



CENTER FOR DRUG AND HEALTH PLAN CHOICE

DATE: May 11, 2009

TO: All Part D Sponsors

FROM: Anthony J. Culotta, Director
Medicare Enrollment and Appeals Group

SUBJECT: Additional Guidance on Best Available Evidence

The purpose of this memorandum is to (1) remind sponsors of the requirements associated with CMS' "best available evidence" (BAE) policy for determining the Medicare Part D low-income subsidy (LIS) cost sharing; and (2) describe a new process for submitting requests to update LIS status for beneficiaries who are "deemed" eligible for LIS that will better ensure that these updates reflect accurate information. The new procedures outlined in this memorandum are effective immediately.

As a reminder, section 1860D-14(c) of the Social Security Act requires Part D sponsors to reduce the premiums or cost sharing by the applicable subsidy amount for LIS eligible individuals. In accordance with this requirement, Part D sponsors must provide access to Part D drugs at the correct LIS cost-sharing level when presented with evidence of LIS eligibility, even if the sponsor's systems and CMS' systems do not yet reflect that eligibility. Sponsors also must update their own systems to reflect the LIS status indicated by the BAE and, if necessary, submit a request to CMS so that CMS' systems can be updated as well. These requirements apply to all beneficiaries who are "deemed" subsidy eligible (including full benefit Medicare/ Medicaid eligibles, partial dual eligibles, and people receiving SSI only).

For those beneficiaries who are awarded LIS by the Social Security Administration (SSA), sponsors must update their own systems to reflect LIS status. Note, however, that we do not currently have a process for updating CMS' systems for LIS applicants.

Updating Records for Deemed Beneficiaries

Under CMS' current process, plans submit requests to CMS, through its contractor, IntegriGuard, to update LIS status for "deemed" beneficiaries. Sponsors provide specific information about the deemed beneficiary in an Excel worksheet and send this worksheet to IntegriGuard, which then makes the necessary changes in CMS' records. While sponsors are required to obtain and maintain documentation supporting these requests, they have not had to

include such documentation with their requests unless IntegriGuard conducted a “probe study” and requested the documentation from the sponsor.

In order to ensure that plans are correctly identifying and providing appropriate BAE documentation for deemed beneficiaries, we are making the following changes to the LIS deeming update request process effective immediately:

1. Sponsors must now include a copy of the supporting BAE documentation with every update request submitted to IntegriGuard. (See the list of types of documentation below.)
2. The “Type of Documentation Supporting Request” field in the drop-down menu on the Excel spreadsheet must match the documentation included with the spreadsheet.
3. Failure to adhere to either of the above requirements will result in rejection of the request.

Since supporting documentation must now accompany all requests, “probe studies” will no longer be necessary.

Note: These requirements do not alter the sponsor’s obligations under the August 4, 2008 HPMS memorandum regarding CMS’ Best Available Evidence policy. Accordingly, even if IntegriGuard rejects the sponsor’s request because the sponsor failed to submit the required documentation, or the documentation submitted does not match the field selected in the Excel spreadsheet, the sponsor must continue to provide the individual with access to Part D drugs at the correct LIS cost-sharing level when presented with evidence of LIS eligibility as stated above.

Types of Documentation for Deemed Beneficiaries

All documents listed below are valid for the purpose of establishing the correct LIS cost-sharing level and effective date for individuals who should be deemed eligible for LIS, and are the only documents permissible for submission to IntegriGuard for deeming updates. Each item listed below must show that the person was eligible for Medicaid during a month after June of the previous calendar year.

- A copy of the member’s Medicaid card which includes the member’s name and eligibility date;
- A copy of a state document that confirms active Medicaid status;
- A print out from the State electronic enrollment file showing Medicaid status;
- A screen print from the State’s Medicaid systems showing Medicaid status;
- Other documentation provided by the State showing Medicaid status;
- A report of contact, including the date a verification call was made to the State Medicaid Agency and the name, title and telephone number of the state staff person who verified the Medicaid status;
- A remittance from a long term care facility showing Medicaid payment for a full calendar month for that individual;

- A copy of a state document that confirms Medicaid payment to a long term care facility for a full calendar month on behalf of the individual;
- A screen print from the State’s Medicaid systems showing that individual’s institutional status based on at least a full calendar month’s stay for Medicaid payment purposes;
- A Supplemental Security Income (SSI) Notice of Award with an effective date (See Appendix A); or
- An Important Information letter from SSA confirming that the beneficiary is “...automatically eligible for extra help...” (See Appendix B)

Updating Records for Beneficiaries with LIS Applicant Awards

It is important to keep in mind that the IntegriGuard update process described above is intended to be used only for beneficiaries who are deemed eligible for LIS; it may not be used for LIS applicants, that is, individuals who apply and qualify for LIS through SSA (or a State Medicaid Agency) and are awarded either the full or partial subsidy based on their income and resources. The award notices to these applicants indicate whether the award is for a full or partial subsidy, and these notices DO constitute valid proof of an individual’s LIS status and thus should be used by plans to determine the correct LIS copay. However, such notices do not reflect or confirm “deemed” LIS-eligibility status and thus have no role in the IntegriGuard update process. Any update requests for deemed records accompanied by SSA (or State Medicaid Agency) LIS award notices will be returned to the plan sponsor unprocessed.

We are continuing to work with SSA to establish an automated process for correcting the LIS status of LIS applicants in CMS’ systems when an error in LIS status is identified. However, regardless of the LIS status reflected in CMS systems for affected beneficiaries, plan sponsors must accept and use LIS award notices from SSA and State Medicaid Agencies as BAE to update their own systems, charge the plan member the correct cost-sharing, and maintain procedures for exceptions processing. (For more information and samples of these notices, please see the HPMS memo dated October 16, 2008, “Identifying Key Information in Social Security Letters to Low Income Subsidy Applicants.”)

For questions concerning this BAE policy, please contact Kay Pokrzywa at katherine.pokrzywa@cms.hhs.gov or 410-786-5530.

Appendix A

Social Security Administration Supplemental Security Income

Notice of Award

FIELD OFFICE
RETURN ADDRESS

Date: February 1, 2009
Claim Number:

CLAIMANT NAME
ADDRESS
CITY STATE ZIP CODE

*Application Filed *
June 17, 2008

*Type of Payment *
Individual-Disabled

This is to notify you that you are eligible to receive Supplemental Security Income (SSI) payments under the provisions of Title XVI of the Social Security Act. The rest of this letter will tell you more about our decision.

We explain how we figured the monthly payment amounts shown below on the last pages of this letter. The explanation shows how your income, other than any SSI payments, affects your SSI payment. It also shows how we decided how much of your income affects your payment amount.

How Much We'll Pay

*Monthly *Beginning*	*Through* Amount Payable*	
June 17, 2008	June 30, 2008	\$0.00
July 1, 2008	December 31, 2008	\$689.04 This includes \$52.04 from the State of Vermont.
January 1, 2009	Continuing	\$726.04 This includes \$52.04 from the State of Vermont.

Appendix B

Social Security Administration

Medicare Prescription Drug Assistance

Important Information

FIELD OFFICE
RETURN ADDRESS

Date: <date>
Social Security Number:

CLAIMANT NAME
ADDRESS
CITY STATE ZIP CODE

On <date>, you submitted an Application for Help with Medicare Prescription Drug Plan costs. You are automatically eligible for extra help with Medicare prescription drug plan costs because you are receive Supplemental Security Income, Medicaid, or participate in the Medicare Savings Program. We do not need to process your application.

If You Have Any Questions

For information about the Medicare prescription drug plans or other Medicare issues, visit www.medicare.gov on the Internet or call toll-free 1-800-MEDICARE (1-800-633-4227). If you are deaf or hard of hearing, you may call the Medicare TTY number toll-free at 1-877-486-2048.

For information about the extra help with the costs related to the Medicare prescription drug plans or general information about Social Security, visit our website at www.socialsecurity.gov. You may also call Social Security toll-free at 1-800-772-1213. If you are deaf or hard of hearing, you may call our TTY number toll-free at 1-800-325-0778. We can answer most questions by phone.

If you do call, please have this letter with you. It will help us answer your questions