

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-14-26  
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations  
Disabled and Elderly Health Programs Group (DEHPG)

---

July 2, 2009

Dear State Medicaid Director:

The Centers for Medicare & Medicaid Services (CMS) is now preparing for the annual re-determination of Medicare Part D low-income subsidy (LIS) deemed status, also known as “re-deeming.” The purpose of this memorandum is to share important information about this process with you, so that you are aware of the possible consequences for your residents who may no longer qualify for LIS. We view this letter as a first step in what we anticipate will be an ongoing dialogue with States about the 2009-2010 re-deeming process.

### **General Background**

As you are probably aware, individuals who qualify for LIS deemed status for 2009 are deemed eligible through December 31, 2009. The re-deeming process will determine who will continue to be deemed for calendar year 2010 and whether the individual’s co-payment level will increase, decrease, or remain the same. Therefore, we cannot emphasize enough the importance of the accuracy of your State Medicare Modernization Act (MMA) file submissions, and subsequent file submissions beginning in July 2009, in making sure all qualified individuals continue to be deemed for the subsidy.

As with all LIS deeming, CMS will use State MMA files and Social Security Administration (SSA) files, respectively, as the basis for re-deeming full dual and partial dual eligible individuals and SSI-only eligible individuals. For the initial re-deeming process, CMS will use data received on State MMA files beginning July 2009. Individuals reported as full or partial dual eligible beneficiaries as of July 2009 will have their LIS deemed status extended to December 31, 2010. The co-payment level for 2010 will be based on the eligibility category, income, and institutional status as of July 2009. Additional re-deeming will continue to occur upon receipt of all subsequent State MMA files. CMS will continue to look for individuals whom States report as full or partial duals as of July 2009 or later, and re-deem them for 2010. For example, if a beneficiary is reported on a September MMA file as retroactively eligible for just the month of August 2009, the person will be re-deemed for 2010; if a person is reported on that same file as retroactively eligible for only May 2009, s/he will not be re-deemed for 2010.

Beneficiaries who appear as subsidy-eligible on a State file for the first time between July 2009 and December 2009 will be deemed from the earliest month of subsidy eligibility indicated by the State through December 31, 2010.

Beneficiaries previously deemed eligible for LIS based on State data that do not appear as subsidy-eligible in July or subsequent State files will not be deemed for calendar year 2010. Their deemed status will end on December 31, 2009.

### **Notices to Beneficiaries**

In September, CMS and SSA will issue a joint mailing to beneficiaries whose deemed status will not continue in 2010 based on their absence from the State's July or August State MMA files or SSA's August file. This mailing will include a letter on grey paper, an SSA LIS application, and a postage-paid return envelope to assist the individual in re-establishing eligibility for the subsidy for 2010. The return envelope will be addressed to:

Social Security Administration  
PO Box 1021  
Wilkes-Barre PA 18767-9989

Individuals who are re-deemed but whose subsidy level will change in 2010 will be notified by CMS in October via a separate letter on orange paper. Individuals whose deemed status will be extended to December 31, 2010 without any change in subsidy level will not receive a notice.

### **CMS Notification to States**

In September, CMS will provide information to States about their residents who will lose deemed status effective January 1, 2010. We strongly recommend that States use this information to screen these individuals for eligibility for Medicaid or any of the Medicare Savings Programs, or to work with them to apply for LIS. More specific information, including the file format, will be provided separately.

CMS will also provide data on the MMA State response file on the re-deemed status of those reported on a given file. This information will appear on the State's response file related to the file submitted. For example, the results of data submitted by the State for re-deeming on July 12 will appear on the CMS-generated MMA response file that will be sent back to the State within an estimated 48 hours, or by July 14. The following data will appear in the response file when the beneficiary has been re-deemed:

- Beneficiary Copay Type = D
- Beneficiary Copay Level = 1, 2, or 3
- Copay Start Date = 01/01/2010
- Copay End Date = 12/31/2010

**What Do States Need to Do?**

Again, we cannot overemphasize the importance of the accuracy and completeness of State MMA files submitted in July and August for the process of re-determining deemed status. States' inclusion or exclusion of beneficiaries from their July through December 2009 MMA files will determine whether those beneficiaries will be deemed eligible for the low-income subsidy for 2010.

We also strongly encourage States to assist those who are no longer full or partial dual eligible to apply for LIS with SSA. Both the data file CMS will provide to States in September and the MMA State response files will provide States with the information needed to identify these individuals. We will also be happy to consider suggestions from States on other ways CMS and SSA can work with States to help qualified individuals obtain extra help from Medicare.

**Contact Information**

CMS appreciates States' continued assistance in ensuring that dual eligible beneficiaries have timely, affordable, and comprehensive coverage under the Medicare Part D prescription drug benefit. For further information about the LIS re-deeming process, please contact Tracey Baker at 410-786-7794 or at [tracey.baker@cms.hhs.gov](mailto:tracey.baker@cms.hhs.gov).

Sincerely,

/S/

Terry Pratt  
Acting Director

cc:

CMS Regional Administrators

CMS Associate Regional Administrators  
Division of Medicaid and Children's Health

Ann C. Kohler  
NASMD Executive Director  
American Public Human Services Association

Joy Wilson  
Director, Health Committee  
National Conference of State Legislatures

Page 4 – State Medicaid Director

Matt Salo  
Director of Health Legislation  
National Governors Association

Debra Miller  
Director for Health Policy  
Council of State Governments

Christine Evans, MPH  
Director, Government Relations  
Association of State and Territorial Health Officials

Alan R. Weil, J.D., M.P.P.  
Executive Director  
National Academy for State Health Policy