January 1, 2006, the effective date of the new Medicare benefit.
- CMS will facilitate enrollment of others eligible for low-income subsidy, including participants in Medicare Savings Programs and others eligible for the subsidy that states can help Medicare identify. CMS will use data states submitted for other purposes to identify those whose enrollment we facilitate.

Protections for Dual Eligibles

- Dual eligibles losing Medicaid drug coverage December 31, 2005 will be auto-enrolled to a plan effective January 1, 2006, if they have not already chosen a plan.
- New Medicare support for Special Needs Plans
 - The legislation designates two specific segments of the Medicare population as special needs individuals. These are institutionalized individuals (as defined by the Secretary) and those entitled to Medical Assistance under a State Plan under Title XIX (Medicaid), "dual eligibles."
 - Special needs plans serving dual eligible beneficiaries can restrict enrollment into their plan to only individuals who have Medicaid coverage.

Phase-down State Contribution

- As determined by the statute, state contributions toward a portion of the cost of Medicare coverage for dual eligible beneficiaries are based on the per-beneficiary cost of coverage for Medicare-covered drugs in 2003, updated by National Health Expenditure (NHE) projections for prescription drugs, and multiplied by the number of dual eligibles in the state. The contribution phases down over time, as Medicare takes on a rising proportion of the drug costs of dual eligibles.
- CMS will continue to work with states to make sure that their 2003 drug cost figures are accurate.

- States are required to submit monthly data on dual eligibles for the calculation of the phase-down state contribution.
- States will make their first phase-down contribution to CMS by February 25, 2006.