

August 26, 2005

SUBJECT: Budgeting Drug Expenses Under the Medicare Drug Discount Card and the New Medicare Drug Program (Part D) on and after January 1, 2006

TO: All Regional Directors
Food Stamp Program

Attached are 18 Questions and Answers about the drug expenses of Food Stamp clients who also receive Medicare. The Questions and Answers concern the phasing out of the Drug Discount Card, Medicare's implementation of the new Medicare Prescription Drug Program, and Food Stamp Quality Control. We have developed this guidance in consultation with our Federal partners.

FNS is committed to the successful implementation of the Medicare Prescription Drug Program. While this guidance focuses on Food Stamp expense budgeting, we want to highlight the importance of the opportunity to connect low-income Medicare recipients with both the Medicare Prescription Drug Program and the Food Stamp Program.

If you have any comments about these Questions and Answers, please direct them to the team leader in the Certification Policy Branch who works with your region.

/s/

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Attachment

The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Budgeting Drug Expenses Under the Medicare Drug Discount Card and the New Medicare Drug Program (Part D) on and after January 1, 2006

Introduction

Since the middle of 2004, many Food Stamp clients who also receive Medicare have participated in Medicare's Drug Discount Card Program. Medicare will start phasing out its Drug Discount Card on January 1, 2006.

In place of the Medicare Drug Discount Card will be a new program, called the Medicare Prescription Drug Plans, or Part D. Part D differs significantly from the Medicare Drug Discount Card Program. Details about the new program, and how it affects Medicare recipients with low incomes, are available at:

<http://www.cms.hhs.gov/medicarereform/lir.asp>.

Implementation of Part D will result in a significant simplification of the food stamp policy relating to the treatment of prescription drug expenses for eligible households. The Food Stamp Program will return to the former policy of considering only unreimbursed out-of-pocket expenses for prescription drugs in determining the household's medical deduction.

The Centers for Medicare and Medicaid Services (CMS) have also published a tip sheet that specifically addresses the Food Stamp Program. You may obtain that document at: <http://www.cms.hhs.gov/medicarereform/foodstamps.pdf>

For Medicare clients who have a Medicare Drug Discount Card on December 31, 2005, and who have not enrolled in Part D, the Medicare Drug Discount Card will remain in effect until the earlier of:

- The effective date of the client's enrollment in Part D, or
- May 15, 2006.

Therefore, beginning on January 1, 2006, state agencies will be working with some food stamp clients who have a valid Medicare Drug Discount Card, others who are enrolled in Part D instead, and others who move from the Medicare Discount Card to Part D.

The following questions and answers address the situations that may occur. We have grouped the questions and answers into three categories:

- Households that are newly applying or re-applying for food stamps after January 1, 2006
- Households that are already certified
- Quality Control

These questions and answers concern only the drug expenses of Medicare clients who are applying for or are receiving Food stamps. They do not concern other food stamp clients or other expenses.

Households that are newly applying or re-applying for food stamps after January 1, 2006

Question 1

What prescription drug expenses should a food stamp/Medicare client list on the application form?

Answer 1

The applicant should list the anticipated expenses that will not be reimbursed. These would be:

- Out-of-pocket expenses (co-pays) under the Medicare Drug Discount Card and under Part D and
- For some clients in Part D, a monthly premium. Most food stamp/Medicare clients have incomes that are so low that they will pay no monthly premium.

Question 2

If the applicant **has not enrolled** in Part D and **does not have** a Medicare Drug Discount Card, how would the state agency budget the applicant's out-of-pocket expenses?

Answer 2

Anticipate the Medicare client's actual out-of-pocket expenses over the certification period, as required by normal food stamp policy.

Question 3

If the applicant **has not enrolled** in Part D and **does have** a Medicare Drug Discount Card, how would the state agency budget the out-of-pocket expenses?

Answer 3

That depends on when the applicant applies for Food Stamps.

- If the applicant applies early enough in 2006 that the certification period will begin between January and May, the state agency will follow the procedures that it has been following for holders of Medicare Drug Discount Cards.

- If the applicant applies later in 2006, so that the certification period will begin in June or later, the state agency will anticipate the client's actual out-of-pocket expenses.

Question 4

What if the client advises of plans to enroll in Part D?

Answer 4

The state agency should encourage the client to do so; however, there is no action to take unless and until the client reports a change in the prescription drug costs.

Question 5

Under the transitional Medicare Drug Discount Card, there was an annual credit of \$600 in 2004. In 2005 there was another credit for \$600 or less (depending upon when the Medicare client applied for the credit). There was also a discount in the total price of the prescription drug. Each state agency selected an option for the credit and an option for the discount.

Suppose a new applicant applies for Food Stamps, states that she has a valid Discount Card, and is not enrolled in Part D.

How should the state agency handle the credit and the discount?

Answer 5

Handling the Credit

First the state agency will have to determine the actual amount of the client's credit. That will be \$600, \$450, \$300, or \$150, depending upon when the client states she received the card. [Under the discount card guidance, we assume that anyone who receives the card also receives the credit.]

Second, the state agency will apply whatever option it has already chosen for budgeting the credit, such as the option to budget \$50 a month.

Handling the Discount

Similarly, the state agency will apply whatever option it has already chosen for handling the discount, such as adding \$23 per client per month to the client's out-of-pocket expenses and budgeted credit.

Question 6

What special rules apply to food stamp clients who are enrolled in Part D?

Answer 6

None; there are no special rules. Budget these clients' prescription costs following normal rules by reasonably anticipating the client's un-reimbursed out-of-pocket expenses (co-pays and premiums).

Question 7

How will a state agency know what a client's anticipated out-of-pocket drug expenses will be?

Answer 7

Ask the client and then verify according to the normal rules for handling applications and re-applications.

Question 8

For those clients whose premiums are not waived, how will a state agency know what a client's Part D premium will be?

Answer 8

Ask the client. Each client who enrolls in Part D will receive a notice that specifies the monthly premium, if the client must pay one. However, most Medicare clients who receive food stamps will pay no monthly premium because of their low incomes.

Question 9

Low-income Medicare clients pay lower co-pays and pay no monthly premiums because CMS subsidizes them. Does the Food Stamp Program budget these subsidies as income?

Answer 9

No. These subsidies fall under the Food Stamp Program's definition of excluded income. 7 CFR 273.9(c)(1) specifically excludes any "gain or benefit which is not in the form of money payable directly to the household...". These Medicare subsidies are not otherwise payable directly to the household.

Question 10

Is there a requirement under the new Part D program, to hold food stamp clients harmless (not reduce their Food Stamp benefits), as there was under the Medicare Drug Discount Card?

Answer 10

No.

Question 11

Doesn't this mean that a food stamp recipient's allotment will fall when Part D replaces the Medicare Drug Discount Card?

Answer 11

Yes, in most cases. However, these clients will almost always be better off participating in Part D. Think of how the RSDI and SSI cost-of-living adjustments (COLA's) affect food stamp allotments. Every year these COLA's cause food stamp allotments to fall. However, the clients are much better off over-all because the COLA's increase exceeds the drop in food stamps.

Question 12

Why is there no hold-harmless under Part D?

Answer 12

The Medicare Prescription Drug, Improvement and Modernization Act (MMA) of 2003 contained a specific provision that precludes the Food Stamp Program, and other assistance programs, from reducing benefits because of the Medicare Discount Drug Card. However, the MMA did not contain a similar provision for the new Part D Program.

Households that are already certified

Question 13

What must a food stamp client report about out-of-pocket drug expenses?

Answer 13

Nothing. This client has no obligation to report changes in drug expenses.

Question 14

What should the state agency do if the household reports that a Medicare client has enrolled in Part D or that the Medicare client's Medicare Drug Discount Card is no longer effective?

Answer 14

The state agency should determine what the Medicare client's out-of-pocket (and possible premium payment) would likely be over the remainder of the certification period, and change the allotment:

- If necessary, and
- If permitted by the household's reporting system. (Under simplified reporting rules, the state agency may not reduce the household's benefits unless the change would make the household ineligible. However, many states have waivers to act on all reported changes.)

If it appears that the client did not apply for the low-income subsidy, the state agency should encourage the client to do so.

Question 15

What should the state agency do if the household reports that a Medicare client's Medicare Drug Discount Card is no longer valid and that the client has not enrolled in Part D?

Answer 15

If the Medicare client **has not enrolled** in Part D, determine whether the currently budgeted drug expenses are a reasonable anticipation for the rest of the certification period, and change the allotment:

- If necessary, and
- If permitted by the household's reporting system.

The state agency should also encourage the client to enroll in Part D and to apply for its low-income subsidy.

Question 16

Under the transitional Medicare Drug Discount Card, there was an annual credit, \$600 for 2004. The 2005 credit was \$600 or less for individuals applying in 2005. How should the state agency handle that credit?

Answer 16

The state agency probably prorated that credit over specific months, such as the household's certification period. Once prorated, that monthly amount continues to be a medical expense in each of those months, even if the client reports participation in Part D or that the Medicare Drug Discount Card is no longer effective.

Question 17

If a Medicare client **does not** report the end of participation in the Medicare Drug Discount Card Program, what should the state agency do when that Discount Card Program ends on May 15, 2006?

Answer 17

Do nothing; leave the client's drug costs alone. When the client re-applies for Food Stamps, determine the client's prescription drug costs under normal rules, that is, without the special treatment that the Medicare Drug Discount Card Program required.

Quality Control

Question 18

Will there be a 120-day QC hold harmless period for implementation of the replacement of the Drug Discount Card program with the new Part D?

Answer 18

Yes, there will be a hold harmless period. Additional information on the hold harmless procedures will be provided at a later date.