
42 U.S. Code § 1395w-141

Medicare prescription drug discount card and transitional assistance program

(a) Establishment of program

(1) In general

The Secretary shall establish a program under this section—

- (A) to endorse prescription drug discount card programs that meet the requirements of this section in order to provide access to prescription drug discounts through prescription drug card sponsors for discount card eligible individuals throughout the United States; and
- (B) to provide for transitional assistance for transitional assistance eligible individuals enrolled in such endorsed programs.

(2) Period of operation

(A) Implementation deadline

The Secretary shall implement the program under this section so that discount cards and transitional assistance are first available by not later than 6 months after December 8, 2003.

(B) Expediting implementation

The Secretary shall promulgate regulations to carry out the program under this section which may be effective and final immediately on an interim basis as of the date of publication of the interim final regulation. If the Secretary provides for an interim final regulation, the Secretary shall provide for a period of public comments on such regulation after the date of publication. The Secretary may change or revise such regulation after completion of the period of public comment.

(C) Termination and transition

(i) In general

Subject to clause (ii)—

- (I) the program under this section shall not apply to covered discount card drugs dispensed after December 31, 2005; and
- (II) transitional assistance shall be available after such date to the extent the assistance relates to drugs dispensed on or before such date.

(ii) Transition

In the case of an individual who is enrolled in an endorsed discount card program as of December 31, 2005, during the individual's transition period (if any) under clause (iii), in accordance with transition rules specified by the Secretary—

- (I) such endorsed program may continue to apply to covered discount card drugs dispensed to the individual under the program during such transition period;
 - (II) no annual enrollment fee shall be applicable during the transition period;
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(III) during such period the individual may not change the endorsed program plan in which the individual is enrolled; and

(IV) the balance of any transitional assistance remaining on January 1, 2006, shall remain available for drugs dispensed during the individual's transition period.

(iii) Transition period

The transition period under this clause for an individual is the period beginning on January 1, 2006, and ending in the case of an individual who—

(I) is enrolled in a prescription drug plan or an MA–PD plan before the last date of the initial enrollment period under section 1395w–101(b)(2)(A) of this title, on the effective date of the individual's coverage under such part; or

(II) is not so enrolled, on the last day of such initial period.

(3) Voluntary nature of program

Nothing in this section shall be construed as requiring a discount card eligible individual to enroll in an endorsed discount card program under this section.

(4) Glossary and definitions of terms

For purposes of this section:

(A) Covered discount card drug

The term “covered discount card drug” has the meaning given the term “covered part D drug” in section 1395w–102(e) of this title.

(B) Discount card eligible individual

The term “discount card eligible individual” is defined in subsection (b)(1)(A).

(C) Endorsed discount card program; endorsed program

The terms “endorsed discount card program” and “endorsed program” mean a prescription drug discount card program that is endorsed (and for which the sponsor has a contract with the Secretary) under this section.

(D) Negotiated price

Negotiated prices are described in subsection (e)(1)(A)(ii).

(E) Prescription drug card sponsor; sponsor

The terms “prescription drug card sponsor” and “sponsor” are defined in subsection (h)(1)(A).

(F) State

The term “State” has the meaning given such term for purposes of subchapter XIX.

(G) Transitional assistance eligible individual

The term “transitional assistance eligible individual” is defined in subsection (b)(2).

(b) Eligibility for discount card and for transitional assistance

For purposes of this section:

(1) Discount card eligible individual

(A) In general

The term “discount card eligible individual” means an individual who—

(i) is entitled to benefits, or enrolled, under part A or enrolled under part B; and

(ii) subject to paragraph (4), is not an individual described in subparagraph (B).

(B) Individual described

An individual described in this subparagraph is an individual described in subparagraph (A)(i) who is enrolled under subchapter XIX (or under a waiver under section 1315 of this title of the requirements of such subchapter) and is entitled to any medical assistance for outpatient prescribed drugs described in section 1396d(a)(12) of this title.

(2) Transitional assistance eligible individual

(A) In general

Subject to subparagraph (B), the term “transitional assistance eligible individual” means a discount card eligible individual who resides in one of the 50 States or the District of Columbia and whose income (as determined under subsection (f)(1)(B)) is not more than 135 percent of the poverty line (as defined in section 9902(2) of this title, including any revision required by such section) applicable to the family size involved (as determined under subsection (f)(1)(B)).

(B) Exclusion of individuals with certain prescription drug coverage

Such term does not include an individual who has coverage of, or assistance for, covered discount card drugs under any of the following:

- (i) A group health plan or health insurance coverage (as such terms are defined in section 300gg-91 of this title), other than coverage under a plan under part C and other than coverage consisting only of excepted benefits (as defined in such section).
- (ii) Chapter 55 of title 10 (relating to medical and dental care for members of the uniformed services).
- (iii) A plan under chapter 89 of title 5 (relating to the Federal employees' health benefits program).

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