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**DATE:** December 9, 2010

**TO:** Part D Plan Sponsors

**FROM:** Anthony Culotta, Director  
Medicare Enrollment & Appeals Group

**SUBJECT:** Processing Low Income Subsidy Status Changes for 2011

The purpose of this memo is to provide information about the forthcoming Loss of Subsidy Data File that contains important information about members who will lose low income subsidy (LIS) eligibility for 2011. This memo also describes the actions Part D sponsors are required to take once they receive this information, including setting members' low income cost sharing (LICS) level effective January 1, 2011, and notifying them of these changes.

### Background

CMS and the Social Security Administration (SSA) have already notified beneficiaries who will lose LIS eligibility at the end of December 2010. As explained in detail in our October 1, 2010, memorandum, "*Re-Determination of Part D Low Income Subsidy (LIS) Eligibility for 2011*," CMS provided information to Part D sponsors in September, via a special file, about their members who were expected to lose LIS eligibility as of December 31, 2010. Sponsors were strongly encouraged to reach out to these members to encourage them to apply by completing the SSA Extra Help application included in the notification and helping them through the application process.

### Notifications to Sponsors

The Loss of Subsidy Data File will be available to sponsors on or about **Tuesday, December 14, 2010**, and will contain the latest available information about the loss of a member's LIS eligibility in Field 21, Low Income Subsidy End Date. Specifically, this field will be populated with "20101231" for any member in your plan losing deemed status at the end of December 2010 or LIS applicants for whom SSA has reported terminations of LIS eligibility. The Loss of Subsidy file format, naming convention, and related technical information for plans can be found in the HPMS memo dated April 10, 2010 "*Announcement of the July Software Release*."

Also, as outlined in the HPMS memo dated June 9, 2009 "*Methodology for Using Various CMS Low Income Subsidy (LIS) Data Source*", the Transaction Reply Report (TRR) became the definitive source of LIS data effective July 13, 2009. Because CMS began re-determining (redeeming) LIS eligibility in July 2010, Part D plan sponsors should have begun to see LIS periods for some members dated January 1, 2011 through December 31, 2011. This means that these members have already automatically qualified for LIS for the coming plan year. Therefore, Part D sponsors should

note that because the redeeming process continues throughout the fall, members who may have received the gray letter and appeared on the September file may later be determined LIS eligible. Therefore, the Loss of Subsidy file that plans will receive in December will likely not be the same as the September file.

As a follow up, members on the December file may also later regain LIS eligibility through re-deeming or by applying successfully for LIS. This could result from States sending CMS information on a beneficiary's Medicaid status after the file was created, or from the SSA applications and re-determinations process. SSA decisions could also result in changes to premium and/or copayment levels subsequent to the December 14<sup>th</sup> file.

Please note that sponsors will continue to be notified of loss of LIS eligibility or changes to premium and/or copayment levels via the weekly TRR as well as the monthly LIS History Report (LISHIST).

### **Sponsor Responsibilities**

In response to the Loss of Subsidy Data File, sponsors must set their systems to charge the correct premium, deductible, and copayments effective January 1, 2011. The only exception to this requirement is for those beneficiaries whom the sponsor confirms are awaiting an SSA determination on an LIS application and have been granted a grace period by the sponsor. In these situations, sponsors should wait until they receive the result of the SSA determination to update their systems.

As in the past, we expect sponsors to notify these beneficiaries that they will lose this extra help and to provide information about changes in their plan benefits as a result of this loss. The model notice is Appendix B in Chapter 13 of the Medicare Prescription Drug Benefit Manual. Plan sponsors that will be using the model notice are instructed to submit the material under the marketing material category 7006.

### **Optional Grace Period**

As outlined in section 40.2.8 of Chapter 13, 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 subsidy in 2011 and are able to demonstrate that they have applied for LIS.

Before granting the grace period, sponsors must confirm, either verbally or in writing that an individual has applied for LIS. In other words, the grace period may not be applied automatically to all deemed individuals losing LIS; instead, sponsors may apply the grace period only if an LIS application has been submitted.

For example, sponsors could send a letter to affected members that instruct 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, 2011 should they not regain LIS eligibility. The letter should also include information regarding the special enrollment period (SEP) for loss of LIS status (described below) and the need to take action by March 31, 2011 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.

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 are to recoup unpaid premiums or cost sharing amounts consistent with CMS guidance.

### **Special Enrollment Period**

In accordance with section 30.4.4.5 and section 30.4.4.12 of Chapter 2 of the Medicare Managed Care Manual and section 30.3.2 and section 30.3.8.7 of the PDP Guidance – Eligibility, Enrollment and Disenrollment, individuals who lose their LIS eligibility effective January 1, 2011 because they are no longer LIS eligible have a SEP beginning January 1, 2011 through March 31, 2011. This SEP allows them to make one Part D enrollment election. Individuals who lose eligibility for LIS at other times during the calendar year also will have an SEP that begins the month they are notified by SSA and ends two months after the month they are notified.

### **Points of Contact**

For **policy** questions pertaining to LIS eligibility, please contact Tracey Baker via email at [tracey.baker@cms.hhs.gov](mailto:tracey.baker@cms.hhs.gov) or by telephone at 410-786-7794.

For **technical** questions pertaining to this notification, please contact the MAPD Help Desk at 1-800-927-8069 or via email at [mapdhelp@cms.hhs.gov](mailto:mapdhelp@cms.hhs.gov).