



CENTER FOR DRUG AND HEALTH PLAN CHOICE

DATE: August 5, 2008

TO: Part D Plan Sponsors

FROM: Anthony Culotta, Director
Medicare Enrollment & Appeals Group

SUBJECT: Re-Determination of Low-Income Subsidy Eligibility for 2009

The purpose of this memo is to provide your organization with information and guidance about:

- The process used by the Centers for Medicare & Medicaid Services (CMS) and the Social Security Administration (SSA) to re-determine Medicare beneficiaries' low-income subsidy (LIS) eligibility;
- An Optional Grace Period for individuals who no longer automatically qualify for the Part D Low Income Subsidy in 2009;
- A Special Enrollment Period (SEP) for individuals who lose their low-income subsidy eligibility;
- CMS' expectations of Part D plan sponsors for conducting outreach to members who no longer automatically qualify for LIS and steps sponsors may take to ease their members' transition; and
- Two files CMS will send to all Part D sponsors identifying individuals who CMS has notified about their loss of LIS.

Background

The low-income subsidy provides extra help for people with Medicare who have limited income and resources to help pay their Medicare prescription drug plan costs (plan monthly premiums, co-payments and the annual deductible). Certain groups of Medicare beneficiaries automatically qualify (are deemed eligible) for LIS, including full-benefit dual eligible individuals, partial dual eligible individuals (Qualified Medicare Beneficiaries (QMB-only), Specified Low-Income Medicare Beneficiaries (SLMB-only), Qualifying Individuals (QI), and people who receive Supplemental Security Income (SSI) benefits but not Medicaid. Other individuals with limited incomes and resources who do not automatically qualify can apply for a low-income subsidy and have their eligibility determined by either the Social Security Administration (SSA) or their State Medicaid Agency. Table 1 provides an overview of how people qualify for LIS.

Table 1. Overview of how people qualify for LIS

People with Medicare and	Basis	Data Source	Changes During the Year
Medicaid benefits <ul style="list-style-type: none"> • Full Medicaid benefits • Partial Dual (QMB-only, SLMB-only, QI) 	Automatically qualify	State files	<ul style="list-style-type: none"> • Qualify for a full calendar year • Generally only favorable changes will occur
SSI benefits		SSA	
Limited Income and Resources	Must apply	SSA (almost all) or states	<ul style="list-style-type: none"> • Some events can impact status throughout the year • Extra help can increase, decrease, or terminate

CMS Process for Re-determining LIS Eligibility for People who Automatically Qualify

- July – CMS will begin identifying LIS eligible individuals who will continue to automatically qualify for LIS in 2009. If they are no longer a full-benefit dual eligible, partial dual eligible(QMB-only, SLMB-only, QI), or SSI recipient, their LIS will end on December 31, 2008.
- Late September – Individuals who no longer qualify for LIS automatically in 2009 will receive, in a joint mailing from CMS and SSA, a personalized letter explaining this loss of LIS and an SSA application for extra help to complete and return in an enclosed postage-paid envelope. If a person's situation subsequently changes so that he/she again automatically qualifies for extra help, CMS will send him/her another notice letting him/her know that he/she qualifies.
- Early October – Individuals who will continue to qualify automatically for LIS in 2008 but will have a change in their co-payment level for 2009 will receive a personalized letter from CMS outlining the changes that will be effective January 1, 2009.

CMS mails its letters first class, and any undeliverable letters will be returned for resolution. CMS has procedures in place to follow up on each undeliverable notice to identify and re-mail to the beneficiary's current address, if one is available.

Social Security Process for Re-determining LIS Eligibility for People Who Apply and Qualify

Individuals who apply and qualify (are determined eligible) for Extra Help with Prescription Drug Costs (LIS) may be contacted by Social Security to have their status reviewed. These reviews are done each year usually at the end of August. Individuals selected for review will be sent a form to complete, called "Social Security Administration Review of Your Eligibility for Extra Help." They will have 30 days to complete and return this form to Social Security. It is important to note that individuals who do not return the form will have their Extra Help status

terminated at the end of the year. Social Security may decide that individuals selected for review:

- have no change in the amount of extra help they receive;
- have an increase in the amount of extra help they receive;
- have a decrease in the amount of extra help they receive; or
- no longer qualify for extra help.

Social Security will send a letter to the beneficiary that explains the decision and his/her appeal rights. Individuals not selected for review will have no change in their status.

The materials referenced above, as well as more detailed information on the Social Security redetermination process, may be obtained by visiting the Social Security website at <http://www.socialsecurity.gov/prescriptionhelp/>.

Optional Grace Period for Individuals Who no Longer Automatically Qualify for the Part D Low Income Subsidy in 2009

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 low income subsidy in 2009 and are able to demonstrate that they have applied for LIS.

As established in our memo dated October 6, 2006, Part D sponsors choosing to offer this grace period must make it available to all such individuals who had qualified for LIS. 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 would recoup unpaid premiums or cost sharing amounts consistent with existing CMS guidance.

Sponsors must confirm, either verbally or in writing that an individual has applied for LIS prior to granting the grace period. In other words, the grace period may not be applied automatically to all individuals losing LIS; instead, sponsors may apply the grace period only if an LIS application has been submitted. For example, sponsors could send to affected members a letter 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 for loss of deemed 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.

Best Available Evidence and Re-Deeming

Please note that sponsors should continue to use the BAE policy already in place, including for individuals for whom CMS data show loss of deemed status in 2009. If beneficiaries make sponsors aware of their dual eligible or LIS status in 2009, but CMS data do not support it, the

BAE process for obtaining documentation, setting plan systems to the correct level, and submitting data to CMS to update our systems should be followed.

Special Enrollment Period

Individuals who lose their LIS eligibility effective January 1, 2009 have a Special Enrollment Period (SEP) beginning January 1, 2009 through March 31, 2009, which will allow them to make a one time Part D enrollment election. Additional information regarding this SEP can be found in the MA and PDP enrollment guidance documents, available on the CMS website at <http://www.cms.hhs.gov/MedicarePresDrugEligEnrol/> for PDP enrollment guidance and <http://www.cms.hhs.gov/MedicareMangCareEligEnrol/> for MA enrollment guidance. **Note: Once on the page, look for the file names which include the date “July 16, 2008” to ensure you select the most recent guidance.**

Part D Sponsor Responsibilities

As in the past, CMS expects Part D plan sponsors to reach out by phone or mail to every member who will no longer qualify automatically for extra help beginning in 2009 to encourage them to apply for LIS and help them through the process. For example, we expect that, upon request, Part D sponsors should be able to provide assistance to individuals in filling out the LIS application. In support of this effort, CMS is identifying for each Part D sponsor those individuals whom CMS is notifying by mail, and providing an outbound script (Attachment A) and model notice (Attachment B) for sponsors to use. Plan sponsors that will be using the model script or notice are instructed to submit the material under the following marketing material categories:

6005 – Presentations & Scripts – LIS Losing Deeming Status Script

7005 – Special Materials – LIS Losing Deeming Status Model Letter

If the document is submitted as a File & Use piece (where the model is used without modification), CMS will waive the 5 calendar day waiting period before the documents can be used or distributed in the marketplace.

Part D sponsors should update scripting for inbound calls where appropriate. Part D plan sponsors may also provide a link on their own plan websites to the SSA website (www.socialsecurity.gov); SSA's website includes general information about LIS and the application itself.

Systems Notification

As mentioned above, CMS will be reporting to Part D plan sponsors those members who are being notified about their loss of LIS deemed status. Part D sponsors will receive two files containing one record for each affected beneficiary. The first in September will include those members who will be receiving CMS' grey “undeemed” letter. The file is informational only. Part D sponsors should expect to receive this file during the week of September 22, 2008. The second will be sent in December, and should be processed. CMS will provide the file format,

naming convention, and related technical information to plans via an email from the MMA Help Desk.

Points of Contact

For **policy** questions pertaining to LIS eligibility, please contact Kay Pokrzywa via email at katherine.pokrzywa@cms.hhs.gov or by telephone at 410-786-5530.

For **policy** questions about the annual process for re-determination for LIS eligibility, please contact Tracey Baker via email at tracey.baker@cms.hhs.gov or by telephone at 410-786-7794.

For **technical** questions pertaining to this notification, please contact the MMA Help Desk at 1-800-927-8069 or via email at mmahelp@cms.hhs.gov.