



STATES AND ADVOCATES SHOULD PREPARE FOR MEDICARE PART D

Now is the time for states and advocates to be preparing for the Medicare prescription drug plans that become effective in 2006. There are significant issues which need attention. These include the following:

1. How to provide full drug coverage for low-income beneficiaries, including those dually eligible for Medicare and Medicaid, who will lose Medicaid drug coverage on January 1, 2006.

The thirty or so states that have State Pharmaceutical Assistance Programs (SPAPs) may need to amend their laws to make Medicare Part D the primary coverage for those enrolled in a Part D plan. Many such states may already have passed similar amendments to accommodate receipt by their beneficiaries of Transitional Assistance and negotiated prices provided by Medicare-approved discount drug cards in 2004 and 2005.

To most easily accommodate those dually-eligible for Medicare and Medicaid who will lose Medicaid drug coverage on January 1, 2006, the amendments could allow for automatic eligibility for and enrollment in the SPAP for those individuals, effective January 1, 2006, with notice to such beneficiaries of their enrollment in the SPAP at the same time they are informed about the end of their Medicaid coverage.

In States whose SPAP cost-sharing is higher than that of their Medicaid program, states could create a two-tiered wrap-around benefit so that beneficiaries with the lowest incomes would have no greater cost-sharing than they had before Part D, including the waiver of any enrollment fee the SPAP might charge.

State legislation could provide that all applications for SPAP benefits will be screened for eligibility for the Medicare Part D low-income subsidy, and where subsidy eligibility seems likely, the applicant will receive assistance in applying for the low-income subsidy.

Those jurisdictions without SPAPs will need to consider how they can ensure that, at a minimum, those losing their Medicaid prescription drug coverage have no less benefit under Part D and its low-income subsidy than they had under Medicaid.

In addition to the actions described above to ensure full drug coverage for low-income beneficiaries, states can continue to offer coverage for those drugs that are precluded by law from being covered by Part D: benzodiazepines, barbiturates, vitamins, over-the-

counter drugs and others. States will continue to receive federal Medicaid matching funds for covering these drugs for Medicaid beneficiaries whose other drug coverage will now be through Medicare. States that are not currently covering these Part D-excluded drugs might begin to cover them.

2. How to maximize eligibility for and participation in the Part D low-income subsidies: Liberalize eligibility rules for Medicare Savings Programs (MSPs).

Wrap-around assistance funded by state-only dollars can extend its reach by increasing the number of participants who receive the Part D low-income subsidy. For each person receiving such subsidy, the state will pay considerably less in wrap-around benefits, since the subsidy is substantial and requires only very minimal cost-sharing. This will allow state dollars to be used for those individuals who are not eligible for the subsidy, or to assure fuller access to all medically necessary drugs, or both.

One way to increase subsidy participation is to have the state screen for subsidy eligibility, as described above. A second way is to increase eligibility for MSPs, since MSPs are deemed eligible for the full (most generous) low-income subsidy. States can do this by liberalizing their Medicaid income and/or resource rules for MSP eligibility. At least 20 states already have some eligibility rules more liberal than required by federal law. Several states, for example, have eliminated any resource test for MSPs. One advantage to the state of such a liberalization is the saving of administrative time and money required to verify assets. With respect to a state benefit wrapping around Part D, such policy would also save money by increasing participation in the low-income subsidy “automatically.”

Although the state would incur new expenses in paying the Medicare Part B premium and in some cases, other cost-sharing for those newly eligible beneficiaries, those expenses would be subject to federal matching payments of at least \$.50 on every \$1 and would, in fact, be offset by the above-mentioned administrative savings.

From a federal perspective, this change can be done administratively, by the state submitting a State Plan Amendment to the Centers for Medicare and Medicaid Services (CMS). Whether a state could make such changes without legislation would depend on what authority the legislature has given the Medicaid agency to modify the Medicaid program where there are fiscal implications.

3. How to prepare for the transition for dual eligibles from Medicaid drug coverage to Medicare Part D and for enrolling individuals in the Part D low-income subsidy.

A significant role exists for state Medicaid agencies with respect to Medicare Part D implementation. It will be important in 2005 to help the states plan. Relevant questions include:

- What enrollment process will the state use for the low-income subsidy?

- Will it use the application form developed and used by the Social Security Administration?
- Will it permit mail-in and phone applications, without a face-to-face interview? Will it be possible to apply on-line?
- Will it use its normal Medicaid processing for the applications? What verification will be required? Will it permit self-certification of income and assets information without further documentation?
- How often will it require redeterminations and what process will it use? Will it adopt a passive redetermination that requires a beneficiary's response only if information has changed?
- How will it screen for MSP eligibility and enroll eligible applicants? Will it use a single, simple process for both the low-income subsidy and the MSP application that requires nothing more of applicants for one benefit than what they have already provided for the other?
- Or, if the state relies on the Social Security Administration's (SSA's) application and process for the low income subsidy, as the preamble to CMS's final rules suggests, how will the state fulfill its obligation to screen for MSP eligibility and offer enrollment?

4. How to provide for necessary outreach, information, counseling and assistance: Increase state appropriations for the SHIP program and for community-based organizations serving underserved populations.

The transition to Part D will place enormous strain on State Health Insurance Programs (SHIPs) which will likely be the most utilized referral source and on non-profits serving underserved communities of Medicare beneficiaries. While federal law provides additional money for the State Health Insurance Programs, it is insufficient to the huge task before them in the next few years. Additional resources from the state will be essential for both SHIPs and other organizations.

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