

**THE CENTERS FOR MEDICARE AND MEDICAID  
SERVICES**

**GUIDANCE TO STATES ON THE LOW-INCOME SUBSIDY**

**February 2009**

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## **Introduction**

The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA), established the Medicare Prescription Drug Program, also known as Medicare Part D, making prescription drug coverage available to Medicare beneficiaries. The new program went into effect on January 1, 2006. The MMA also provides for extra help (a subsidy) with prescription drug costs for eligible individuals whose income and resources are limited. This help takes the form of subsidies paid by the Federal government to the drug plan in which the Medicare beneficiary enrolls. The subsidy provides assistance with the premium, deductible and co-payments of the program. Beneficiaries may apply for the Low-Income Subsidy (LIS) with the Social Security Administration (SSA) or with their State Medicaid agency. Medicare beneficiaries who wish to enroll in the Medicare Prescription Drug Program must choose a prescription drug plan through which to receive the benefit.

Generally, coverage for the drug benefit is provided by private prescription drug plans (PDPs) that offer drug-only coverage, or through Medicare Advantage health plans that offer both prescription drug and health care coverage (known as MA-PDs). Both types of plans must offer a standard drug benefit, but have the flexibility to vary the drug benefit. Covered Part D drugs are essentially the same drugs and biologicals that are approved for the Medicaid program (although selection may be restricted through a plan's formulary) and they must be dispensed by prescription and on an outpatient basis. Drugs and biological products that are paid for by Medicare Part A or B are excluded.

The MMA requires both the Social Security Administration (SSA) and the States to accept and process applications for the low-income subsidy (LIS). Some States have established their own eligibility process, but most have chosen to process LIS applications through SSA. The law also requires States to screen subsidy applicants who apply at the State Medicaid office for eligibility for the Medicare Saving Programs (Qualified Medicare Beneficiary [QMB], Specified Low-Income Medicare Beneficiary [SLMB], and Qualifying Individual [QI]). This guidance provides States with information about making the subsidy determination and how to expedite determinations for the subsidy and for the Medicare Saving Programs (MSP) determinations. Federal financial participation (FFP) is available for these activities.

## **10 Applying for the Subsidy**

### **10.1 Who Must Apply**

Beneficiaries with limited income and resources who do not fall into one of the deemed subsidy groups must apply for the low-income subsidy. Their eligibility for subsidy assistance can be determined by either the Social Security Administration (SSA) or their State Medicaid office.

For beneficiaries who apply for the subsidy, the type of income to be counted will be based on the rules of the Supplemental Security Income (SSI) program (see 20 CFR § 416 Subparts K and L). Generally the income of the applicant and that of his/her spouse who resides with the applicant will be counted. (Also see the SSA Program Operations Manual System [POMS], available at <http://policy.ssa.gov/poms.nsf/aboutpoms> , under HI 030, for additional guidance.) Once counted, income will be compared to the federal poverty level standard applicable to the size of the applicant’s family to determine eligibility. (See the Federal Poverty Level tables in Appendices V, VI and VII.) Family size includes the applicant, the spouse residing with the applicant, if any, and the number of individuals who are related to the applicant or spouse, who are living in the applicant’s household, and who depend on the applicant or spouse for at least one half of their financial support.

Resources (assets) are considered in determining eligibility for a subsidy. Resources that will be considered in determining eligibility generally include liquid resources that can be readily converted to cash within 20 days (e.g., checking and savings accounts). Also countable is real property that is not the applicant’s primary residence and not attached to the primary residence. The resources of the applicant and the spouse, if any, will be counted to determine if the applicant meets the resource threshold to be eligible for a Part D low-income subsidy. Resources of dependent family members are not counted for the applicant and the spouse. If dependent family members are Medicare beneficiaries themselves, they must file their own subsidy application or be deemed eligible in their own right.

## **10.2 Who Doesn’t Need to Apply (“Deemed Eligibles”)**

Certain groups of Medicare beneficiaries automatically qualify for the low-income subsidy and do not have to apply. These groups are deemed eligible for the subsidy from the first month of deemed status until the end of the calendar year. The following groups are deemed eligible:

- Full-benefit dual eligibles (FBDEs), that is, persons eligible for both Medicare and full Medicaid benefits.
- Supplemental Security Income (SSI) recipients, including SSI recipients who do not qualify for Medicaid, and individuals deemed to be SSI recipients.
- Medicare beneficiaries who are participants in the Medicare Saving Programs (MSP), which are QMB, SLMB, and QI.

Deemed eligibles do not need to file an application for the subsidy. CMS will automatically award them the subsidy based on information received from the States and SSA and notify them that they are eligible without having to file an application. They do, however, need to choose a prescription drug plan. Full-benefit dual eligibles who fail to choose a plan will be enrolled by CMS in a plan effective the month they attain dual status. Also, QMBs, SLMBs, QIs, SSI recipients, and others who apply and are found eligible for the subsidy, will be enrolled in a plan by CMS if they do not choose a plan on their own.

### 10.3 How to Apply

Individuals who are not deemed eligible may apply by contacting:

- SSA (by mail, by telephone, on the Internet at [www.ssa.gov](http://www.ssa.gov), or in person) or
- Their State Medicaid agency.

#### 10.3.1 The SSA Application

A simplified application form and process for determination and verification of an eligible beneficiary's income and resources (assets) for purposes of the Medicare Prescription Drug benefit has been developed by SSA and is available on-line, by mail, in-person, and by telephone filing. The application form consists of an attestation regarding a beneficiary's income, family size, and assets. This means that beneficiaries will not have to provide voluminous information to a government office. No financial documents will be necessary at the time of application. SSA will verify most information through data matches with existing SSA, Internal Revenue Service and other government files. SSA may need to request some follow-up documentation to resolve discrepancies between data matches and attestations in the application. Individuals will also be contacted if they own property other than their primary residence and the land it is on, or if they leave questions on the application unanswered.

#### 10.3.2 Using the SSA-1020

If the Medicare beneficiary is amenable to using the SSA-1020, the State may assist him/her in completion of the form. (See [State MMA Program Orientation](#)). Because the SSA-1020 is an electronically scannable document, the State should observe the following:

- **NO PHOTOCOPIES** – Do not photocopy the SSA-1020 to increase the State's supply of the form. Photocopying makes the form unscannable and could adversely impact the timeliness of an SSA decision regarding the low-income subsidy. The State may obtain additional supplies of the SSA-1020 from its SSA Regional Communications Director.
- **NO DATE STAMPS** – Date stamps interfere with the scannability of the form. Enter a hand-written date in the "For Official Use Only" box on page 2, showing the date the form is completed.

Submit completed SSA-1020s to the Wilkes-Barre Data Operations Center (WBDOC) using the pre-addressed, pre-paid envelope provided with the form. If the envelope is missing, mail the form to:

Social Security Administration  
Wilkes-Barre Data Operations Center  
P. O. Box 1020  
Wilkes-Barre, PA 18767-9910

**IMPORTANT:** All subsidy applications taken on the SSA application (SSA-1020) become the responsibility of SSA for the eligibility determination and all subsequent case activity (i.e., notices, appeals, redeterminations).

### 10.3.3 The State Application

States are strongly encouraged to use the SSA's subsidy application (SSA-1020) for subsidy applicants unless an individual specifically requests that the State make the subsidy determination using a State application form. States should ask applicants if they have already applied for the subsidy with SSA and, if so, urge them to wait for a decision from SSA. However, if the applicant insists on filing with the State prior to an SSA decision, the State must comply. If an individual requests a State determination or refuses to use the SSA application, the State must use its own application and process the case using Federal Low-Income Subsidy income, family size, and resource rules. The State follows its process for taking applications. The State is then responsible for notices, appeals, and redeterminations for subsidy cases it has determined using a State application form.

The State may use any existing application form which captures:

- Income of applicant and spouse, if any (which may not exceed 150% of the Federal Poverty Level);
- Family size (which includes the applicant, their spouse if living with them, and financially dependent relatives who live with them); and
- Resources of applicant and spouse, if any (which, in 2009, may not exceed \$12,510\* for one person and \$25,010\* for a couple).

\* These amounts apply if the applicant/spouse indicates intent to use resources (\$1,500 per person) for burial or funeral arrangements. If the applicant/spouse has no intent to use resources for burial or funeral arrangements, the resource standards in 2009 are \$11,010 for one person and \$22,010 for a couple.

The State may also modify an existing application to capture these data. For example, if the State has a QMB/SLMB/QI application that captures income and resource data for the

applicant and spouse, such an application would only require an addendum for family size to meet the requirements of the subsidy application. Since States are required under section 1935(a)(3) of the Social Security Act and 42 CFR § 423.904 (c) to screen subsidy applicants for QMB/SLMB/QI eligibility, this single application could serve both purposes.

### **10.3.4 Agency Responsible for LIS Applications**

<u>Application Site</u>	<u>Agency Responsible for the Application</u>
SSA	SSA
State, using SSA application	SSA
State, using State application	State
Deemed-No Application	CMS (based on State data)

## **20 Coordinating LIS and MSP Applications**

As described in 10.3.3, the State may modify its MSP application for the LIS process. States are strongly encouraged to conduct the LIS and MSP application processes simultaneously to minimize delays in the applicant’s receipt of benefits. If the evidence at the time of application indicates that the applicant would qualify for the subsidy, the subsidy application should be processed immediately. If the beneficiary later qualifies for MSP, s/he will be deemed eligible for the subsidy. On the other hand, if the evidence indicates that the applicant would qualify for MSP and thus not have to separately qualify for LIS, the MSP application should be processed immediately, since the individual would be deemed eligible for the subsidy and need not apply.

States must use Federal rules for the subsidy determination, and the State’s rules for the MSP determination. If, based on the State’s rules, a subsidy applicant is found eligible for QMB/SLMB/QI (MSP) they become deemed eligible for the subsidy, even if they would have not qualified for the LIS otherwise. If a subsidy applicant is found eligible for SLMB/QI (MSP) and thus deemed eligible for the subsidy, the State can close its LIS screening. (QMB cases will require additional LIS screening.) CMS currently assumes responsibility for notices to and redeterminations of deemed status for deemed eligibles. States will have on-going responsibility (notices, appeals, redeterminations) for MSP cases.

### **20.1 Screening LIS Applicants for MSP (QMB/SLMB/QI) Eligibility**

States are required to screen individuals applying at state offices for the Medicare Part D LIS for possible MSP eligibility, and offer those individuals the opportunity to enroll in an MSP. This is so regardless of whether the State itself is making the LIS eligibility determination, or just assisting the applicant in completing an LIS application which will be submitted to SSA for a determination of LIS eligibility by that agency. In any instance where a State has contact with an applicant for LIS, the State must screen for MSP eligibility and offer to enroll the applicant in its Medicare Savings Program.

If people apply for LIS directly with SSA, rather than with or through a State office, States are not required to screen for and offer MSP enrollment to those individuals. However, CMS is strongly encouraging States to do so, even though the State may not have direct initial contact with these applicants.

To assist states in this effort, SSA is making available to States, through CMS, information about those individuals who apply for LIS directly with SSA. This information, known as leads data, will assist the States in identifying beneficiaries who may qualify for a Medicare Savings Program. Leads data was implemented in December, 2007 and is made available to States on a monthly basis.

For the MSP determination, the State's usual rules apply to all parts of the application process including who may represent the applicant, the interview (if any), screening and clearances, technical requirements, unit size, notices and appeal rights, appeals and fair hearings, and redeterminations. The State's rules also apply to financial criteria and may include any rules adopted under Section 1902(r)(2).

### **20.1.1 Federal Medicare Savings Programs Parameters**

- Maximum Resources: \$4,000 (individual)/ \$6,000 (couple).
- Maximum Income: 135% of the Federal Poverty Level.

As noted in 20.1 above, some states have modified income and resource rules for the MSP programs.

NOTE: Effective January 1, 2010, individuals may qualify under the Medicare Savings Programs if their resources do not exceed the maximum resource level for the full low-income subsidy. In 2009, the resource standard for the full low-income subsidy is \$6,600 for one person and \$9,910 for a couple. These amounts do not include the burial fund exclusion.

### **20.1.2 Voluntary Enrollment**

If the applicant is found eligible for MSP, s/he must be offered enrollment into MSP, which s/he is free to decline.

- If the applicant accepts enrollment, s/he becomes deemed eligible for LIS. If the applicant is eligible for SLMB or QI, the State can close its LIS application. If the applicant qualifies for QMB, the State must continue the LIS application process to determine subsidy eligibility for months prior to QMB eligibility. (LIS eligibility begins as of the first day of the month of application. SLMB/QI eligibility can begin up to three months prior to the month of application. QMB eligibility begins the first day of the month following the month in which eligibility is determined.)

- If the applicant has applied for LIS using the State application and he or she declines MSP enrollment, the State must continue screening the applicant for eligibility for LIS.

### **30 Determining Subsidy Eligibility**

In the event that an applicant requests a State LIS determination using a State application, the State must comply. Unless the applicant is later found to be deemed eligible for the subsidy or has been found eligible for LIS by SSA, the State will also be responsible for ongoing case activity, including notices, appeals, and redeterminations, consistent with scenarios described in Appendix IV.

#### **30.1 The Applicant's Representative**

The applicant may be represented by any of the following individuals:

- An individual who is authorized to act on behalf of the applicant;
- If the applicant is incapacitated or incompetent, someone acting responsibly on his or her behalf;
- An individual of the applicant's choice who is requested by the applicant to act as his or her representative in the application process;
- Anyone may help the individual apply for the subsidy.

The person assisting the applicant is required to attest to the accuracy of the information on the application.

#### **30.2 Interview**

A face-to-face interview is not required for the LIS process, but may be conducted at the State's option.

#### **30.3 Screening for Deemed Eligibility**

The State must conduct its usual screening process to determine if the applicant is currently eligible for Medicaid, SSI or one of the Medicare Savings Programs (QMB, SLMB, and QI). If the applicant is found to be currently enrolled in one of these programs, the State may dispose of the LIS application, as the applicant is deemed eligible for the subsidy and no application is required.

#### **30.4 Clearances**

States should conduct their usual SDX/SVES/SOLQ clearances to verify the applicant's entitlement/enrollment in Medicare Parts A and B. If no Medicare entitlement/enrollment can be confirmed, deny the LIS application. If the available data confirm eligibility for a Medicare Savings Program (QMB, SLMB, QI) in another U.S. jurisdiction, the applicant is deemed eligible for the subsidy and the State's determination

of subsidy eligibility should be discarded. The new State of residence should inform the prior State of residence of the change of address, and offer an MSP application to the beneficiary, explaining that if s/he qualifies for MSP in the new State of residence, s/he automatically qualifies for LIS.

### **30.4.1 Eligibility for Part D (Technical Requirements)**

To qualify for Medicare Part D, the beneficiary must:

- Be entitled to Medicare Part A and/or enrolled in Medicare Part B; and
- Must reside in the service area of a Part D prescription drug plan (service area does not include facilities in which individuals are incarcerated but otherwise covers the 50 States, District of Columbia, and U.S. Territories). While beneficiaries in the U.S. Territories may qualify for Part D, LIS does not apply to them. The territory in which they reside may offer them a benefit similar to LIS.

### **30.5 Spenddown**

If the applicant is pending Medicaid spenddown in the month of application for the subsidy, continue with the LIS determination, using gross income prior to spenddown. If the applicant meets Medicaid eligibility during the month of subsidy application, s/he is deemed eligible for the LIS and the State should dispose of the LIS application. Once deemed, the beneficiary will receive the subsidy for the remainder of the current calendar year. If Medicaid eligibility is established in July or a later month, the beneficiary will also be deemed eligible for the subsidy for the next calendar year.

### **30.6 Family Size**

For the purpose of establishing the applicable income standard only, the following persons will be counted in the family size:

- The applicant;
- The applicant's spouse, if living with the applicant; and
- Any persons who are related by blood, marriage, or adoption, who are living with the applicant and spouse and who are dependent on the applicant or spouse for at least one half of their financial support.

The applicant's income tax records may be useful for determining who has been considered a dependent relative in the past. However, be aware that IRS does not require the dependent family member to live with the applicant while the subsidy family size criterion does.

### **30.7 Financial Requirements**

Modified Supplemental Security Income (SSI) regulations (20 CFR § 416 Subparts K and L) are used to evaluate income and resources for subsidy eligibility. The following

summary of income and resource information is for reference only. To ensure accuracy and timeliness, this information should be compared to SSI policy frequently. The most current SSI policy can be found in 20 CFR §4183301-3425.

The intent of the MMA was that the State and SSA determinations would be identical, given the same information about the applicant/spouse. Therefore, less restrictive rules the State uses for Medicaid and MSP, including rules adopted under Section 1902(r)(2), cannot be used for the LIS determination. If the State's computer system is programmed for Medicaid and MSP rules, it is appropriate to perform the Low-Income Subsidy computation off-line.

### **30.8 Evaluating Resources:**

Resources of the applicant and their spouse if living with them, but not resources of dependent family members, will be considered.

Count liquid resources which are:

- Cash;
- Real property not contiguous with home property [Comment: countable non-home real property is not subject to the "20 day" rule, that is, it is countable even if it cannot be liquidated in 20 days. See POMS at HI 03030.001C.2.];
- Other resources which can be converted to cash within 20 days, including, but not limited to:
  - Stocks;
  - Bonds;
  - Mutual fund shares;
  - Promissory notes;
  - Mortgages;
  - Whole life insurance policies;
  - Financial institution accounts, including:
    - Savings;
    - Checking; and
    - Time deposits, also known as certificates of deposit;
    - Individual Retirement Accounts (IRAs);
    - 401 (K) accounts;
    - And similar items.

#### **30.8.1 Resource Standards (2009)**

The maximum subsidy resource standards are \$11,010 for one person and \$22,010 for a couple. Resources at or below \$6,600 for an individual and \$9,910 for a couple and income below 135% of the Federal Poverty Level will entitle the applicant(s) to the full subsidy. The SSA subsidy application (SSA-1020) lists \$12,510 for an individual and \$25,010 for a couple to reflect the burial fund exclusion for one person and a couple. These amounts apply only if the applicant/spouse indicates intent to use resources for burial or funeral arrangements. If the applicant/spouse has no intent to use resources for

burial or funeral arrangements, the resource standards are \$11,010 for one person and \$22,010 for a couple. Please note that resource standards are indexed and updated annually.

### **30.8.2 Resource Exclusions**

The following resources are not to be considered for purposes of determining LIS eligibility:

- The applicant's home. For the purposes of this exclusion, a home is any property in which the applicant and their spouse have an ownership interest and which serves as his or her principal place of residence. There is no restriction on acreage of home property. This property includes the shelter in which an individual resides, the land on which the shelter is located, and any outbuildings;
- Non-liquid resources, other than real property. These include, but are not limited to:
  - Household goods and personal effects;
  - Automobiles, trucks, tractors and other vehicles;
  - Machinery and livestock;
  - Noncash business property;
- Property of a trade or business which is essential to the applicant/spouse's means of self-support;
- Nonbusiness property which is essential to the applicant/spouse's means of self-support;
- Stock in regional or village corporations held by natives of Alaska during the twenty-year period in which the stock is inalienable pursuant to the Alaska Native Claims Settlement Act;
- Whole life insurance owned by an individual (and spouse, if any) if the total face value of all the life insurance policies on any person does not exceed \$1,500. When the total face value of all policies exceeds \$1,500, the cash surrender value of all policies is countable;

NOTE: Effective January 1, 2010, the value of any life insurance policy is exempt from consideration.

- Term life insurance that has no cash surrender value;
- Restricted, allotted Indian lands, if the Indian/owner cannot dispose of the land without the permission of other individuals, his/her tribe, or an agency of the Federal government;

- Payments or benefits provided under a Federal statute other than title XVI of the Act where exclusion is required by such statute;
- Federal disaster relief assistance received on account of a Presidentially declared major disaster, including accumulated interest, or comparable State or local assistance;
- Funds of \$1,500 for the individual and \$1,500 for the spouse who lives with the individual if these funds are intended to be used for funeral or burial expenses of the individual and spouse;
- Irrevocable burial arrangements;
- Burial spaces, including burial plots, gravesites, crypts, mausoleums, urns, niches, vaults, headstones, markers, plaques, burial containers, opening and closing of the grave site, and other customary and traditional repositories for the deceased's bodily remains, for the applicant/spouse;
- Retained retroactive SSI or Social Security benefits for nine months after the month they are received;
- Certain housing assistance;
- Refunds of Federal income taxes and advances made by an employer relating to an earned income tax credit for the month following the month of receipt, and refunds of child tax credits for nine months after the month they are received;
- Payments received as compensation incurred or losses suffered as a result of a crime (Victims' compensation payments), for nine months beginning with the month following the month of receipt;
- Relocation assistance from a State or local government, for nine months, beginning with the month following the month of receipt;
- Dedicated financial institution accounts consisting of past-due benefits for an SSI-eligible individual under age 18;
- A gift to, or for the benefit of, an individual who has not attained 18 years of age and who has a life-threatening condition, from an organization described in section 501 (c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501 (a) of such Code. The resource exclusion applies to any in-kind gift that is not converted to cash, or to a cash gift that does not exceed \$2,000;

- Funds received from a government or nongovernmental agency, program, or health insurance policy whose purpose is to provide medical care or medical services or social services and conserved to pay for medical and/or social services; and
- Retained payments made to individuals because of their status as victims of Nazi persecution excluded pursuant to section 1(a) of the Victims of Nazi Persecution Act of 1994.

### **30.8.3 Determining Countable Resources**

#### **30.8.3.1 General Rule**

Countable resources are determined as of the first moment, that is, 12:01 AM, of the month of application or redetermination for the subsidy.

#### **30.8.3.2 Equity Value**

Resources, other than cash, are evaluated according to the applicant/spouse's equity in the resources. The equity value of an item is defined as the price for which that item, minus any encumbrances, can reasonably be expected to sell on the open market in the particular geographic area involved. Encumbrances include liens, mortgages, and other obligations against the value of the resource. Count the equity value of real property that is not contiguous with home property. There are other rules that apply in calculating the value of resources. See the SSA POMS at <http://policy.ssa.gov/poms.nsf/aboutpoms> for additional information.

#### **30.8.3.3 Relationship of Income to Resources**

Cash received by the applicant or his/her spouse during a month is evaluated under the rules for counting income during the month of receipt. If he or she retains the cash until the first moment of the following month, the cash is countable as a resource unless it is otherwise excludable.

### **30.8.4 Funds Held in Financial Institution Accounts**

#### **30.8.4.1 Owner of the Account**

Funds held in a financial institution account (including savings, checking, and time deposits also known as certificates of deposit) are considered the applicant/spouse's resources if he or she owns the account and can use the funds for his or her support and maintenance.

#### **30.8.4.2 Individually-held Account**

If the applicant/spouse is designated as the sole owner by the account title and can withdraw and use funds from that account for his or her support and maintenance, all of the account's funds are the applicant/spouse's resource regardless of the source. For as long as these conditions are met, the State will presume that the applicant/spouse owns 100 percent of the funds in the account. This presumption is not rebuttable.

#### **30.8.4.3 Jointly-held Account**

If the applicant/spouse is the only subsidy claimant or subsidy recipient who is an account holder on a jointly held account, the State will presume that all of the funds in the account belong to the applicant/spouse. If more than one subsidy claimant or subsidy recipient are account holders, the State will presume that the funds in the account belong to those individuals in equal shares. If the applicant/spouse disagrees with the ownership presumption described in this paragraph, he or she may rebut the presumption. Rebuttal is a procedure which permits an individual to furnish evidence and establish that some or all of the funds in the jointly-held account do not belong to him or her.

### **30.9 Evaluating Income**

#### **30.9.1 Income**

Income is anything the applicant/spouse receives in cash or in-kind that can be used to meet his/her needs for food or shelter. The gross income of the applicant and his/her spouse if living with him or her, but not dependent family members, will be considered. However, dependent family members will be counted in the family size.

#### **30.9.2 Earned income**

Earned income consists of the following types of payments:

- Wages;
- Net earnings from self-employment;
- Payments for services performed in a sheltered workshop or work activities center; and
- Royalties earned by an individual in connection with any publication of his/her work and any honoraria received for services rendered.

##### **30.9.2.1 Wages**

Wages is counted at the earliest of the following points:

- When received;
- When credited to the person employed; or
- When set aside for the employee's use.

Net earnings from self-employment are counted on a taxable year basis. Net losses, if any, are deducted from other earned income, but not from unearned income.

Payments for services performed in a sheltered workshop or work activities center are counted when received or set aside for the employee's use.

### **30.9.2.2 In-Kind Earned Income**

In-Kind Earned Income is counted based on current market value. If the applicant/spouse receives an item that is not fully paid for and he or she is responsible for the balance, only the paid up value is income to the applicant.

### **30.9.2.3 Honoraria**

Honoraria for services rendered and royalty payments that you receive in connection with any publication of your work count as earned income.

### **30.9.2.4 Period under Consideration**

The period for which earned income is counted is the remainder of the calendar year, starting with the month of application for the subsidy. Adjust prospective earned income based on the number of months remaining in the calendar year. The income standard against which the income is measured should be adjusted to reflect the same number of months.

### **30.9.2.5 Earned Income Exclusions**

Apply exclusions in the order listed below:

- Refund of Federal income taxes and payments under the Earned Income Tax Credit;
- The first \$30 of earned income per calendar quarter that is received too irregularly or infrequently to be counted as income;
- Any portion of the \$20 per month exclusion that has not been excluded from combined unearned income;
- \$65 per month of the applicant/spouse's earned income;
- For applicants who are under age 65 and receive a Social Security Disability Insurance benefit based on disability, 16.3% of gross earnings for impairment related work expenses (IRWE).
- One half of the applicant/spouse's remaining earned income; and
- For applicants who are under age 65 and receive a Social Security Disability Insurance benefit that is based on blindness, 25% of gross earnings for blind work expenses (BWE).

### **30.9.3 Unearned income**

Unearned income is all income that is not earned income. Unearned income is counted at the earliest of the following points:

- when received;
- when credited to the recipient; or

- when set aside for the recipient's use.

Unearned income includes, but is not limited to:

- Social Security;
- Railroad Retirement;
- Veterans benefits;
- Temporary Assistance for Needy Families (TANF);
- Pensions;
- Annuities;
- Alimony and support payments;
- Rents;
- Workmen's Compensation;
- In-kind support and maintenance;
- Death benefits;
- Royalties not counted as earned income.

### **30.9.3.1 Adjustments to Unearned Income**

#### **30.9.3.1.1 In-Kind Support and Maintenance**

In-Kind Support and Maintenance is any food and shelter that is given to the applicant/spouse or received because someone else pays for it. This includes room, rent, mortgage payments, real property taxes, heating fuel, gas, electricity, water, sewage, and garbage collection services. The maximum amount of income countable for in-kind support and maintenance is limited to one third of the monthly Supplemental Security Income (SSI) benefit rate for an individual or a couple, if the applicant's spouse is counted, or the current market value of the support, whichever is lower.

Example 1: Mr. and Mrs. Maple live rent-free in a home that belongs to their son. The house would otherwise rent for \$900 per month. **In 2009, one third of the SSI benefit for a couple is \$337.** Therefore, the Maples receive in-kind support valued at \$337 per month.

Example 2: Mr. Oak cannot manage his housing expenses on his income alone. His daughter helps him by paying his electric bill which averages \$150 per month. **In 2009, one third of the SSI benefit for one person is \$224.67.** Therefore, Mr. Oak receives in-kind support valued at \$150 per month.

NOTE: Effective January 1, 2010, the value of in-kind support and maintenance is exempt from consideration.

#### **30.9.3.1.2 Overpayments and Garnishments**

When benefits are reduced for overpayments or garnishments, count the gross benefit before deductions.

Example: Mr. Poplar failed to pay income taxes and his Social Security check has been garnished to pay IRS. The gross amount of his benefit is \$1,150 per month; he actually receives \$750. The gross amount (\$1,150) is countable.

### **30.9.3.1.3 Expenses**

If part of a payment reflects expenses the applicant/spouse incurred in getting the payment, such as legal fees, or damages, such as medical expenses, incurred because of an accident, reduce the payment by the amount of the expenses. Do not reduce the payment by the amount of personal income taxes owed on the payment.

### **30.9.3.1.4 Veterans Benefits**

Subtract from veterans benefits any amount included in the payment for a dependent. If the applicant/spouse is the dependent, count the portion of the benefit attributable to the dependent if they reside with the veteran or receive their own separate payment from the Department of Veteran Affairs.

### **30.9.3.1.5 Death Benefits**

Subtract from death benefits the expenses of the deceased person's last illness and death paid by the recipient.

### **30.9.3.2 Unearned Income Exclusions**

The following types of unearned income are not considered for purposes of determining LIS eligibility:

- Supplemental Security Income (SSI) benefits;
- Any public agency's refund of taxes on real property or food;
- Need-based assistance wholly funded by a State or one of its subdivisions, including State supplementation of SSI benefits but not a Federal/State grant program such as TANF;
- Any portion of a grant, scholarship, fellowship, or gift used for paying tuition, fees, or other educational expenses. Any portion set aside or used for food, clothing or shelter is countable;
- Food which the applicant or their spouse raise if it is consumed by them or their household;
- Assistance received under the Disaster Relief and Emergency Assistance Act and assistance provided under any Federal statute because of a catastrophe which the President of the United States declares to be a major disaster;

- Alaska Longevity Bonus payments made to an individual who is a resident of Alaska and who, prior to October 1, 1985: met the 25-year residency requirement for receipt of such payments in effect prior to January 1, 1983; and was eligible for SSI;
- Payments for providing foster care to a child who was placed in the applicant's home by a public or private nonprofit child placement or child care agency;
- Any interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement which are left to accumulate and become part of the separate burial fund;
- Home energy assistance (any assistance related to meeting the costs of heating or cooling a home);
- One-third of support payments made to or for the applicant by an absent parent if the applicant is a child;
- The first \$20 of any unearned income in a month other than income in the form of in-kind support and maintenance received in the household of another and income based on need;
- Housing assistance-any assistance paid with respect to a dwelling unit under:
  - The United States Housing Act of 1937;
  - The National Housing Act;
  - Section 101 of the Housing and Urban Development Act of 1965;
  - Title V of the Housing Act of 1949; or
  - Section 202(h) of the Housing Act of 1959;
- Any interest accrued on and left to accumulate as part of the value of an excluded burial space purchase agreement;
- Gift of a domestic travel ticket received by the applicant or their spouse and not converted to cash;
- Payments made to the applicant or their spouse from a fund established by the State to aid victims of crime;
- Relocation assistance provided to the applicant or their spouse by the State or local government that is comparable to relocation assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- Hostile fire pay received from one of the uniformed services;

- The first \$60 of unearned income received per calendar quarter that is received too irregularly or infrequently to be counted as income;
- Any dividends or interest earned, regardless of source (see POMS Section HI 03020.050); and
- Payments made to individuals because of their status as victims of Nazi persecution excluded pursuant to section 1(a) of the Victims of Nazi Persecution Act of 1994.

#### **40 Verifications for the Low-Income Subsidy**

When the beneficiary uses the State application, the State may require submission of statements from financial institutions for the application to be considered complete. In addition, the State may require that information on the application be verified in a manner the State determines to be most cost-effective and efficient. States will not have access to the data bases used by SSA and will not have access to the information SSA gathers.

#### **50 Calculating Low-Income Subsidy Eligibility**

- Using the family size reported by the applicant and their countable net income, determine where the applicant and the spouse, if any, fall on the appropriate poverty level table (See Appendices V, VI and VII).
- Using the percent of the Federal Poverty Level (FPL) and the applicant/spouse's countable resources, find the subsidy code (A through F) on the subsidy calculation table for one person or a couple (See Appendix II).
- Using the subsidy code, identify the applicable benefits on the subsidy benefits table.
- The SSA Calculator Tool may be used for this calculation. This resource may be found at [www.ssa.gov/prescriptionhelp](http://www.ssa.gov/prescriptionhelp).

#### Example:

Mr. and Mrs. Spruce are Medicare beneficiaries who live in Pennsylvania. They are raising their 15-year-old grandson. Their countable net income is \$1,500 per month. They have \$18,000 in countable resources.

- Find their income range on the Family Size-3 line of the Poverty Level Guidelines in Appendix V. The Guidelines show that their income falls below 135% of the FPL.

- Using the percent of FPL and the total countable resources, find the subsidy code on the subsidy calculation table for Couples (Appendix II). The correct answer is “B”.
- Transpose the percentage of premium level for “B” onto the Spruces’ approval notice.

## 60 Notices

If a State application is used, the State must provide the following:

### 60.1 Approval Notice

If the State determined an individual eligible for LIS, it must send an approval notice containing the following required data:

- Application date;
- Regulatory basis for the decision, if required by the State;
- Description of how the subsidy was calculated; what income, family size, and resources were used;
- Premium percentage;
- Annual Deductible and Copayments [refer to Appendix II];
- Effective date of eligibility;
- Who made the decision and how to contact them;
- Appeal rights and procedures; and
- **Reminder to enroll in a prescription drug plan and that approval of LIS eligibility provides the beneficiary with a Special Enrollment Period (SEP) for joining a drug plan.**

### 60.2 Denial Notice

If the State determines an individual ineligible for LIS, it must send a denial notice containing the following required data:

- Application date;
- Reason for denial;
  - Not Medicare-eligible;
  - Failure to complete the application process;
  - Income exceeds 150% FPL;
  - Resources exceed \$12,510/\$25,010 (see note in 10.3.3);
  - Not a resident of the State;
  - Not a resident of U.S./incarcerated.
- Regulatory basis for decision, if required by the State;
- Description of how the denial was calculated; what income, family size, and resources were used;
- Who made the decision and how to contact them;
- Appeal rights and procedures; and

- **Depending on the denial reason, a reminder to enroll in a prescription drug plan, with or without a late enrollment penalty.**

### 60.3 Termination Notice

If the State determines an individual no longer eligible for LIS, it must send a termination notice containing the following required data:

- Reason for termination;
  - Not Medicare-eligible;
  - Failure to complete the redetermination process;
  - Income exceeds 150% FPL;
  - Resources exceed \$12,510/\$25,010 (see note in 10.3.3);
  - Not a resident of the State;
  - Not a resident of U.S./incarcerated.
- Regulatory basis for termination, if required by the State;
- Description of how the termination was calculated; what income, family size, and resources were used;
- Effective date of termination;
- Who made the decision and how to contact them;
- Appeal rights and procedures; and
- **Depending on the termination reason, a reminder that they will still use their prescription drug plan and that they have an SEP to change drug plans.**

### 60.4 Change Notice

If the State determines an individual's eligibility for LIS has changed, it must send a change notice containing the following required data:

- Reason in change in subsidy level;
- Regulatory basis for change, if required by the State;
- New premium percentage;
- Annual Deductible and Copayments [refer to Appendix II];
- Description of how the change was calculated; what income, family size, and resources were used;
- Effective date of change;
- Who made the decision and how to contact them;
- Appeal rights and procedures; and
- **Reminder that they will still use their prescription drug plan but that their costs within the plan have changed.**

All notices must meet the adequate and timely notice requirements of the State's Medicaid State Plan.

## 70 Appeals and Fair Hearings

If a Part D enrolled beneficiary disagrees with the level of premium subsidy or cost sharing awarded, the individual should follow the appeal procedures of the agency that made the initial determination or that provided the data upon which deemed status is based. The subsidy applicant may appeal his/her Low-Income Subsidy determination, made using the State application, according to the appeal procedures found in the State's Medicaid State Plan. SSA will be responsible for appeals of decisions made by SSA, including decisions made on SSA applications forwarded to SSA by the State. The SSA regulations for Determinations and the Administrative Review Process are found at 20 CFR § 418.3601 through 418.3680.

## **80 Periods of Eligibility**

States are not required to conform to periods of eligibility (such as full calendar year certification periods) that are inconsistent with the State's Title XIX plan. If a beneficiary is eligible for the Low-Income Subsidy based on a State application, the effective period of eligibility is as follows:

### **80.1 For 2007 and any later calendar year**

Initial eligibility determinations are effective as of the first day of the month of application and remain in effect for a period consistent with the State plan, but not to exceed one year. Redeterminations must be made in the same manner and frequency as redeterminations are made under the State plan.

### **80.2 Retroactive eligibility**

The subsidy is effective the beginning of the month of application or January 1, 2006, whichever is later.

Example: Mr. Dogwood files a subsidy application in March 2007. The subsidy determination is completed on April 16. If he qualifies, his subsidy will be effective March 1, 2007.

## **90 Interim Changes (Subsidy-Changing Events)**

States may require beneficiaries receiving the subsidy to report changes in their circumstances. Changes in the beneficiary's circumstances may affect their eligibility for the subsidy or change the level of the subsidy. The State would react to a report of a change as it would under the State's Medicaid plan.

Beneficiaries who become eligible for Medicaid, SSI, QMB, SLMB, and QI after being found eligible for the subsidy are considered part of the deemed eligible population. The State may then close its on-going subsidy case for the beneficiary while maintaining the Medicaid or MSP case. CMS will notify the beneficiary that s/he is now deemed. CMS will also redetermine subsidy eligibility of the deemed eligibles on a yearly basis to maintain their subsidy eligibility. If a beneficiary subsequently loses deemed status,

CMS will notify him/her of the need to apply at SSA or his/her State Medicaid agency so that s/he can re-establish eligibility for the low-income subsidy.

### **90.1 Beneficiary Moves to Another State**

When the beneficiary moves to another State, the State closes the subsidy case using the same process it would use for a Title XIX case. It is appropriate to advise the beneficiary that s/he can reapply for the subsidy at SSA or the Medicaid agency in his/her new State of residence.

### **100 Redeterminations**

The agency (CMS, SSA, state Medicaid agency) that maintains the LIS case is responsible determining subsidy eligibility.

Individuals who lose LIS eligibility through redetermination or an interim change, such as a subsidy-changing event reported to SSA, will have a Special Enrollment Period (SEP) to enroll in a plan, change plans, or disenroll from a plan.

#### **100.1 Redetermination of Deemed Status**

Each year in August, CMS will redetermine eligibility for deemed status for the next calendar year, based on the states' MMA file submissions in July. Individuals who continue to appear in states' MMA file in July as Medicaid-eligible or eligible for a Medicare Savings Program (or in SSA data in August as SSI-eligible) will have their deemed status extended to the end of the next calendar year.

Beneficiaries who are no longer deemed eligible will be sent a notice in September informing them that their automatic eligibility for the low-income subsidy will end on December 31 of that calendar year. The notice will include an SSA extra help application and return envelope and encouraged the individual to apply for the subsidy to re-establish eligibility for the next calendar year.

Individuals who subsequently reappear in state or SSA data in a later month of the same year will have their deemed status established for the following year and will be notified to that effect by CMS.

#### **100.2 SSA Redeterminations**

For information about how SSA conducts re-determinations of LIS eligibility, refer to the SSA Program Operations Manual System [POMS], available at <http://policy.ssa.gov/poms.nsf/aboutpoms> , under HI 03050: Redeterminations.

#### **100.3 State Medicaid Agency Redeterminations**

States are required to redetermine subsidy eligibility in the same manner and frequency as redeterminations are required under the State's Medicaid Plan, including passive redeterminations as the State Plan allows.

**110 Multiple Determinations for the Same Applicant**

The State may not know if a subsidy application has also been filed at SSA. However, CMS is working with States and SSA to facilitate information sharing so that CMS will know whether an individual has been found eligible by SSA or a State.

In the case of multiple determinations based on applications in different months, the later application is void if the individual has received a positive subsidy determination on the earlier application with the State or SSA (see 42 CFR§ 423.774). This is so even if the earlier decision is a partial subsidy and the later decision is a full subsidy. If two approvals occur in the same month, the SSA decision takes precedence, even if it provides a lower level of subsidy. All decisions may be appealed, including denials, effective dates, and partial subsidies, with the agency that is responsible for the decision. (See Appendix IV-Precedence of LIS Decisions.)

## APPENDIX I – Frequently Asked Questions

### **Q. Who qualifies for Medicare Prescription Drug Coverage?**

- A. An individual is eligible for Medicare Prescription Drug Coverage if he or she:
- Is entitled to Medicare Part A and/or enrolled in Medicare Part B, and
  - Lives in the service area of a prescription drug plan (PDP) or Medicare Health Plan with Prescription Drug Coverage (MA-PD) (Service area does not include facilities in which individuals are incarcerated but otherwise covers the 50 States, District of Columbia and U.S. Territories.)

### **Q. How is Medicare Prescription Drug Coverage funded?**

A. Medicare Prescription Drug Coverage is a Medicare benefit and funded differently from Medicaid.

### **Q. What is the Standard Coverage (without extra help)?**

A. Medicare beneficiaries will have access to the standard drug coverage described below. Although drug plan sponsors may change some of the specifications below, the coverage offered must at least be equal in value to the standard coverage. Standard benefit design for 2009 includes:

- A monthly premium of about \$30
- A yearly deductible of \$295
- Co-payment of 25 percent up to an initial coverage limit of \$2,700
- Protection against high out-of-pocket prescription drug costs, with co-pays of generally \$2.40 for generics and preferred drugs and \$6.00 for all other drugs, or 5 percent of the price, once the enrollee's yearly out-of-pocket spending reaches \$4,350.

### **Q. What is the Extra Help with drug plan costs?**

A. The “extra help” is the term used in beneficiary communications to refer to the low-income subsidy. The subsidy is financial assistance with the monthly premium, the yearly deductible, the per-prescription co-payment, and continuous coverage with no gap prior to reaching \$4,350 (in 2009) in out-of-pocket spending. The help may be full or partial depending on the income, family size and resources of the beneficiary.

### **Q. What is the Full Extra Help?**

A. Beneficiaries with very low savings and income below 135% of the federal poverty level will receive the following assistance in 2009:

- A \$0 yearly deductible
- A \$0 monthly premium if their drug plan's premium does not exceed the region's LIS premium subsidy amount
- Continuous coverage prior to catastrophic coverage.
- Co-pays of not more than \$2.40 for generics and preferred drugs and not more than \$6.00 for other drugs up to the out-of-pocket limit.
- No co-pays for prescriptions after reaching \$4,350 in out-of-pocket spending.

Beneficiaries with Medicare and Medicaid and income at or below 100% of the FPL will have co-pays reduced to \$1.10 and \$3.20, respectively, up to the out-of-pocket limit. Beneficiaries who have full Medicaid benefits and reside in an institution will have no co-payments.

**Q. What is the Partial Extra Help?**

**A.** In 2009, beneficiaries with limited savings and income below 150% of the federal poverty level can enroll in a plan with:

- A sliding scale monthly premium.
- Up to a \$60 yearly deductible
- Continuous coverage prior to reaching \$4,350 in out-of-pocket spending
- Coinsurance of 15% up to the out-of-pocket limit (\$4,350)
- Co-payments of \$2.40 and \$6.00, respectively, beyond the out-of-pocket limit.

**Q. Will beneficiaries in the U.S. Territories be eligible for extra help?**

**A.** Medicare beneficiaries in the Territories are eligible for the Medicare Prescription Drug Program (Part D). Their Part D drugs may be covered under the Medicaid program, which is not the case in the states for Medicare beneficiaries who are receiving full Medicaid benefits. The Territories have been given access to additional funds to provide this coverage through their Medicaid programs. Because of this, Medicare beneficiaries in the Territories will not have access to the same low income subsidy program that is available to residents of the 50 states and the District of Columbia.

**Q. What is the difference in the extra help available to people who have Medicare and full Medicaid and beneficiaries who are eligible for MSP?**

**A.** The benefits are the same except for copayments. Full duals have copays of \$0, \$1.10/\$3.20, or \$2.40/\$6.00. Individuals eligible for a Medicare Savings Program always have copays of \$2.40/\$6.00.

**Q. Will a person lose their extra help if, during the year, they lose their status as automatically qualifying for the extra help?**

**A.** The beneficiary will not lose the help during the calendar year. The change would be effective January of the next calendar year unless they apply for and are approved for the extra help through SSA or their state Medicaid agency. Individuals who are not automatically eligible and who qualify for the low-income subsidy through application to SSA or their state Medicaid agency, may lose the extra help during the year if they experience certain changes in their circumstances.

**Q. What constitutes “creditable coverage”?**

**A.** Creditable coverage is prescription drug coverage through an insurer that is at least as good as the benefit available through a Medicare prescription drug plan. This may be coverage through an employer, former employer, or union. Entities providing prescription drug coverage are required to notify their members of whether their coverage is creditable or not. Medicaid is only considered creditable coverage when a beneficiary is newly full dual eligible and had Medicaid coverage prior to becoming entitled to Medicare.

**Q. What effect does a Medicaid penalty have on eligibility for the extra help?**

**A.** Eligibility for the extra help is not affected by a Medicaid penalty for disposal of an asset for less than fair market value.

**Q. Will the extra help “work” if the beneficiary does not choose a prescription drug plan?**

**A.** No, enrollment in a prescription drug plan may occur before or after application for the extra help, but it is important to remember that the extra help provides no benefit if the beneficiary is not enrolled in a prescription drug plan. Most Medicare beneficiaries must actively enroll in a prescription drug plan. The exceptions are:

- Beneficiaries who are already enrolled in a Medicare Advantage Health Plan with Prescription Drug Coverage (MA-PD).
- Persons with Medicare and full Medicaid will be enrolled automatically in a PDP by Medicare if they do not enroll in a Part D plan. This ensures that these individuals do not lose drug coverage when Medicaid coverage ends. These individuals may change plans if they do not wish to remain in the plan chosen for them.
- Other persons who automatically qualify for extra help (persons eligible for SSI-cash only, QMB, SLMB, and QI, but not full Medicaid) will be enrolled into a PDP by Medicare if they do not choose a plan. Beneficiaries who qualify for extra help may change plans if they do not wish to remain in the plan chosen for them.
- Beneficiaries who apply for the extra help on their own and who are found eligible but who do not enroll in a PDP will be enrolled into a plan by Medicare with a prospective effective date. These beneficiaries will have an opportunity to change plans if they wish.

**Q. How will Medicare Prescription Drug Coverage work for Medicare beneficiaries who are children?**

**A.** Medicaid, including its EPSDT benefit, will not pay for drugs which can be covered under Medicare Part D, for full-benefit dual eligible children. This is the case regardless of whether these drugs are covered under the plan’s Part D formulary. This is because section 1935 (d) (1) of the Social Security Act provides that medical assistance is not available under Title XIX for covered Part D drugs provided to full benefit dual eligibles. The statute at 1860D-2(e) defines a “covered Part D drug” to mean not only those drugs included in the plan’s formulary, but any drug that could be covered under Part D. By regulation at 42 CFR §423.100, CMS refers to a “Part D covered drug” as a “Part D drug” (any drug that could be covered under Part D) and defines “covered Part D drugs” to mean a Part D drug included on a plan’s formulary. The regulatory definitions do not change the statute’s prohibition on Medicaid paying for drugs which could be covered under Part D. Note that to ensure there is no coverage gap for Medicare beneficiaries, Part D plans are required to cover non-formulary drugs that are medically necessary. In addition, plans must have a transition plan in place for new enrollees currently taking certain drugs, including beneficiaries transitioning from Medicaid drug coverage to Part D.

**Q. When should a person who is pending spenddown for Medicaid apply for the extra help?**

**A.** If the beneficiary is already an MSP recipient, he or she will automatically have qualified for the extra help. If he or she is not an MSP recipient, he or she must apply for the extra help and may do so at any time. There is no need for the beneficiary to apply for the extra help when he or she meets the spenddown requirements because he or she will automatically qualify for the extra help based on receipt of Medicaid.

**Q. What counts as income and resources?**

**A.** The extra help has special income rules, based on but not identical to the rules for the Supplemental Security Income (SSI) program; the rules for counting resources are, for the most part, the same as the standard SSI resource rules. The main difference is that most non-liquid resources will not be counted when determining eligibility for the extra help, whereas many such non-liquid resources would be counted under SSI. The income of the applicant and that of a spouse living in the same household will be counted and compared to a Federal poverty level standard applicable to the size of the family, which includes the applicant, their spouse, and dependent family members who live with them. The resources of the applicant and the spouse, if any, will be counted and compared to the resource threshold, and generally include liquid resources that can be readily converted to cash within 20 days, such as checking and savings accounts (non-home real property is not subject to the “20 day” rule).

**Q. Do I have to sell my car or my farm/ranch to qualify for the extra help?**

**A.** No. Vehicles and any farm or ranch land that is adjacent to your primary residence are not counted as resources.

**Q. Do I have to cash in my life insurance policies to qualify for the extra help?**

**A.** No, we will not require you to cash in your policies. However, if the policies have a total face value (i.e., death benefit) of \$1,500 or more, the cash value of the policies (i.e., the amount you would receive if you turned them in today) counts towards the resource limit.

**Q. What will standard Medicare prescription drug coverage look like for someone who qualifies for extra help?**

**A.** People with Medicare and income below 135% of the Federal poverty level<sup>1</sup> and resources<sup>2</sup>, in 2009, of \$8,100 for an individual or \$12,910 for a couple will pay no premium<sup>3</sup> or deductible and nominal copayments of up to \$2.40 for generics and preferred multiple source drugs and \$6.00 for other drugs. Once their copayments plus the amount Medicare pays as the extra help reach \$4,350, they will pay nothing for their

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<sup>1</sup> In 2009, 135% of the Federal poverty level is \$14620.50 for individuals and \$19,669.50 for couples. Someone may qualify with higher income if s/he is working or living in a larger household.

<sup>2</sup> These resource standards apply to individuals and couples who have burial funds set aside for burial expenses. If no funds are set aside for burial expenses, the resource standards are \$6,600/individual and \$9,910/couple.

<sup>3</sup> The beneficiary’s premium is subsidized up to the low-income premium subsidy amount as defined in 42 CFR §423.780(b).

prescriptions. For people with Medicare, full Medicaid benefits, and income less than 100% of poverty, they will have co-payments of up to \$1.10 for generics and preferred multiple source drugs and up to \$3.20 for other drugs. Again, once their copayments plus the amount Medicare pays as the extra help reach \$4,350, they will pay nothing for their prescriptions. People with Medicare and full Medicaid benefits and who reside in an institution pay no premiums, no deductibles, no coinsurance, and no copayments.

People with Medicare and income below 150% of the Federal poverty level<sup>4</sup> and resources<sup>5</sup> up to \$12,510 for an individual or \$25,010 for a couple will only pay up to a \$60 deductible, cost-sharing up to 15% coinsurance, and a sliding-scale premium based on income. Once their copayments plus the amount Medicare pays as the extra help reach \$4,350, s/he will have nominal co-payments of up to \$2.40 or \$6.00 per prescription.

**Q. How does a person know if he/she qualifies for the extra help?**

A. SSA mails LIS applications on a monthly basis to encourage potentially eligible people with Medicare to apply for the extra help. SSA will send the person a determination once the application is processed, and will call individuals if there are questions about their application.

In separate monthly mailings, Medicare will notify certain groups who automatically qualify for extra help that they do not need to apply. These groups are people with Medicare who have full Medicaid benefits, people with Medicare who receive Supplemental Security Income benefits (but not Medicaid), and people with Medicare whose state Medicaid program pays their Medicare premiums and cost sharing (Medicare Savings Program). Anyone who believes that he or she may qualify for the extra help is encouraged to apply, and can do so by calling the Social Security Administration at 1-800-772-1213, by visiting [www.socialsecurity.gov](http://www.socialsecurity.gov) on the web or a State Medicaid office.

**Q. An individual has prescription drug coverage from an employer/union plan. Should s/he apply for the extra help?**

A. Even if they have employer/union coverage, individuals with limited income and resources may qualify for extra help. Individuals with employer/union coverage should talk with their plan or benefits administrator to find out how their employer/union coverage will work under Medicare prescription drug coverage. If this individual qualifies for extra help, s/he should also contact his or her State's Health Insurance Assistance Program (SHIP). Customer service representatives at 1-800-MEDICARE (1-800-633-4227) can provide the SHIP number for the individual's home state. A SHIP counselor can provide personalized assistance to help the individual decide whether it is better to keep the employer or union drug coverage or get Medicare prescription drug coverage.

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<sup>4</sup> In 2009, 150% of the Federal poverty level is \$16,245 for individuals and \$21,855 for couples. Someone may qualify with higher income if s/he is working or living in a larger household.

<sup>5</sup> These resource standards apply to individuals and couples who have burial funds set aside for burial expenses. If no funds are set aside for burial expenses, the resource standards are \$11,010/individual and \$22,010/couple.

Beneficiaries who have qualified for extra help but not joined a drug plan will have their enrollment into a plan facilitated by CMS. The beneficiary has the opportunity to switch to another plan or opt out of enrollment completely.

**Q. How and where does someone apply for the extra help?**

A. An application for extra help may be filed with either SSA or a State's Medicaid program office. We are strongly encouraging States to use the SSA application and to assist applicants in filing their applications with SSA. States may assist individuals who present themselves at State offices in completing the SSA application, with the State sending the completed applications to SSA for processing.

If an individual requests a State application and a State eligibility determination, then the individual must follow the State's eligibility process, including the State's process for appeals and redeterminations associated with State eligibility determinations.

**Q. Does it make a difference if a person goes to SSA or the State to apply for the extra help?**

A. No. The rules for determining eligibility for the extra help are based on national standards that both SSA and the State use. We strongly encourage people to use SSA's simplified application that relies on automated data matches for verification of income and certain liquid resources, minimizing both paperwork burden and cost.

**Q. Do individuals need to apply for the extra help in person?**

A. No. Individuals do not need go to SSA field offices or State offices to apply. They may apply by calling Social Security at 1-800-772-1213 (TTY 1-800-325-0778) or they may mail their completed applications to the Social Security Administration Wilkes-Barre Data Operations Center or complete an online application at [www.socialsecurity.gov](http://www.socialsecurity.gov).

**Q. How will the State or SSA decide if a person qualifies for the extra help?**

A. For a person applying for the extra help, the type of income to be counted is similar, but not identical to the rules of the Supplemental Security Income program. Generally the income of the applicant and that of any spouse who resides with the applicant will be counted. Once counted, income will be compared to a Federal poverty level standard applicable to size of the applicant's family to determine eligibility. Family size includes the applicant, the spouse residing with the applicant, if any, and the number of individuals who are related to the applicant, who are living in the same household, and who are dependent on the applicant, or their spouse, for at least one-half of their financial support. Resources that will be counted generally include liquid resources that can be readily converted to cash within 20 days (e.g., checking and savings accounts) and real estate that is not the applicant's primary residence. The resources of the applicant and the spouse, if living with the applicant, will be counted to determine if the applicant meets the resource threshold to be eligible.

**Q. Who can help someone apply for the extra help?**

A. There are other people who can fill out the application for someone to see if s/he qualifies for the extra help. These individuals are called personal representatives. A personal representative can be any of the following:

- The person who acts on someone's behalf if s/he is incapacitated or can't make decisions for himself/herself.
- Anyone someone chooses to act as his/her representative (such as a spouse, a child, or a caregiver).
- The representative payee whom the Social Security Administration selects to act on someone's behalf or a person authorized under State law to represent him/her.

**Q. What is the earliest date someone with Medicare can apply for the extra help?**

A. Individuals may apply for the extra help with SSA even prior to becoming entitled to Medicare benefits. In this case the extra help has no effect until the person becomes entitled to Medicare Part D and enrolls in a drug plan. SSA will mail applications to potentially eligible people on a monthly basis. We encourage people to pre-qualify for the extra help before enrolling in a prescription drug plan, so they will know ahead of time whether or not they are eligible for extra assistance with their Medicare prescription drug plan costs. People can visit [www.socialsecurity.gov](http://www.socialsecurity.gov) or [www.medicare.gov](http://www.medicare.gov) on the web to learn whether or not they may qualify for the extra help before they apply.

**Q. Are applications for the extra help available online?**

A. Yes. SSA will make their application available on their website at [www.socialsecurity.gov](http://www.socialsecurity.gov). The application can be filed from this website. We encourage States, community groups, and family members to help people complete the application available on the website.

**Q. How often does a person need to be redetermined eligible for the extra help?**

A. If an individual applies for extra help with either SSA or the State and is approved, his or her initial eligibility determination remains in effect for a period not to exceed one year. After the initial determination, SSA and the State will set their respective re-determination timeframes, with the State basing its timeframes on its Medicaid rules. If an individual automatically qualifies for extra help because s/he has full Medicaid benefits, gets help paying Medicare premiums from the State, or gets Supplemental Security Income (SSI), then his or her eligibility remains in effect at least for the remainder of the calendar year. In August of each year, CMS will verify that an individual still automatically qualifies for extra help for the subsequent calendar year.

**Q. If someone is found ineligible for extra help but later in the year loses a spouse or their income or resources go down, can s/he reapply?**

A. Yes. If individuals who were previously denied eligibility for extra help experience a change of circumstances, they are encouraged to reapply. If the individual qualifies for extra help on the second application, he or she would be entitled to a Special Enrollment Period (SEP) which is a special opportunity to enroll in a Part D plan.

**Q. If a person moves out of state, does s/he have to reapply for the extra help?**

A. If the person filed with SSA, then s/he needs to tell SSA his or her new address, but doesn't need to reapply. If the person filed with the State, then s/he needs to inform the old State that s/he no longer lives there and find out if s/he needs to file with the new State or with SSA to continue to receive the extra help.

**Q. If a person applies for extra help with the State and is found ineligible, can s/he then apply for the extra help with SSA or vice versa?**

A. Individuals have the ability to file with either SSA or the State, or both. However, SSA and States will be using the same set of national rules. Rather than filing a new application with SSA, the individual is encouraged to file an appeal with the State if s/he believes the decision was incorrect.

**Q. How long will it take a State to process an application for the extra help?**

A. In general, we expect States to process applications within time periods that are at least consistent with the processing of State Medicaid applications. CMS regulations currently require States to make eligibility determinations within 45 days except in unusual circumstances.

**Q. If a person applied for extra help and was found eligible for premium assistance, a reduced deductible and cost-sharing, but later in the year becomes eligible for full Medicaid benefits, will s/he then automatically get the premium assistance, \$0 deductible and reduced co-payments?**

A. Yes. The State determining Medicaid eligibility will transmit this information to Medicare for the beneficiary to receive the assistance for which they qualify. CMS will notify the person that he or she is automatically eligible for the premium assistance, \$0 deductible and reduced co-payments.

**Q. How will a State or the Social Security Administration know if someone with Medicare is already eligible for extra help?**

A. We are working with SSA and the States to facilitate information sharing, so that they will know whether an individual has already been found eligible by SSA or a State.

**Q. How will a prescription drug plan know if their member qualifies for extra help?**

A. CMS provides weekly, biweekly, and monthly reports to Part D plans giving them information about which of their members qualifies for extra help and whether that help is full or partial.

**Q. If someone enrolls in a Medicare prescription drug plan and later qualifies for the extra help, does the plan have to repay him or her for any cost-sharing incurred?**

A. Yes. The plan must reimburse the member for costs he or she has paid back to the effective date of the extra help, which is the first of the month in which the application is filed, or in the case of a person who automatically qualifies, back to the date he or she was eligible for both Medicare and Medicaid, Supplemental Security Income (SSI), or a Medicare Savings Program (QMB, SLMB, or QI). If the beneficiary enrolled in the plan

after the date of eligibility for extra help, reimbursement is limited to the period of enrollment in the plan.

**Q. How will the States and SSA know if someone automatically qualifies for extra help and does not need to apply?**

A. CMS will notify the person with Medicare as well as SSA and the State of his or her automatic eligibility for extra help.

**Q. If someone is determined eligible for extra help, does s/he also qualify for other Federal assistance?**

A. No, not automatically. As part of making an eligibility determination, states are required to screen applicants for Medicaid and the Medicare Savings Programs and offer enrollment if the individual meets that state's Medicare Savings Programs requirements. CMS will work with SSA on a process to provide eligibility determinations to states for the purposes of identifying individuals who apply at SSA and who may also qualify for Medicare Savings Programs under the state's Medicaid program.

**Q. If someone gets extra help, does that mean Medicare will enroll him or her in a prescription drug plan?**

A. We strongly encourage everyone with Medicare to look at information about the Medicare prescription drug plans in their area and enroll in one that meets their needs. However,

- If a person with Medicare and full Medicaid benefits doesn't enroll in a Medicare prescription drug plan, then Medicare will enroll him or her in a plan automatically to ensure continuous drug coverage. If the person finds that there is a different Medicare prescription drug plan that better meets his or her needs, s/he can change to this plan at any time.
- If a person with Medicare also gets Supplemental Security Income (but no Medicaid), or gets help paying Medicare premiums, deductibles or co-insurance from his/her state Medicaid program (Medicare Savings Programs) but doesn't enroll, then Medicare will enroll him or her in a plan unless s/he asks not to be enrolled. If the person finds that there is a different Medicare prescription drug plan that better meets his or her needs, s/he can change to this plan.
- If someone with Medicare applies and is found eligible for this extra help and doesn't enroll, then Medicare will enroll him or her in a plan unless s/he asks not to be enrolled. If the person finds that there is a different Medicare prescription drug plan that better meets his or her needs, s/he can change to this plan.

**Q. What if people do not join a Medicare prescription drug plan? Can they still get extra help with their prescription drug costs?**

A. People must enroll in a Medicare prescription drug plan in order for the extra help to apply to their prescription drug costs, such as premiums and cost sharing.

**Q. Are States required to take applications for the extra help from residents of other States?**

**A.** No. However, States are permitted to assist people with Medicare in filling out and filing the SSA application for extra help. If someone who does not reside in the State asks for a State eligibility determination, then the State should direct him or her to apply in his or her State of residence.

**APPENDIX II – SUBSIDY CALCULATION TABLES FOR 2009**

**Subsidy Calculation for One Person**

Countable Resources in \$	Income as a % of the Federal Poverty Level (FPL)					
	< 135%	= 135%	> 135% to ≤ 140%	> 140% to ≤ 145%	> 145% to < 150%	> 150%
≤ \$6,600	A	B	C	D	E	F
> \$6,600 to ≤ \$11,010	B	B	C	D	E	F
> \$11,010	F	F	F	F	F	F

**Subsidy Calculation for a Couple**

Countable Resources in \$	Income as a % of the Federal Poverty Level (FPL)					
	< 135%	= 135%	> 135% to ≤ 140%	> 140% to ≤ 145%	> 145% to < 150%	> 150%
≤ \$9,910	A	B	C	D	E	F
> \$9,910 to ≤ \$22,010	B	B	C	D	E	F
> \$22,010	F	F	F	F	F	F

**Subsidy Benefits**

Subsidy	Subsidized Monthly Premium	Maximum Yearly Deductible	Pre-Catastrophic Co-pay per Prescription	Coverage Gap? Y/N	Catastrophic Co-pay per Prescription
A	100%*	\$0	\$2.40/\$6.00	N	\$0
B	100%*	\$60	15%	N	\$2.40/\$6.00
C	75%	\$60	15%	N	\$2.40/\$6.00
D	50%	\$60	15%	N	\$2.40/\$6.00
E	25%	\$60	15%	N	\$2.40/\$6.00
F (No subsidy)	0%	\$295	25%	Y	Minimum cost-sharing of \$2.40/\$6.00

\*Percentage is the greater of the low income benchmark premium amount or the lowest PDP premium for basic coverage in the region.

### **APPENDIX III - ACRONYMS**

BWE- blind work expenses.

CMS- the Centers for Medicare & Medicaid Services, formerly known as Health Care Financing Administration (HFCA).

EPSDT- Early & Periodic Screening, Diagnosis & Treatment Program.

FBDE- full-benefit dual eligible.

FFP- Federal financial participation.

IRWE- Impairment-related work expenses.

LIS- Low-Income Subsidy.

MA-PD- a Medicare Advantage plan which offers both prescription drug and health care coverage.

MMA-the Medicare Prescription Drug, Improvement and Modernization Act of 2003.

MSP- Medicare Saving Programs (QMB, SLMB, and QI).

PDP- a private prescription drug plan that offers drug-only coverage.

POMS-Program Operations Manual System

SSA- the Social Security Administration.

SSI- Supplemental Security Income.

WBDOC- Wilkes-Barre Data Operations Center.

**APPENDIX IV – PRECEDENCE OF LIS DECISIONS**

<b>Scenario</b>	<b>SSA</b>	<b>State</b>	<b>Outcome</b>
1	Denial	Approval	Approval is official determination. Beneficiary may appeal either decision.
2	Approval	Denial	Approval is official determination. Beneficiary may appeal either decision.
3	Denial	Denial	The beneficiary may appeal either decision. If both are appealed and overturned, see scenarios 4 and 5.
4	Approval (Different Month)	Approval (Different Month)	If the subsidy effective dates are in different months, the decision with the earlier effective date is the official determination. The second decision is void.
5	Approval (Same Month)	Approval (Same Month)	If the subsidy effective dates are the same, the SSA decision is the official determination. The beneficiary may appeal either decision.

**APPENDIX V**

**2009  
LOW-INCOME SUBSIDY  
INCOME GUIDELINES**

ALL STATES (EXCEPT ALASKA AND HAWAII) AND D.C.

**ANNUAL GUIDELINES**

<b>FAMILY SIZE</b>	<b>PERCENT OF POVERTY GUIDELINE</b>				
	<b>100%</b>	<b>135%</b>	<b>140%</b>	<b>145%</b>	<b>150%</b>
1	10,830.00	14,620.50	15,162.00	15,703.50	16,245.00
2	14,570.00	19,669.50	20,398.00	21,126.50	21,855.00
3	18,310.00	24,718.50	25,634.00	26,549.50	27,465.00
4	22,050.00	29,767.50	30,870.00	31,972.50	33,075.00
5	25,790.00	34,816.50	36,106.00	37,395.50	38,685.00
6	29,530.00	39,865.50	41,342.00	42,818.50	44,295.00
7	33,270.00	44,914.50	46,578.00	48,241.50	49,905.00
8	37,010.00	49,963.50	51,814.00	53,664.50	55,515.00

For family units of more than 8 members, add \$3,740 for each additional member.

**MONTHLY GUIDELINES**

<b>FAMILY SIZE</b>	<b>PERCENT OF POVERTY GUIDELINE</b>				
	<b>100%</b>	<b>135%</b>	<b>140%</b>	<b>145%</b>	<b>150%</b>
1	902.50	1,218.38	1,263.50	1,308.63	1,353.75
2	1,214.17	1,639.13	1,699.83	1,760.54	1,821.25
3	1,525.83	2,059.88	2,136.17	2,212.46	2,288.75
4	1,837.50	2,480.63	2,572.50	2,664.38	2,756.25
5	2,149.17	2,901.38	3,008.83	3,116.29	3,223.75
6	2,460.83	3,322.13	3,445.17	3,568.21	3,691.25
7	2,772.50	3,742.88	3,881.50	4,020.13	4,158.75
8	3,084.17	4,163.63	4,317.83	4,472.04	4,626.25

**APPENDIX VI**

**2009  
LOW-INCOME SUBSIDY  
INCOME GUIDELINES  
ALASKA ONLY**

**ANNUAL GUIDELINES**

<b>FAMILY SIZE</b>	<b>PERCENT OF POVERTY GUIDELINE</b>				
	<b>100%</b>	<b>135%</b>	<b>140%</b>	<b>145%</b>	<b>150%</b>
1	13,530.00	18,265.50	18,942.00	19,618.50	20,295.00
2	18,210.00	24,583.50	25,494.00	26,404.50	27,315.00
3	22,890.00	30,901.50	32,046.00	33,190.50	34,335.00
4	27,570.00	37,219.50	38,598.00	39,976.50	41,355.00
5	32,250.00	43,537.50	45,150.00	46,762.50	48,375.00
6	36,930.00	49,855.50	51,702.00	53,548.50	55,395.00
7	41,610.00	56,173.50	58,254.00	60,334.50	62,415.00
8	46,290.00	62,491.50	64,806.00	67,120.50	69,435.00

For family units of more than 8 members, add \$4,680 for each additional member.

**MONTHLY GUIDELINES**

<b>FAMILY SIZE</b>	<b>PERCENT OF POVERTY GUIDELINE</b>				
	<b>100%</b>	<b>135%</b>	<b>140%</b>	<b>145%</b>	<b>150%</b>
1	1,127.50	1,522.13	1,578.50	1,634.88	1,691.25
2	1,517.50	2,048.63	2,124.50	2,200.38	2,276.25
3	1,907.50	2,575.13	2,670.50	2,765.88	2,861.25
4	2,297.50	3,101.63	3,216.50	3,331.38	3,446.25
5	2,687.50	3,628.13	3,762.50	3,896.88	4,031.25
6	3,077.50	4,154.63	4,308.50	4,462.38	4,616.25
7	3,467.50	4,681.13	4,854.50	5,027.88	5,201.25
8	3,857.50	5,207.63	5,400.50	5,593.38	5,786.25

**APPENDIX VII**

**2009  
LOW-INCOME SUBSIDY  
INCOME GUIDELINES  
HAWAII ONLY**

**ANNUAL GUIDELINES**

<b>FAMILY SIZE</b>	<b>PERCENT OF POVERTY GUIDELINE</b>				
	<b>100%</b>	<b>135%</b>	<b>140%</b>	<b>145%</b>	<b>150%</b>
1	12,460.00	16,821.00	17,444.00	18,067.00	18,690.00
2	16,760.00	22,626.00	23,464.00	24,302.00	25,140.00
3	21,060.00	28,431.00	29,484.00	30,537.00	31,590.00
4	25,360.00	34,236.00	35,504.00	36,772.00	38,040.00
5	29,660.00	40,041.00	41,524.00	43,007.00	44,490.00
6	33,960.00	45,846.00	47,544.00	49,242.00	50,940.00
7	38,260.00	51,651.00	53,564.00	55,477.00	57,390.00
8	42,560.00	57,456.00	59,584.00	61,712.00	63,840.00

For family units of more than 8 members, add \$4,300 for each additional member.

**MONTHLY GUIDELINES**

<b>FAMILY SIZE</b>	<b>PERCENT OF POVERTY GUIDELINE</b>				
	<b>100%</b>	<b>135%</b>	<b>140%</b>	<b>145%</b>	<b>150%</b>
1	1,038.33	1,401.75	1,453.67	1,505.58	1,557.50
2	1,396.67	1,885.50	1,955.33	2,025.17	2,095.00
3	1,755.00	2,369.25	2,457.00	2,544.75	2,632.50
4	2,113.33	2,853.00	2,958.67	3,064.33	3,170.00
5	2,471.67	3,336.75	3,460.33	3,583.92	3,707.50
6	2,830.00	3,820.50	3,962.00	4,103.50	4,245.00
7	3,188.33	4,304.25	4,463.67	4,623.08	4,782.50
8	3,546.67	4,788.00	4,965.33	5,142.67	5,320.00