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**DATE:** November 24, 2008

**TO:** Part D Plan Sponsors

**FROM:** Anthony Culotta, Director  
Medicare Enrollment & Appeals Group

**SUBJECT:** Processing Low Income Subsidy Status Changes for 2009

The purpose of this memo is to provide information about the forthcoming Loss of Subsidy Data File that contains important information about members who will lose low income subsidy (LIS) eligibility for 2009. This memo also describes the actions Part D Sponsors are required to take once they receive this information, including setting members' low income cost sharing (LICS) level effective January 1, 2009, and notifying them of these changes.

**Background**

CMS and the Social Security Administration (SSA) have already notified beneficiaries who will lose LIS eligibility at the end of December 2008. As explained in detail in our August 7, 2008 memorandum, "Re-Determination of Part D Low Income Subsidy (LIS) Eligibility for 2009," CMS provided information to Part D Sponsors in September via a special file about their members who were expected to lose LIS eligibility as of December 31, 2008. Sponsors were strongly encouraged to reach out to these members to encourage them to complete the SSA Extra Help application included in the notification and helping them through the application process.

**Notifications to Sponsors**

The Loss of Subsidy Data File will be available to sponsors on or about **Monday, December 15, 2008**, and will contain the latest available information about the loss of a member's LIS eligibility in Field 21, Low Income Subsidy End Date. Specifically, this field will be populated with "20081231" for any member in your plan losing deemed status at the end of December 2008 or LIS applicants for whom SSA has reported termination of LIS eligibility. The Loss of Subsidy file uses the TRR file layout described in the Plan Communication Users Guide, Appendix E-18. A copy of this layout is provided in Attachment A.

As a reminder, members on this file may later regain LIS eligibility through re-deeming or by applying successfully for LIS. This is due to States sending CMS information on a beneficiary's Medicaid status after the file was created, or because SSA continued to process re-determinations

initiated earlier this fall. SSA decisions could also result in either the termination of, or changes to, premium and/or copayment levels subsequent to the December 15 file.

Please note the following:

- Loss of deemed status is reported on the Loss of Subsidy Data file, but is not reported on the weekly TRR.
- Copayment changes effective 2009 for the deemed population that were processed through November 8 will not be conveyed on any TRR. Part D Sponsors should consult the monthly LIS History Report and update their systems accordingly.
- Copayment changes processed after November 8, 2008 for 2009 effective dates will appear on weekly TRRs, beginning with the first weekly TRR dated November 15, 2008.
- Terminations related to LIS applicants that have been transmitted by SSA to CMS through December 15 are reported on the Loss of Subsidy file and on the weekly TRR.
- Finally, sponsors will continue to be notified of loss of LIS eligibility or changes to premium and/or copayment levels via the LIS History Report (LISHIST) issued at the end of each month.

### **Sponsor Responsibilities**

In response to the Loss of Subsidy Data File, sponsors must set their systems to charge the correct premium, deductible, and copayments effective January 1, 2009. The only exception to this requirement is for those beneficiaries whom the sponsor confirms are awaiting an SSA determination on an LIS application and have been granted a grace period by the sponsor. In these situations, sponsors should wait until they receive the result of the SSA determination to update their systems.

As in the past, we expect sponsors to notify these beneficiaries that they will lose this extra help and to provide information about changes in their plan benefits as a result of this loss. CMS has developed a model notice for this purpose (please see Attachment B). Plan sponsors that will be using the model notice are instructed to submit the material under the marketing material category 7006.

### **Optional Grace Period**

Part D Sponsors may offer up to a 3-month grace period for the collection of premiums and cost sharing to individuals who will no longer automatically qualify for the subsidy in 2009 and are able to demonstrate that they have applied for LIS. Before granting the grace period, sponsors must confirm, either verbally or in writing, that an individual has applied for LIS. In other words, the grace period may not be applied automatically to all deemed individuals losing LIS; instead, sponsors may apply the grace period only if an LIS application has been submitted.

For example, sponsors could send a letter to affected members that instructs them to call the sponsor if they are interested in the grace period. Any communication with the members should advise them of the potential for retroactive liability for higher premiums and cost sharing as of January 1, 2009. The letter should also include information

regarding the special enrollment period (SEP) for loss of LIS status (described below) and the need to take action by March 31, 2009, if they do not regain LIS status and wish to change plans. Sponsors should submit these notices to CMS for review and approval, consistent with Medicare marketing guidelines.

If, after the grace period has expired, the individual still does not appear as LIS eligible according to CMS records, or has not submitted Best Available Evidence (BAE) documentation to the plan, sponsors are to recoup unpaid premiums or cost sharing amounts consistent with CMS guidance.

### **Special Enrollment Period**

Per §30.4.4.5 and §30.4.4.12 of Chapter 2 of the Medicare Managed Care Manual and §20.3.2 and §20.3.8.7 of the PDP Guidance – Eligibility, Enrollment and Disenrollment, individuals who lose their LIS eligibility effective January 1, 2009 because they are no longer LIS eligible have an SEP beginning January 1, 2009, through March 31, 2009. This SEP allows them to make one Part D enrollment election. Individuals who lose eligibility for LIS at other times during the calendar year also will have an SEP that begins the month they are notified by SSA and ends two months after the month they are notified.

### **Points of Contact**

For **policy** questions pertaining to LIS eligibility, please contact Tracey Baker via email at [tracey.baker@cms.hhs.gov](mailto:tracey.baker@cms.hhs.gov) or by telephone at 410-786-7794.

For **technical** questions pertaining to this notification, please contact the MMAHelp Desk at 1-800-927-8069 or via email at [mmahelp@cms.hhs.gov](mailto:mmahelp@cms.hhs.gov).

Attachments

**ATTACHMENT A -- Loss of Subsidy Data File (Expanded Version)**

<b>Field</b>	<b>Size</b>	<b>Position</b>	<b>Description</b>
1. Claim Number	12	1 – 12	Claim Account Number
2. Surname	12	13 – 24	Beneficiary Surname
3. First Name	7	25 – 31	Beneficiary Given Name
4. Middle Name	1	32	Beneficiary Middle Initial
5. Sex Code	1	33	Beneficiary Sex Identification Code 0 = Unknown 1 = Male 2 = Female
6. Date of Birth	8	34 – 41	YYYYMMDD Format
7. Filler	1	42	Spaces
8. Contract Number	5	43 – 47	Plan Contract Number
9. State Code	2	48 – 49	Beneficiary State Code
10. County Code	3	50 – 52	Beneficiary County Code
11 Filler	4	53 – 56	Spaces
12. Transaction Reply Code	3	57 – 59	Transaction Reply Code '996'
13. Transaction Type Code	2	60 – 61	Transaction Type Code '01'
14. Filler	1	62	Spaces
15. Effective Date	8	63 – 70	YYYYMMDD Format
16. Filler	1	71	Spaces
17. Plan Benefit Package ID	3	72 – 74	PBP number
18. Filler	1	75	Spaces
19. Transaction Date	8	76 – 83	Set to Current Date (YYYYMMDD )
20 Filler	1	84	Spaces
21. Low-Income Subsidy End Date	8	85 – 92	End Date of Beneficiary's Low-Income Subsidy Period (YYYYMMDD)
22. Filler	42	93 – 134	Spaces
23. Segment Number	3	135 – 137	'000' if no segment in PBP
24. Filler	17	138 – 154	Spaces
25. Enrollment Source	1	155	'A' = Auto Enrolled by CMS; 'B' = Beneficiary Election; 'C' = Facilitated Enrollment by CMS; 'D' = CMS Annual Rollover; 'E' = Plan initiated auto-enrollment; 'F' = Plan initiated facilitated-enrollment; 'G' = Point-of-sale enrollment; 'H' = CMS or Plan reassignment; 'I' = Invalid submitted value (transaction is not rejected); Space = not supplied
26. Filler	79	156 - 234	Spaces
27. Part D Low-Income Premium Subsidy Level	3	235 – 237	Part D low-income premium subsidy category: '000' = No subsidy
28. Low-Income Co-Pay Category	1	238	Co-payment category: '0' = none, not low-income
29. Filler	262	239 – 500	Spaces

## ATTACHMENT B

### MODEL NOTICE FOR BENEFICIARIES WHOSE LOW-INCOME SUBSIDY IS TERMINATED (for PDPs, MA-PD Plans, and Cost Plans that offer Part D)

(Note: The marketing material code for this model notice is **7006**. If the sponsor uses this model notice without modification, CMS will waive the five-day waiting period before the sponsor can use the notice in the marketplace.)

[Member #-if member # is SSN, only use last 4 digits]

[RxID]

[RxGroup]

[RxBin]

[RxPCM]

<Date>

Dear <Name of Member>:

**Beginning <effective date>, you no longer qualify for extra help with your Medicare prescription drug costs.** You will continue to be a member of <Plan name>.

#### **How will your monthly premium change?**

The monthly premium you pay to <Plan name> will increase from <insert dollar amount> to <insert dollar amount>. *[Add the following if the member currently has premium withhold option: Because your premium is deducted from your monthly Social Security check, the amount withheld from your check will increase.]*

#### **How will your other prescription drug costs change?**

*[Describe plan's cost sharing structure including the deductible, if applicable, for non-LIS members.]*

Once you spend <current Out-of-Pocket Threshold> in a year, your co-payment amount(s) will go down. You will pay <current LIS high copay for generics> for generic or preferred drugs and <current LIS high copay for brand names> for any other drug, or 5% coinsurance, whichever is higher, for the rest of the year.

These changes to your prescription drug costs begin <effective date>. This date may have already passed when you get this letter. If you have filled prescriptions since <effective date>, you may have been charged less than you should have paid. If you do owe us money, we will let you know how much.

*[Note: If Beneficiary is Deemed, insert the following language:*

**You may still qualify for extra help, but you must apply to find out.** If you haven't already filled out an application for extra help, you can get an application or apply over the phone by

## ATTACHMENT B

calling Social Security at 1-800-772-1213, or apply online at [www.socialsecurity.gov](http://www.socialsecurity.gov). TTY users should call 1-800-325-0778.]

*[Note: If Sponsors offer the optional grace period for the collection of premiums and cost-sharing for deemed beneficiaries who have applied for LIS and are waiting for a decision, insert the following language, if applicable:*

If you applied for extra help and haven't received a response from Social Security, <Plan name> will allow you to continue to pay for your prescriptions at <2008 LIS premium and cost sharing levels> until <date>. Please contact <customer service number> or send a copy of the letter saying Social Security received your application or appeal to <address>.

If you don't qualify for extra help or are approved at a higher premium and cost sharing level, you may owe money back to January 1, 2009. <Plan name> will send you a notice telling you what you owe for past charges.

If you don't qualify for extra help from Social Security, you can change plans if you wish to do so. You must join the new plan by March 31, 2009.]

### **What are your options?**

#### **Option 1: You can stay a member of our plan**

You can continue to be a member of <plan name>. You will pay the costs described above for your coverage.

#### **Option 2: You can switch to a new plan**

Because you no longer qualify for extra help, you can switch to a different Medicare drug plan starting <effective date> until <two months later>. [If the effective date is January 1, enter March 31. For any other effective date, enter two months later.] You may want to choose a different drug plan for next year with costs and coverage that better meet your needs.

Visit [www.medicare.gov](http://www.medicare.gov) on the web or call 1-800-MEDICARE (1-800-633-4227) for more information about Medicare drug plans available in your area. TTY users should call 1-877-486-2048.

#### **Option 3: You can find other ways to get help with your prescription drug costs**

Your state may have programs that can help pay your prescription drug costs. Contact your State Medical Assistance (Medicaid) office for more information. Call 1-800-MEDICARE (1-800-633-4227) or visit [www.medicare.gov](http://www.medicare.gov) on the web for their telephone number. TTY users should call 1-877-486-2048.

*[Note: If Beneficiary is an Applicant, insert the following language:*

## **ATTACHMENT B**

### **What To Do If Your Situation Changes**

You can file a new application for extra help at any time. You can get an application or apply over the phone by calling Social Security at 1-800-772-1213, or apply online at [www.socialsecurity.gov](http://www.socialsecurity.gov). TTY users should call 1-800-325-0778.

### **If You Disagree With This Decision**

If you think your extra help was terminated in error, you can call Social Security to appeal at 1-800-772-1213. TTY users should call 1-800-325-0778.]

### **For More Information**

If you have any questions about this letter, please contact <Customer/Member> Services at <toll-free number><days and hours of operation>. TTY/TDD users should call <toll-free TTY number>.

Thank you.

<Marketing Material ID Number><CMS Approval Date>