



CMA Weekly Alert – September 13, 2007

UPDATES FOR PEOPLE ELIGIBLE FOR THE PART D LOW INCOME SUBSIDY

As the start of the November annual coordinated enrollment period for Medicare prescription drug plans (PDPs) and Medicare Advantage (MA) plans draws nearer, advocates for Medicare beneficiaries with low-incomes will want to take note of federal agency activities that may affect their clients. This *Weekly Alert* summarizes some of the recent policies and announcements from the Centers for Medicare & Medicaid Services (CMS) and the Social Security Administration (SSA) that concern this population.

Continued Eligibility for the Low-Income Subsidy (LIS)

Re-deeming: On June 11, 2007, CMS sent a letter to state Medicaid Directors informing them of the upcoming second annual re-deeming process for evaluating whether beneficiaries who were automatically (deemed) eligible for LIS in the previous year (2007) will continue their automatic eligibility in the upcoming year (2008). CMS will use the same re-deeming process as it used last year. It will rely on July state Medicare Modernization Act (MMA) files for Medicaid and Medicare Savings Program (MSP) eligibility and on SSA files for SSI-only eligibility for the initial re-deeming process, and will rely on monthly submissions thereafter. Individuals who are reported as full Medicaid, MSP, or SSI-only eligible in that time will have their LIS deemed status extended through December 31, 2008. The copayment level will be determined on the eligibility category, income, and institutional status as of July 2007. All those who are reported as only eligible for months prior to July, 2007 will not be re-deemed for 2008.

Advocates should look in early September for a joint notification from CMS and SSA to beneficiaries who were not re-deemed for 2008. The mailing will include a CMS letter and SSA LIS application with a postage-paid envelope (addressed to SSA).

Those beneficiaries who are re-deemed but whose subsidy level will change will be notified in October. No notification will be sent to the re-deemed whose status went unchanged. CMS will notify the states in September about those residents who will lose deemed status and will continue to inform the states via their response files.

Re-determination: SSA recently issued new policy guidance to codify its process for re-determination review of beneficiaries who apply and are found eligible for LIS.¹ Every August SSA will select, for initial determination, beneficiaries who became eligible for LIS during May of the previous year through April of the current year, in this case May 2006-April 2007. SSA will select cases where data indicate a possible change in subsidy, where the beneficiaries reported receipt of in-kind support and maintenance, where the Office of Quality Performance may have found errors, or where members of a couple have different filing dates or different subsidy amounts.

In August 2007, SSA also began its cyclical re-determinations of everyone who receives LIS based on filing an application for the subsidy. A portion of all subsidy-eligible individuals will be selected for re-determination each year, based on standards similar to those for reviewing new LIS beneficiaries.

SSA began mailing notices to LIS-eligible beneficiaries who are subject to re-determination in August. These individuals received a form they must complete and return to SSA within 30 days. Beneficiaries may call SSA to ask for an extension of time to respond. Advocates may review the notice and form on the SSA web site. <http://www.ssa.gov/prescriptionhelp/SSA-1026B-OCR-SM-INST.pdf>. Beneficiaries are advised that they may not use the form on the SSA web site but must complete and mail the form they received.

The notice that people subject to re-deeming receive indicates that LIS will end for those who do not complete and return the form in a timely manner. However, SSA indicated at a meeting with national advocacy organizations in Washington, D.C., that it intends to call beneficiaries who do not respond to the initial letter. Individuals whose LIS is terminated may appeal the decision that they are no longer eligible for the subsidy. SSA has posted an appeals form on its web site at <http://www.ssa.gov/online/ssa-1021.pdf>.

Changes in Plan Enrollment

Plan re-assignment for LIS-eligible individuals on 2008: The August 13, 2007, press release from CMS touts the average Part D premium for 2008 and says that “2008 is shaping up to be yet another good year for the program.”² This sanguine comment fails to take into account that the new average premiums will have a negative impact on one in six beneficiaries who are eligible for LIS, or about 1.6 million people. According to the same press release, they will be reassigned by CMS to a new plan sponsor in their area, effective January 1, 2008, “[t]o avoid a premium for these low income beneficiaries...” CMS says that LIS-eligible beneficiaries who are reassigned may change to a different plan. Beneficiaries who choose to remain in their previous plan even though it no longer qualifies for the LIS will have to pay a small premium.

What the CMS press release implies but does not say is that the lower cost in average Part D premiums results in fewer plans qualifying as benchmark plans in which LIS-eligible beneficiaries may enroll premium-free. This counter-intuitive result reflects one of the many design flaws in the Part D program. Benchmark amounts for each region are weighted by plan enrollment. When more beneficiaries who are not subsidy-eligible enroll in plans with low premiums, the benchmark amount decreases. The lower the benchmark, the fewer the plans that fall at or below the benchmark and that qualify as premium-free plans for LIS-eligible beneficiaries. The drop in the number of LIS-qualifying plans is likely to continue in future years as CMS phases in full implementation of the weighted benchmark calculation.

The estimated number of beneficiaries who will be reassigned may be higher than CMS reports. The reported number of beneficiaries who were reassigned in 2007, 1.2 million, did not include those who were reassigned by their plan sponsor to a different plan the sponsor offered. Many of these beneficiaries, as well as those who were reassigned by CMS to plans offered by different sponsors, found themselves in plans with different formularies, different utilization management tools for drugs they have been taking, and different plan procedures.

New SEP for LIS beneficiaries: CMS revised its Part D enrollment guidance, effective July 2007, to create a new Special Enrollment Period (SEP) for all beneficiaries who are eligible for the LIS. The new SEP allows LIS-eligible beneficiaries to change their plan enrollment at any time. Before the change, continuous enrollment and disenrollment was only available to beneficiaries eligible for Medicaid or for one of the Medicare Savings Programs. The updated enrollment and disenrollment guidance is available at: <http://www.cms.hhs.gov/MedicarePresDrugEligEnrol/Downloads/PDPEenrollmentGuidanceUpdate.pdf>.

The Center will continue to provide updated information relevant to LIS-eligibility and enrollment in prescription drug plans as it becomes available from CMS and SSA.

For more information, contact attorney Vicki Gottlich (vgottlich@medicareadvocacy.org) or attorney Patricia Nemore (pnemore@medicareadvocacy.org) in the Center for Medicare Advocacy's Washington, DC office at (202) 216-0028.

¹ Program Operations Manual Systems (POMS), Section HI 03050.011 Redetermination of Eligibility, <https://s044a90.ssa.gov/apps10/poms.nsf/lnx/0603050011!opendocument>.

² <http://www.cms.hhs.gov/apps/files/PressReleasePartDBenchmark.pdf>. The press release says that the average premium for standard Part D coverage in 2008 will be approximately \$25.