



CMA Weekly Alert – December 21, 2006

LOW INCOME SUBSIDY MATTERS

2007 brings changes for Medicare beneficiaries with Part D’s low income subsidy (LIS) or “extra help.” It also provides new opportunities for qualifying for the subsidy; at the same time, some who received the subsidy in 2006 may lose it for 2007.

This Alert addresses these changes, opportunities and losses:

- Higher income and resource levels to qualify for extra help.
- Higher co-payments for most people for most drugs.
- Reassignment of LIS recipients to new plans if the 2006 plan in which they were enrolled by the Centers for Medicare and Medicaid Services (CMS) is no longer a benchmark plan.
- Possible loss of LIS due to loss of qualifying status or a change in income, resources, or family circumstances.
- Special Enrollment Periods for LIS-related beneficiaries
- Plan treatment of erroneous low-income subsidy co-payment information for 2007.

HIGHER INCOME AND RESOURCE LEVELS TO QUALIFY FOR EXTRA HELP				
	2006		2007	
	Individual	Couple	Individual	Couple
Full Subsidy Countable Income levels (135% fpl)*	\$13,230/yr (\$1102.50/mo. plus \$20 universal disregard)	\$17,820/yr (\$1485/mo. plus \$20 disregard)	Income levels yet unknown, but they will be higher. Based on federal income poverty guidelines expected to be published in the Federal Register in January 2007.	
Partial Subsidy Countable Income levels (150% fpl)*	\$14,700/yr (\$1225/mo. plus \$20 universal disregard)	\$22,027.50/yr (\$1836/mo. plus \$20 disregard)	Income levels yet unknown, but they will be higher. Based on federal income poverty guidelines expected to be published in the Federal Register in January 2007.	
Full Subsidy Countable Resource levels	\$6,000 (Plus \$1,500 per person burial allowance)	\$9,000 (Plus \$1,500 per person burial allowance)	\$6,120 (Plus \$1,500 per person burial allowance)	\$9,190 (Plus \$1,500 per person burial allowance)
Partial Subsidy Countable Resource levels	\$10,000 (Plus \$1,500 per person burial allowance)	\$20,000 (Plus \$1,500 per person burial allowance)	\$10,210 (Plus \$1,500 per person burial allowance)	\$20,410 (Plus \$1,500 per person burial allowance)
* fpl = federal poverty level				

With respect to income, the Social Security Administration (SSA) will apply the new levels retroactive to the date of application as necessary; in anticipation of those new and higher levels, SSA will hold up processing any application where income exceeds 2006 levels but is close enough that it may qualify under 2007 levels.

As a general matter, individuals with income or resources close to the limit should apply, as certain income and resources are disregarded in certain specific situations. Moreover, with respect to resources, keep in mind that the home, personal possessions, vehicles and other non-liquid resources are not counted for anyone.

HIGHER DEDUCTIBLE (FOR PARTIAL SUBSIDY) AND HIGHER CO-PAYMENTS FOR MOST PEOPLE FOR MOST DRUGS.				
	2006		2007	
	Deductible	Co-pays	Deductible	Co-pays
Dual eligibles in institutions	\$0	\$0	\$0	\$0
Dual eligibles with countable incomes up to 100% federal poverty levels*	\$0	\$1 for generics and preferred multi-source drugs \$3 for non-preferred brands	\$0	\$1 for generics and preferred multi-source drugs \$3.10 for non-preferred brands
Other dual eligibles, Medicare Savings Program beneficiaries, SSI beneficiaries and individuals receiving the full low income subsidy	\$0	\$2 for generics and preferred multi-source drugs/\$5 for non-preferred brands	\$0	\$2.15 for generics and preferred multi-source drugs/\$5.35 for non-preferred brands
Individuals receiving the partial subsidy	\$50	15% Up to catastrophic threshold** After Threshold: \$2 generics, preferred multi-source \$5 non-preferred brands	\$53	15% up to catastrophic threshold*** After Threshold: \$2.15 generics, preferred multi-source \$5.35 non-preferred brands
* \$9800/year for individual; \$817/month + \$20 universal income disregard in 2006. 2007 income limits not yet known. ** Catastrophic Threshold for 2006 is \$3600 out-of-pocket expenses plus low-income subsidy payments by CMS *** Catastrophic Threshold for 2007 is \$3850 out-of-pocket expenses plus low-income subsidy payments by CMS				

REASSIGNMENT TO NEW PLANS OF SUBSIDY ELIGIBLE INDIVIDUALS WHOSE 2006 PLAN, IN 2007, DOES NOT MEET THE BENCHMARK PREMIUM LEVEL

CMS will reassign to new plans all subsidy eligible individuals who, at the end of 2006, are in plans to which CMS originally assigned them, if their current plan will not qualify as a benchmark plan in 2007. These individuals should have received notice of their reassignment in late October or early November.

Some LIS-eligible individuals who may be affected due to their plan's losing benchmark status did *not* receive the CMS letter:

- Those whose plan sponsor will offer a different benchmark plan for 2007 will be shifted to the new benchmark plan. This automatic shift will also occur where two plan sponsors have merged, the old benchmark plan ceases to exist and the new sponsor has a different benchmark plan.
- Low-income subsidy individuals who are in a plan of their own choosing in 2006; i.e., who were not auto-assigned or did not remain in the plan to which they were assigned. These individuals may discover early in 2007 that they now owe premiums to their plan.

Advocates should remind their clients that it is critically important to examine their 2007 plan for changes in coverage from the 2006 version of the plan, including formulary content and utilization management tools. This advice applies, of course, regardless of LIS status or movement in or out of a given plan.

POSSIBLE LOSS OF LIS DUE TO LOSS OF QUALIFYING STATUS OR A CHANGE IN INCOME, RESOURCES, OR FAMILY CIRCUMSTANCES

Individuals who received LIS in 2006 may lose eligibility for 2007 either because they were deemed eligible in 2006 and they have lost the status that resulted in the deeming or because their income, resources or household status has changed since they first became eligible for LIS for 2006.

Those individuals should all have received a notice from CMS or from SSA at some time during the fall of this year:

- People with Medicaid, Medicare Savings Program benefits, or SSI who were told they lost LIS because of losing one of those three benefits should check with their Medicaid agency (for Medicaid and MSP) or with SSA (for SSI) if they believe they were erroneously removed from one of those programs. In the meantime, they should apply with SSA for the low-income subsidy by using the application form mailed to them, or by going to www.ssa.gov to apply online, or to their state Medicaid agency. Should they regain the status through which they were deemed, they will receive a letter from CMS informing them of their LIS eligibility and, if they have applied for LIS directly, that application will be terminated.
- People who qualified for LIS by applying directly for it may have been determined by SSA no longer eligible for the subsidy, based on a redetermination that occurred during the fall. Those who believe this redetermination resulted in an erroneous denial should appeal to SSA.

These situations of loss of LIS that may be reinstated due to an appeal, correction of an error, the making of a new application, or some change in circumstances leave low income beneficiaries in a potential state of flux regarding their LIS status in the new year. Many plans have advised advocates that they will allow a grace period of about 90 days during which they will apply co-payments according to the individual's status in 2006 *if the beneficiary speaks up at the pharmacy and asserts that she or he has filed an appeal or a new application*. The use, and implementation, of a grace period will vary from plan to plan. Advocates should advise their clients to question the pharmacist if they are told their cost-sharing is higher than the 2007 LIS cost-sharing; they would also do well to be ready at the pharmacy with any documentation they have of their appeal or new application. Also, see section below, "Treatment of Erroneous Low-Income Status or Copayment Information for 2007," for more details on advising clients.

SPECIAL ENROLLMENT PERIODS FOR LIS-RELATED BENEFICIARIES

Because of the complexities of plan reassignment and confusion that might occur for beneficiaries who lost LIS status for 2007, CMS has created two special enrollment periods for LIS-related individuals for 2007:

- Individuals with LIS in 2006 who lose their LIS status for 2007, for whatever reason, have a one-time enrollment election during the period January through March 2007.
- All 2007 LIS beneficiaries have one additional enrollment opportunity throughout 2007 for the 2007 plan year.

Advocates should be aware that, because of the operation of a grace period, clients in the first category who do not have their LIS status reinstated for 2007 might need to be reminded to review their plan carefully in light of their lack of subsidy for 2007 so they can choose a new plan, if necessary, before the March 31, 2007 deadline for their one time enrollment election.

TREATMENT OF ERRONEOUS LOW-INCOME SUBSIDY STATUS OR CO-PAYMENT INFORMATION FOR 2007

CMS has notified plans of a process by which to reconcile differences between the plan's records and CMS's records concerning an individual's LIS status and co-payment levels. This process may require LIS individuals to provide proof of their status to ensure they are treated as LIS beneficiaries and charged the correct copayments. This may be especially relevant for individuals who were informed by CMS of the loss of their LIS status for 2007, but who have subsequently regained LIS eligibility either through correction of an error, regaining the status through which they were deemed, or appeal of an SSA redetermination finding.

In December, plans received two reports from CMS related to beneficiaries' LIS status, one indicating beneficiaries losing LIS for 2007 and the second reporting 2007 LIS status, if any, for all beneficiaries.

Generally speaking, when plans receive information from CMS about LIS status and/or co-payment levels that differs from their own data, if the CMS data puts the beneficiary in a less favorable position, the plan "must secure solid supporting documentation" of the beneficiary's status as recorded by the plan or else change the data to reflect the CMS data. If the latter is done, the plan should *not* recoup any copayments that may otherwise have been due. (This last statement reflects a change in CMS policy from October, when plans were advised that they should collect the copayments.)

If the CMS data put the beneficiary in a better position, the plan must enter those data into its system and refund to the beneficiary any excess co-payments (in this case, those that the beneficiary might have paid in 2006).

The "solid supporting documentation" required by CMS is described in an attachment to a recent CMS memo to plans entitled "Reconciling CMS Low Income Subsidy (LIS) Status and "Best Available Data" Policy for 2006 and 2007. See http://www.medicareadvocacy.org/AlertPDFs/06_12.21.LISMemo_12.06.06.pdf.

CMS guidance suggests that plans must make affirmative efforts to secure documentation of an LIS status more favorable than what CMS reports. (This would be critical, for example, for new dual eligibles whose status has not yet been reported to CMS by their state, but who have Medicaid and Medicare cards.) Exactly to what lengths plans will go to do so is unclear. Moreover, LIS eligibility issues arise at the pharmacy, where they may be difficult to resolve.

If your client has any doubts about LIS status or copayment levels, he or she should carry documentation to the pharmacy and be sure the information gets transmitted to his/her plan. Advocates should be aware of the potential for confusion as plans seek to follow CMS's guidance to reconcile differing data sources.

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