May 07, 2024

VIA ELECTRONIC SUBMISSION

Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244-8013

Re: Future LIS benchmark plan availability and other LIS recommendations

Dear Administrator Brooks-LaSure:

On behalf of the undersigned organizations, we write to thank the Biden Administration for implementing Congress' expansion starting in January 2024 of the full Medicare Part D Low-Income Subsidy (LIS, or "Extra Help") to individuals with incomes up to 150 percent of the poverty level and modest assets (up to $17,220 for individuals and $34,360 for couples in 2024).[1] We also appreciate your recent outreach and education efforts concerning LIS and the expanded full subsidy.

We are writing to you today to request that CMS take several steps to enhance access to effective financial help through the LIS program:

- Increase the availability of LIS benchmark plans that have no premium cost for those with LIS by **increasing the de minimis threshold**.
- Test **intelligent assignment of LIS beneficiaries** to $0 premium LIS benchmark plans.
- Test sending the **Chooser's Notice** to all LIS beneficiaries paying a premium.

Background on availability of LIS benchmark plans

For many, the LIS program is a critical safety net that helps lower out-of-pocket costs for prescription drugs. The LIS program plays an important role in advancing health equity as evidenced by the fact that there is higher enrollment among individuals with disabilities and Black and Hispanic individuals than within the overall Part D enrollee population.[2]

However, we are concerned about the decrease in the number of plans that have a $0 premium for LIS enrollees. While there were 394 such plans in 2021, there were only 292 in 2023 and only 149 in 2024.[3] In 2024, ten states (including populous states like California and New York) only have two $0 premium plans available for LIS enrollees and seven states (including other populous states including Illinois and Texas) only offer one such plan.[4] A contributing factor to this low number of LIS benchmark plans is CMS's removal and sanctioning of a Clear Springs LIS benchmark plan.[5]

One of the factors that seems to be driving this change is a reduction of the overall number of standalone Part D Prescription Drug Plans (PDPs) in recent years, particularly relative to MAPD plans. While there were 1,490 standalone PDPs in 2021, that number has been reduced to 1,031 in 2024.[6] [7] While we can't predict how plans will bid for 2025, we are concerned they will continue to bid conservatively.

The lowest-income Part D beneficiaries are left with fewer choices as a result. In states with only one or two benchmark plans in 2024, LIS beneficiaries may have to choose between either having a $0 premium LIS plan that may not be a good fit or paying a premium in order to have their needed prescription drugs on the plan's formulary or have their preferred pharmacy in network. In the case of the former scenario, such choices are restrictive and can have negative impacts on access to care.

The lack of choice among PDPs makes it more likely that a needed medication will not be on a plan's formulary. The availability of LIS benchmark plans is important because it affects access to needed medications. NCOA's analysis of formularies in seven states with only one or two $0 premium LIS plans found that medications were unlikely to be on the formulary around half the time (see Appendix A below).[8] This analysis of basic, enhanced, and LIS benchmark plans highlights the limitations of LIS benchmark plan formularies.

Based on conversations with plans, it is our understanding that Part D sponsors that submitted bids for calendar year 2024 anticipated that the Part D premium benchmark would be higher due to new costs associated with implementing provisions of the IRA. It is also our understanding that Part D sponsors estimated that the average Part D premium would be much higher than it turned out to be. Because Part D sponsors overestimated their costs and the benchmark, plans are offering fewer $0 premium LIS plans to LIS enrollees in 2024. At the same time, MA-PD plans generally were able to submit bids for 2024 that fell below the average/ benchmark premium. Although it is unclear how plans will bid for CY 2025, it is possible to reason that plan uncertainty around costs in 2025 may lead to plan behavior similar to their actions around CY 2024. As a result, they may again bid conservatively and reason that they cannot offer as many $0 premium LIS plans as were offered in, for instance, 2021. The reduction in the number of PDPs and LIS benchmark plans is a concerning trend and one that may continue into the future.

Recommendation:

Increase the number of LIS benchmark plans by increasing the de minimis threshold

The Part D marketplace is not currently working as well as it should for enrollees who need a $0 premium LIS plan. The need to increase access to LIS benchmark plans is an equity issue that meets one of the agency's key priorities and we strongly encourage CMS to act to mitigate this problem. To that end, we recommend that CMS raise the de minimis threshold, which is a set amount of money above the LIS benchmark where a Part D plan can volunteer to waive the basic beneficiary premium. If the beneficiary's premium is less than the amount set by CMS annually (i.e., the de minimis threshold), the plan can waiver the basic premium. We ask CMS to take this step to ensure that all low-income LIS enrollees can access their needed medications and preferred pharmacies.

Raising the de minimis threshold is something CMS can do this year to help cost-sensitive LIS enrollees in 2025. Had the de minimis threshold been not $2, but $8 in 2024, cost-sensitive LIS enrollees would have had more premium-free basic plan options (see Appendix B).[9] Plan sponsors may also favor such an increase given that they receive monthly prospective payments from CMS for estimated LIS cost sharing.

We are also grateful that LIS beneficiaries can also choose enhanced plans with low monthly premiums. Yet we believe that raising the de minimis threshold would be especially helpful for the most cost-sensitive individuals who could use the extra money paid for an enhanced plan's premium - even if the premium is less than $10 a month - toward food or transportation.

Recommendation:

Test intelligent assignment for $0 premium LIS plans

CMS randomly assigns to a $0 premium LIS plan 1) any new Part D beneficiary who automatically qualifies for LIS or 2) who applies without indicating a preferred PDP "whose premium is equal to or below the average premium for the basic Part D benefit in the region."[10] Random reassignment was applied to 253,018 LIS enrollees in 2021.[11]

Yet according to authors of a 2014 *Health Affairs* study, random assignment led to higher beneficiary spending during the years of 2007 to 2010 of up to $6,000 per year due to plans not covering beneficiary prescription drugs.[12] The same authors' trial assignment of such beneficiaries to plans that include their medications (i.e., intelligent assignment, also referred to as beneficiary-centered assignment]) showed substantial savings for CMS – up to $5 billion in some versions of the calculation.[13]

We ask CMS to study the financial and health outcomes associated with random assignment against those associated with intelligent assignment to plans that include the beneficiary's prescriptions and preferred pharmacies and then allow this data to drive its decision making.[14] In the meantime, we strongly recommend changes to the Reassignment Notice[15] to ask the beneficiary to review their newly reassigned plan to ensure that their medications are covered and that their preferred pharmacy is in network and to clarify how the beneficiary can make a change if needed to address those concerns. We also ask CMS to point beneficiaries to SHIP counselors for additional guidance.

Recommendation:

Test sending the Chooser's Notice to all LIS beneficiaries paying a premium.

The CMS Part D LIS Chooser's Notice is only sent to LIS enrollees who 1) joined a plan on their own and 2) will have a new or increased premium liability relative to the previous year. We are concerned that many LIS enrollees in a non-benchmark plan - who also will have the same or reduced premium compared to the previous year - do not receive the Chooser's Notice regardless of how high their new premium will be. We agree with the concerns CMS has expressed over the years that choosers in non-benchmark plans may not fully understand that they have less expensive alternatives.

Going forward, we urge CMS to make it easy for the public to obtain data on LIS enrollees' average premium amounts because the public must ask permission from CMS to obtain Part D prescription event data. Thanks to KFF's requesting and analyzing this data in recent years, we know that individuals with the full LIS subsidy paid on average $60 and $54 per year in premiums, respectively in 2020 and 2021.[1]

In our view, anyone who pays a premium should receive the notice and be made aware that they may be able to significantly reduce their out-of-pocket costs if they switched to a $0 premium benchmark plan. The notice itself could also more prominently emphasize the potential out-of-pocket savings that could be realized, which we believe, along with assistance from SHIPs, would likely increase the number of enrollees who choose a $0 premium plan.[16]

We request that CMS test whether sending the Chooser's Notice to all LIS beneficiaries paying a premium the next year could lead to changes in beneficiary behavior and reduce their out-of-pocket costs. Many low-income Part D enrollees pay premiums and may appreciate the reminder that they have the option to shop around. Although we are mindful that the Part D enrollee population historically tends to not switch to plans that may be a better fit,[17] we ask CMS to keep in mind that the LIS population is especially cost sensitive. We believe it would be helpful to remind this population that they can save money by switching to lower-cost plans.

Concluding considerations

We appreciate your leadership in seeking solutions to increase access to LIS among eligible individuals. We would welcome an opportunity to speak with you or members of your team about our recommendations. If you

[1] KFF. "Average out-of-pocket spending by Medicare Part D enrollees, by LIS subsidy status." 2021. 26 April 2024. https://www.kff.org/other/state-indicator/average-out-of-pocket-spending-by-medicare-part-d-enrollees-by-lis-subsidy-status.

would like further information or have questions, please contact Matthew Hubbard of the National Council on Aging at Matthew.Hubbard@ncoa.org.

Sincerely,

Center for Medicare Advocacy
Gerontological Society of America
GO2 for Lung Cancer
Lupus and Allied Diseases Association, Inc.
Lupus Foundation of America
Muscular Dystrophy Association
National Association of Social Workers (NASW)
National Council on Aging
PAN Foundation, The
USAging

Appendix A [18]

	CT, IL, MA, MO, NC, NV, and SC		
	LIS benchmark	Basic	Enhanced
	Wellcare Classic	**Aetna SilverScript Choice**	**Aetna SilverScript SmartSaver**
2026 negotiation drugs not available to all Part D enrollees			
Enbrel, 50 mg/ml solution auto injector (Rheumatoid arthritis)	Yes	Yes	Yes
Januvia, 100 mg tablet (Diabetes)	Yes	Yes	Yes
Farxiga, 10 mg tablet (Diabetes, heart failure)	Yes	Yes	Yes
Stelara, 45 mg solution (Psoriasis, Crohn's Disease)	Yes	Yes	Yes
Fiasp/NovoLog, 100 unit/ml solution injector (Diabetes)	Yes	Yes	Yes
Rapid-acting insulins			
Humalog, 100 unit/ ml solution pen injector	No	No	No
Admelog, 100 unit/ ml solution pen injector	No	Yes	Yes
Lyumjev, 100 unit/ ml solution pen injector	No	No	No
Novolog, 100 unit/ ml solution pen injector	No	No	Yes
Apidra,100 unit/ ml solution pen injector	No	No	No
Afreeza, 4 unit powder	No	No	No
Short-acting insulins			
Humulin R, 100 unit/ ml solution	No	No	No
Novolin R, 100 unit/ ml solution	Yes	Yes	Yes
Intermediate-acting insulins			
Humulin 0, 100 unit/ml suspension	No	No	No
Novolin N, 100 unit/ml suspension	Yes	Yes	Yes
Long-acting insulins			
Levemir, 100 unit/ ml solution	No	No	No
Lantus, 100 unit/ ml solution0 pen injector	No	No	Yes
Basaglar, 100 unit/ ml solution pen injector	Yes	Yes	Yes
Toujeo, 300 unit/ ml solution pen injector	No	No	Yes
Semglee, 100 unit/ ml solution pen injector	No	No	No
Tresiba, 100 unit/ ml solution pen injector	Yes	Yes	Yes
Average	42.9%	47.6%	61.9%

Appendix B [19]

	# of 2024 $0 premium LIS plans	2024 basic PDPs with premiums less than $8, plan names	2024 basic PDPs with premiums less than $8, plan premium amounts
Connecticut	2	Aetna SilverScript Choice	$7.40
Illinois	1		$6.60
	1	Humana Basic Rx Plan	$7.60
Massachusetts	2	Aetna SilverScript Choice	$7.40
Missouri	1		$6.80
Nevada	1		$4.40
	1	Humana Basic Rx Plan	$4.80
North Carolina	2	Aetna SilverScript Choice	$5.40
South Carolina	2		$7.50

[1] NCOA. "Part D Low Income Subsidy/Extra Help Eligibility and Coverage Chart." 25 January 2024. 02 April 2024. https://www.ncoa.org/article/part-d-low-income-subsidy-extra-help-eligibility-and-coverage-chart.
[2] Centers for Medicare & Medicaid Services, Medicare Current Beneficiary Survey, 2021. Matthew Hubbard. "Who Enrolls, or Does Not Enroll, in Part D Extra Help?" NCOA. 27 March 2024. 02 April 2024. https://www.ncoa.org/article/who-enrolls-or-does-not-enroll-in-part-d-extra-help.
[3] The 2024 estimate is based on a March 2024 update to the data file. NCOA analysis of CY 2021, 2023, and 2024 Part D Landscape File. CMS. 18 March 2024. 02 April 2024. https://www.cms.gov/medicare/coverage/prescription-drug-coverage.
[4] The 2024 estimate is based on a March 2024 update to the data file. NCOA analysis of CY 2021, 2023, and 2024 Part D Landscape File. CMS. 18 March 2024. 02 April 2024.
[5] Clear Spring initially offered $0 premium plans for 2024 during open enrollment, but CMS decided in October 2023 to terminate its contract with the Part D sponsor. CMS. "Notice of Termination and Intermediate Sanctions (Suspension of Enrollment and Marketing) for Prescription Drug Plan Contract Number: S6946." 13 October 2023. 09 April 2024. https://www.cms.gov/files/document/clear-spring-termination-sanction-10132023.pdf.
[6] The 2024 estimate is based on a March 2024 update to the data file. NCOA analysis of CY 2021, 2023, and 2024 Part D Landscape File. CMS. 18 March 2024. 02 April 2024.
[7] When Part D sponsors offered bids for CY 2024 representing their costs and profits, they estimated in relation to an average beneficiary premium (i.e., a "benchmark"). CMS says the following: "the low-income benchmark premium amount for a PDP region is a weighted average of the monthly beneficiary premiums for basic prescription drug coverage in the region." CMS calculates "the low-income benchmark premium amount using a weighted average of the MA and PDP premiums that is based on total Part D enrollment. MA–PD sponsors can lower their Part D premiums through the application of Part C rebates." CMS. "Annual Release of Part D National Average Monthly Bid Amount and Other Part C & D Bid Information." 31 July 2023. 02 April 2024. https://www.cms.gov/files/document/july-31-2023-parts-c-d-announcement-pdf.pdf. CMS. "Modification to the Weighting Methodology Used to Calculate the Low-Income Benchmark

Amount." 73 FR 18176. 03 April 2008. 02 April 2024. https://www.federalregister.gov/documents/2008/04/03/08-1088/medicare-program-modification-to-the-weighting-methodology-used-to-calculate-the-low-income.
[8] See Appendix A.

[9] See Appendix B.
[10] Yuting Zhang, Chao Zhou, and Seo Hyon Baik. "A Simple Change to the Medicare Part D Low-Income Subsidy Program Could Save $5 Billion." *Health Affairs*. 33, no. 6. (June 2014). https://www.healthaffairs.org/doi/10.1377/hlthaff.2013.1083.
[11] CMS. PDP Reassignment File. January 2022. 28 February 2024. https://www.cms.gov/files/document/2021-pdp-reassignment-jan-2022.pdf.
[12] Yuting Zhang, Chao Zhou, and Seo Hyon Baik. "A Simple Change to the Medicare Part D Low-Income Subsidy Program Could Save $5 Billion."
[13] Yuting Zhang, Chao Zhou, and Seo Hyon Baik. "A Simple Change to the Medicare Part D Low-Income Subsidy Program Could Save $5 Billion."
[14] In our February 2023 letter to CMS, NCOA and the PAN Foundation requested this of CMS. Matthew Hubbard and Howard Bedlin. "Strengthening Part D Extra Help for Low-Income Older Adults: Letter to CMS Leader." NCOA. 10 February 2023. 02 April 2024. https://www.ncoa.org/article/strengthening-part-d-extra-help-for-low-income-older-adults-letter-to-cms-leader.
[15] CMS. "Introduction to the Reassignment Notice: Plan Premium Increase Version." November 2024. 28 February 2024. https://www.cms.gov/Medicare/Prescription-Drug-Coverage/LimitedIncomeandResources/Downloads/11209.pdf
[16] CMS: "You'll get this notice if you get Extra Help, you joined a Medicare drug plan on your own, and your plan's premium is changing. This TAN notice lets you know you'll have to pay a portion of your plan's premium in the coming year unless you join a new $0 premium plan." On the back of the notice is a list of other plans (with and without premium options) in the enrollee's region. CMS. "LIS Chooser's Notice." 02 April 2024. https://www.medicare.gov/basics/forms-publications-mailings/mailings/help-with-costs/plan-premium-changing.
[17] In 2019 and 2020, only 13 and 21 percent of PDP enrollees, respectively, switched plans. Jeannie Fuglesten Biniek, Anthony Damico, Juliette Cubanski, and Tricia Neuman. "Medicare Beneficiaries Rarely Change Their Coverage During Open Enrollment." KFF. 01 November 2022. 12 April 2024. https://www.kff.org/medicare/issue-brief/medicare-beneficiaries-rarely-change-their-coverage-during-open-enrollment/.
[18] The table shows how readily available common medications are across types of plans listed on Medicare Plan Finder. Five of the ten prescription drugs chosen in 2023 for price negotiations are not available on all plan formularies. Part of this table assess whether the plans listed in Appendix A cover these five drugs that are not 100% available on Part D plan formularies. Given that not all insulins are on plan formularies, we sought to see how widely available in plan formularies most insulins available in the US are. States were chosen based on their having one or two $0 premium LIS plans in 2024 and on whether there is a basic plan in that same state with a premium less than $8. CMS Medicare Plan Finder. 15 April 2024. Juliette Cubanski, Anthony Damico, and Tricia Neuman. "How Medicare's New Drug Price Negotiation Program Could Expand Access to Selected Drugs." KFF. 26 September 2023. 15 April 2024. https://www.kff.org/medicare/issue-brief/how-medicares-new-drug-price-negotiation-program-could-expand-access-to-selected-drugs/. Kenneth R. Feingold, Bradley Anawalt, Marc R. Blackman, Alison Boyce, et. al. "Insulins Commercially Available in the US (Recombinant DNA Origin)." Endotext. 15 April 2024. https://www.ncbi.nlm.nih.gov/books/NBK278938/table/insulin-pharmacology.T.insulins_commerci/.
[19] States were chosen based on their having one or two $0 premium LIS plans in 2024 and on whether there is a basic plan in that same state with a premium less than $8. CMS Medicare Plan Finder. 15 April 2024.