
DATE: January 22, 2010
TO: All Prescription Drug Plan and Medicare Advantage-Prescription Drug Plan Sponsors
FROM: Cynthia Tudor, Ph.D., Director, Medicare Drug Benefit and C&D Data Group
SUBJECT: Announcement of a New Stage of Monitoring for Best Available Evidence (BAE)

The regulations at 42 CFR § 423.800 specify the requirements of Part D sponsors in the administration of the low-income subsidy (LIS) program, including the reduction of cost sharing for subsidy-eligible individuals. In certain cases, due to, for example, time lags associated with episodic reporting by the States and SSA and subsequent CMS systems updates, CMS systems do not reflect a beneficiary's correct LIS status at a particular point in time. To address these situations, CMS created the best available evidence (BAE) policy in 2006. This policy requires sponsors to accept specified forms of documentation of a beneficiary's eligibility for LIS, to change the beneficiary's cost-sharing levels in the sponsor's system based on that documentation, and for deemed LIS beneficiaries to submit to CMS requests for correction of these data in our system if the changes do not occur as a result of the routine State reporting. We have been monitoring this since 2006 and we are entering a new phase of monitoring.

In November 2008, CMS introduced a new initiative that allows CMS to monitor the extent to which Part D sponsors are correctly implementing our BAE policy. To help with this project, CMS entered into a contract with Acumen, LLC. The initiative focused on sponsor compliance in two areas:

1. To determine whether Part D sponsors have acceptable documentation (such as BAE) to substantiate more favorable LIS levels for their enrollees.
2. To assess whether requests to update deemed beneficiaries' data in the CMS system as a result of BAE have been made in accordance with our guidance.

This monitoring initiative expands on the LIS Match Rate project, in which sponsor data on LIS beneficiaries and co-payment levels are compared to these data in the CMS system. By using LIS Match Rate data, Acumen first selected initial and follow-up samples of beneficiaries for whom the Part D sponsor reports an LIS eligibility level that is more favorable to the beneficiary than the comparable data in CMS' system. The project then determined if the sponsor had acceptable documentation (such as BAE) to substantiate the more favorable LIS level.

In addition to ensuring sponsor compliance with the requirement to accept and use BAE to update LIS eligibility data in the sponsor's system, this initiative assesses sponsor compliance with the requirement to submit a Manual Correction Request to update a deemed beneficiary's data in the CMS system if the correction does not occur within 60 days based on routine State data reporting to CMS.

The purpose of this memorandum is to announce the next phase of this initiative and the continued assistance in this process by Acumen. An attachment to this memo shares best practices in BAE policy compliance.

New Phase of Monitoring

For the 2010 benefit year, CMS will continue this initiative with a new phase of monitoring. Acumen, on behalf of CMS, will request BAE documentation from Part D sponsors for all beneficiaries for whom sponsors report more favorable LIS benefits through the LIS Match Rate project for a duration of at least four months. This will include beneficiaries for whom Manual Correction Requests were submitted. The basic process will proceed each month as follows:

1. Acumen will use data from the CMS LIS Match Rate Project to identify beneficiaries for whom sponsors report at least four months of mismatch at more favorable LIS levels.
2. Acumen will release contract-level files to sponsors via a secure website.
3. Sponsors will use files to identify beneficiaries and locate BAE documentation.
4. Acumen will contact sponsors individually to specify monthly submission dates.
5. Sponsors will upload BAE documentation to Acumen via the secure website.
6. Acumen will review submitted BAE documentation to assess compliance with BAE policy and identify exceptions. Reports will be generated to track exceptions.
7. CMS will monitor plan performance on on-time data submission and data accuracy.
8. CMS will also monitor beneficiary complaints to ensure BAE policy is being applied when appropriate.

Pilot Data Collection

To familiarize sponsors with the project process, there will be a pilot data collection using data from the 2009 benefit year. Acumen will select a sample of beneficiaries for whom sponsors reported more favorable LIS levels than CMS between September-December 2009 through the LIS Match Rate Project. This sample will also include beneficiaries for whom Manual Correction Requests were submitted. In February 2010, Acumen will provide contract-level files with identifying information for the mismatched beneficiaries. Sponsors will locate documentation that substantiates the reported LIS levels and submit the BAE documentation to Acumen through a secure website in March 2010.

2010 Data Collection

Starting in May 2010, Acumen will release files on a monthly basis for the 2010 benefit year. These files will identify all beneficiaries for who sponsors report more favorable LIS levels than CMS for at least four months, as well as beneficiaries for whom Manual Correction Requests were submitted. Sponsors are expected to submit BAE data to Acumen each month. Acumen will review submitted documentation and provide reports for all beneficiaries assessing BAE policy compliance. CMS will use these reports to monitor plan performance.

As the number of beneficiaries mismatched for four months will be greatest at the start of this project due to normal fluctuations at the beginning of a new benefit year, Acumen will provide sponsors with a preliminary list of beneficiary mismatches in April 2010, when LIS Match Rate data from January-March (or three months of mismatch) is available. Using this list, sponsors can anticipate which beneficiaries may be selected for the first regular data submission in May 2010 and can collect documentation accordingly.

Access to the BAE Monitoring Website

Acumen has developed a secure website to facilitate the collection of BAE documentation. In accordance with Federal Information Security Management Act (FISMA) regulations, only the Medicare Compliance Officer will be authorized to give access to this website. To streamline this process, Acumen has developed the User Security website – a web tool that allows Medicare Compliance Officers to manage their users on the Acumen Part D BAE website. The current Medicare Compliance Officer for your organization should already have access to the User Security website through existing Medicare Part D projects with Acumen. Medicare Compliance Officers will be asked to authorize users for the BAE website in February 2010.

Schedule of Events

In summary, the table below lists the expected timeline for the start-up of this project:

EVENT	DATE
<p>Project Start-up Announcement</p> <p>Acumen will send a memorandum to all sponsors with further information on the project, including submission details for both the pilot and regular data submission periods and instructions for authorizing users for the BAE Monitoring website.</p>	February 2010
<p>Pilot Data Collection – 2009 Mismatches</p> <p>Acumen will select a sample of beneficiaries for whom contracts report more favorable LIS levels than CMS between September-December 2009. Sponsors will be notified through the BAE Monitoring website.</p>	March 2010
<p>Preliminary 2010 Beneficiary Mismatch List</p> <p>In preparation for the data collection for the 2010 benefit year, Acumen will provide sponsors with a list of beneficiaries with more favorable mismatches between January-March 2010.</p>	April 2010
<p>Regular Data Collection – 2010 Mismatches</p> <p>Acumen will request BAE documentation from sponsors for beneficiaries for whom sponsors report more favorable LIS mismatches that persist for four months.</p>	May 2010 and recurring monthly thereafter

CMS appreciates your cooperation with Acumen and all of your efforts in this important monitoring effort. If you have any technical questions about this project or process, please contact Acumen at BAE@AcumenLLC.com or (650) 558-8006. For all other non-technical questions, please contact Julie Gover at Julie.Gover2@cms.hhs.gov or (410) 786-0525.

ATTACHMENT A: BAE Policy Best Practices

The following practices were compiled from interviews with selected sponsors that submitted acceptable documentation during the BAE Monitoring Project conducted in 2009. We share these best practices to aid sponsors in the collection and interpretation of documentation in compliance with the BAE Policy.

1. Sponsors should obtain access to state Medicaid online systems, where available, for convenient access to Medicaid eligibility information.
2. Sponsors should develop a standard protocol for collecting and submitting BAE documentation. This includes establishing clear lines of communication with all involved parties; all partners should know whom to contact within the sponsor organization regarding BAE collection.
3. All involved parties should be trained on the requirements of the BAE Policy. To ensure accurate documentation at the point of data collection, a checklist of BAE criteria should be disseminated to all network partners. This checklist should detail acceptable documentation sources and types, as well as accurate interpretation of these documents.
4. As Medicaid documentation differs by State, Medicare eligibility codes should be collected from each appropriate State and be utilized as a resource to aid in the interpretation of documentation supporting Medicaid dual eligibility.

Acumen also offers sponsors the following tips for collecting acceptable BAE documentation:

- LIS Co-pay Level 2 (Lower co-pay of \$1/\$3) must be substantiated with proof of the beneficiary's income level. Otherwise, the LIS Co-Pay Level should be defaulted to Level 1 (Higher co-pay of \$2/\$6).
- Medicaid Institutionalized status must be substantiated not only with proof of Medicaid eligibility if not already in the system, but with proof of Medicaid payment to the facility for one full calendar month.
- Unacceptable forms of documentation include:
 - CMS data from MARx, TRR, LIS Bi-Weekly File, or LIS History File
 - Acumen LIS Match Rate Reports
 - Sponsor-generated reports