
TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule
LSA Document #06-153

DIGEST

Amends [405 IAC 8-2-15](#), [405 IAC 8-2-17](#), [405 IAC 8-2-23](#), [405 IAC 8-2-30](#), [405 IAC 8-3-1](#), [405 IAC 8-3-2](#), [405 IAC 8-4-1](#), [405 IAC 8-6-1](#), [405 IAC 8-6-2](#), [405 IAC 8-6-3](#), [405 IAC 8-10-1](#), and [405 IAC 8-10-2](#) and adds [405 IAC 8-2-37](#) and [405 IAC 8-4-2](#) affecting eligibility and benefits under the Indiana prescription drug program and the definition of benefits for enrollees. Repeals [405 IAC 6](#) and [405 IAC 8-2-14](#). Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[405 IAC 6](#); [405 IAC 8-2-14](#); [405 IAC 8-2-15](#); [405 IAC 8-2-17](#); [405 IAC 8-2-23](#); [405 IAC 8-2-30](#); [405 IAC 8-2-37](#); [405 IAC 8-3-1](#); [405 IAC 8-3-2](#); [405 IAC 8-4-1](#); [405 IAC 8-4-2](#); [405 IAC 8-6-1](#); [405 IAC 8-6-2](#); [405 IAC 8-6-3](#); [405 IAC 8-10-1](#); [405 IAC 8-10-2](#)

SECTION 1. [405 IAC 8-2-15](#) IS AMENDED TO READ AS FOLLOWS:

ARTICLE 8. INDIANA PRESCRIPTION DRUG PROGRAM MEDICARE PART D ASSISTANCE BENEFIT

[405 IAC 8-2-15](#) "Low-income subsidy" defined

Authority: [IC 12-10-16-5](#)

Affected: [IC 12-10-16](#)

Sec. 15. "Low-income subsidy" means either:

- (1) a full low-income subsidy; ~~or~~
- (2) ~~or~~ partial low-income subsidy;

as determined **and defined** by the Social Security Administration.

(Office of the Secretary of Family and Social Services; [405 IAC 8-2-15](#); filed Mar 29, 2006, 2:19 p.m.: 29 IR 2528)

SECTION 2. [405 IAC 8-2-17](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 8-2-17](#) "Low-income subsidy determination" defined

Authority: [IC 12-10-16-5](#)

Affected: [IC 12-10-16](#)

Sec. 17. "Low-income subsidy determination" means a definitive **"Notice of Award" or "Notice of Denial"** determination from the Social Security Administration as to an applicant's eligibility for the low-income subsidy.

(Office of the Secretary of Family and Social Services; [405 IAC 8-2-17](#); filed Mar 29, 2006, 2:19 p.m.: 29 IR 2528)

SECTION 3. [405 IAC 8-2-23](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 8-2-23](#) "Noncovered drug" defined

Authority: [IC 12-10-16-5](#)

Affected: [IC 12-10-16](#)

Sec. 23. "Noncovered drug" means a drug that is

- (1) not on a Medicare Part D plan's formulary. ~~or~~
- (2) ~~being treated as so as a result of a coverage determination or appeal.~~

(Office of the Secretary of Family and Social Services; [405 IAC 8-2-23](#); filed Mar 29, 2006, 2:19 p.m.: 29 IR 2529)

SECTION 4. [405 IAC 8-2-30](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 8-2-30](#) "Proof of income" defined

Authority: [IC 12-10-16-5](#)

Affected: [IC 12-10-16](#)

Sec. 30. "Proof of income" means documentation of the income of an applicant and an applicant's family. Proof of income for the program should be provided by the Social Security Administration through the low-income subsidy application. If the Social Security Administration's low-income subsidy determination does not include an income determination, the office may ~~make an income determination using the same protocol that the Social Security Administration uses to determine~~ **ask the applicant to provide proof of income.**

(Office of the Secretary of Family and Social Services; [405 IAC 8-2-30](#); filed Mar 29, 2006, 2:19 p.m.: 29 IR 2529)

SECTION 5. [405 IAC 8-2-37](#) IS ADDED TO READ AS FOLLOWS:

[405 IAC 8-2-37](#) "Unearned income" defined

Authority: [IC 12-10-16-5](#)

Affected: [IC 12-10-16](#)

Sec. 26. "Unearned income" means income the applicant receives from a source other than employment including, but not limited to, the following:

- (1) Social Security.**
- (2) Pensions.**
- (3) Income from assets.**

(Office of the Secretary of Family and Social Services; [405 IAC 8-2-37](#))

SECTION 6. [405 IAC 8-3-1](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 8-3-1](#) Age

Authority: [IC 12-10-16-5](#)

Affected: [IC 12-10-16](#)

Sec. 1. To be eligible for the program **benefits**, an applicant must be at least sixty-five (65) years of age.

(Office of the Secretary of Family and Social Services; [405 IAC 8-3-1](#); filed Mar 29, 2006, 2:19 p.m.: 29 IR 2530)

SECTION 7. [405 IAC 8-3-2](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 8-3-2](#) Income

Authority: [IC 12-10-16-5](#)

Affected: [IC 12-10-16](#)

Sec. 2. To be eligible for the program **benefits**, an applicant's income must not exceed one hundred fifty percent (150%) of the federal poverty limit applicable to the individual's family size, as defined by the federal Office of Management and Budget. **A general income disregard of twenty dollars (\$20) is:**

- (1) allowed and applied per household; and**
- (2) deducted from the total monthly gross income when an income determination is made.**

(Office of the Secretary of Family and Social Services; [405 IAC 8-3-2](#); filed Mar 29, 2006, 2:19 p.m.: 29 IR 2530)

SECTION 8. [405 IAC 8-4-1](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 8-4-1](#) General requirements

Authority: [IC 12-10-16-5](#)

Affected: [IC 12-10-16](#)

Sec. 1. (a) A completed applicant file will be processed by the office and must include verification of the following:

(1) That an applicant has:

(A) completed the Application for Help with Medicare Prescription Drug Plan Costs; and

(B) received a determination from the Social Security Administration.

(2) Of an applicant's enrollment in a Medicare Part D plan that has contracted with the IPDP to provide state benefits in coordination with Medicare Part D.

(b) Applicant file information may be submitted to the office by mail, or telephone, **or facsimile** or over the Internet.

(c) An applicant who does not have a complete applicant file will be determined pending. Such an applicant may submit requirements necessary to complete their applicant file to receive a determination from the office. An applicant file that has been pending for more than sixty (60) calendar days may be closed and determined ineligible by the office. An applicant's initial file date will begin on the date the office receives documents requesting IPDP assistance.

(d) After a completed applicant file has been processed and approved by the office, the office will notify the member's Medicare Part D plan of the member's eligibility for benefits under the IPDP.

(e) If the office receives an eligible applicant's completed applicant file on or before the fifteenth day of the month, the applicant shall be eligible for program benefits beginning the first day of the following month. If the office receives an eligible applicant's completed applicant file after the fifteenth day of the month, the applicant shall be eligible to receive program benefits beginning the first day of the month after the following month.

(f) Following the expiration of the enrollee's last benefit period, the individual must have a redetermination of eligibility for IPDP benefits.

(Office of the Secretary of Family and Social Services; [405 IAC 8-4-1](#); filed Mar 29, 2006, 2:19 p.m.: 29 IR 2530)

SECTION 9. [405 IAC 8-4-2](#) IS ADDED TO READ AS FOLLOWS:

[405 IAC 8-4-2](#) Redetermination of eligibility

Authority: [IC 12-10-16-5](#)

Affected: [IC 12-10-16](#)

Sec. 2. Redetermination of eligibility for IPDP benefits in 2007 will be as follows:

(1) Members with an IPDP start date of June 1, 2006, or earlier must do the following:

(A) Submit a complete application to the program for 2007 IPDP benefits.

(B) Provide the program with the following:

(i) Proof of prescription drug plan enrollment for 2007.

(ii) A copy of the member's Low-Income Subsidy 2007 eligibility notice for Medicare Extra Help from the Social Security Administration.

(iii) Any requested documentation as needed to determine for 2007 IPDP benefits.

(2) Members with an IPDP start date of July 1, 2006, or later must provide the program with the

following:

- (A) Proof of prescription drug plan enrollment for 2007.
 - (B) A copy of the member's Low-Income Subsidy 2007 eligibility notice for Medicare Extra Help from the Social Security Administration.
 - (C) Any requested documentation as needed to determine eligibility for 2007 IPDP benefits.
- (3) IPDP shall make an annual redetermination of each member's eligibility for program benefits by requesting information from the member as needed to make such redetermination.

(Office of the Secretary of Family and Social Services; [405 IAC 8-4-2](#))

SECTION 10. [405 IAC 8-6-1](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 8-6-1](#) Assistance with Medicare prescription drug plan monthly premium and other Medicare Part D plan costs

Authority: [IC 12-10-16-5](#)

Affected: [IC 12-10-16](#)

Sec. 1. (a) An eligible member may receive:

(1) premium assistance for the monthly premium cost of the:

- (A) Medicare prescription drug plan; or
- (B) Medicare-Advantage prescription drug plan; and

(2) assistance with other Medicare prescription drug plan costs as defined in section 2 of this rule;

if the member enrolls, or has been auto-enrolled, into a Medicare Part D plan that has contracted with the IPDP to provide such benefits.

(b) The amount of monthly premium assistance provided by the IPDP shall not exceed the ~~low-income-subsidy actual premium amount for the region, as determined by the Centers for Medicare and Medicaid Services, in~~ **calendar year 2006 and up to seventy dollars (\$70) per month premium assistance in calendar year 2007 for members with an IPDP benefit start date of July 1, 2006, or later. Members with an IPDP benefit start date of June 30, 2006, or earlier may receive up to thirty-five dollars and sixty-nine cents (\$35.69) premium assistance per month in calendar year 2006 and up to seventy dollars (\$70) per month premium assistance in calendar year 2007.**

(c) The premium assistance benefit shall be paid directly to the Medicare Part D Plan in which the eligible IPDP member is enrolled.

(d) Premium assistance provided by the IPDP will be reduced by the amount of premium assistance a member receives from the Centers for Medicare and Medicaid Services.

(e) The IPDP member is responsible for ~~any premium amount~~ **premiums** above the ~~low-income-subsidy premium per month.~~ **maximum amount set by the state.**

(f) IPDP premium assistance:

- (1) may only be applied to the prescription drug portion of a Medicare-Advantage prescription drug plan's monthly premium; and
- (2) shall not pay for the medical portion of the Medicare-Advantage prescription drug plan monthly premium.

~~(g) IPDP premium assistance shall not pay for any portion of the Medicare Part D premium related to late-enrollment penalties.~~

(Office of the Secretary of Family and Social Services; [405 IAC 8-6-1](#); filed Mar 29, 2006, 2:19 p.m.: 29 IR 2531)

SECTION 11. [405 IAC 8-6-2](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 8-6-2](#) Deductible or coinsurance assistance benefit

Authority: [IC 12-10-16-5](#)

Affected: [IC 12-10-16](#)

Sec. 2. (a) An eligible member may receive not more than two hundred fifty dollars (\$250) in annual benefits to be applied to his or her Medicare Part D Plan deductible or coinsurance requirements.

(b) IPDP deductible or coinsurance assistance benefits shall only be available to IPDP members enrolled in a Medicare Part D plan that has contracted with the IPDP to provide the benefits.

(c) Benefit dollars will be available for a remainder of the benefit period, beginning on the date of enrollment in the IPDP. Benefits not used before the end of this period will not be available to the member. Benefits shall not be paid on a IPDP member's behalf until the member is effectively enrolled in a Medicare Part D plan that has contracted with the IPDP.

(d) The IPDP will pay benefits, up to the two hundred fifty **dollar** (\$250) annual limit, directly to the Medicare Part D plan in which the member is enrolled.

(e) IPDP benefits shall:

(1) only be available for prescription drug plan costs that are countable to the beneficiary's true out-of-pocket costs; ~~and~~

(2) not be used to pay for noncovered drugs; **and**

(3) be available only to members enrolled in the IPDP June 30, 2006, or earlier.

(Office of the Secretary of Family and Social Services; [405 IAC 8-6-2](#); filed Mar 29, 2006, 2:19 p.m.: 29 IR 2531)

SECTION 12. [405 IAC 8-6-3](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 8-6-3](#) Assistance with Medicare prescription drug plan monthly premium only

Authority: [IC 12-10-16-5](#)

Affected: [IC 12-10-16](#)

Sec. 3. (a) An eligible member may receive assistance for the monthly premium cost of the Medicare prescription drug plan or Medicare-Advantage prescription drug plan in which the member is enrolled. Premium assistance shall be available provided the IPDP member enrolls in a Medicare Part D plan that has contracted with the state to provide such benefits.

(b) The amount of premium assistance provided by the IPDP shall not exceed the low-income subsidy premium in the region, as determined by the Centers for Medicare and Medicaid Services **for members with an IPDP benefit start date of June 30, 2006, or earlier in calendar year 2006 and up to seventy dollars (\$70) per month in calendar year 2007. The amount of premium assistance provided by the IPDP shall not exceed the actual premium amount in calendar year 2006 and up to seventy dollars (\$70) per month premium assistance in calendar year 2007 for members with an IPDP benefit start date of July 1, 2006, or later.**

(c) The premium assistance benefit shall be paid directly to the Medicare Part D plan in which the eligible IPDP member is enrolled.

(d) Premium assistance provided by the IPDP shall be reduced by the amount of premium assistance a member receives from the Centers for Medicare and Medicaid Services.

(e) The IPDP member shall be responsible for any premium amount above the ~~low-income subsidy premium per month:~~ **maximum dollar amount determined by the state.**

(f) IPDP premium assistance: ~~may~~:

(1) **may** only be applied to the prescription drug portion of a Medicare-Advantage prescription drug plan's monthly premium; and

(2) shall not pay for the medical portion of the Medicare-Advantage prescription drug plan monthly premium.

(g) IPDP premium assistance shall not pay for any portion of the Medicare Part D premium related to late-enrollment penalties.

(Office of the Secretary of Family and Social Services; [405 IAC 8-6-3](#); filed Mar 29, 2006, 2:19 p.m.: 29 IR 2532)

SECTION 13. [405 IAC 8-10-1](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 8-10-1](#) General provisions for contracting for assistance with Medicare prescription drug plan monthly premium and other Medicare Part D plan costs

Authority: [IC 12-10-16-5](#)

Affected: [IC 12-10-16](#)

Sec. 1. (a) The IPDP may contract with Medicare Part D plans to administer state assistance with Medicare prescription drug plan monthly premium and other Medicare Part D plan costs. ~~Only Medicare Part D plans offering standard coverage that have a monthly premium at or below the low-income subsidy premium amount may contract with the IPDP to administer the state's assistance with Medicare prescription drug plan monthly premium and other Medicare Part D plan costs.~~

(b) Medicare Part D plans contracting with the IPDP to administer state Medicare Part D assistance may place an IPDP logo on joint IPDP and PDP member prescription drug cards, if approved by the program, and shall do the following:

(1) Accept electronic auto-enrollment records in a standard defined by the IPDP.

(2) Only invoice the state for premium expenses up to the ~~low-income subsidy regional premium, as determined by the Centers for Medicare and Medicaid Services.~~ **state maximum limit.**

(3) Administer the IPDP Medicare Part D assistance program. Per member expenses shall not exceed two hundred fifty dollars (\$250) in a calendar year, or other period of eligibility defined by the IPDP **for members enrolled June 30, 2006, or earlier.**

(4) Communicate IPDP assistance to the Centers for Medicare and Medicaid Services true out-of-pocket facilitator to apply towards members' true out-of-pocket expenses **for members enrolled June 30, 2006, or earlier.**

(5) Provide IPDP with claims data on IPDP members:

(A) in order for the IPDP to understand the utilization underlying its costs; and

(B) for reconciliation of incurred and paid amounts.

(6) Comply with all federal regulations pertaining to Medicare Part D plans as outlined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

(Office of the Secretary of Family and Social Services; [405 IAC 8-10-1](#); filed Mar 29, 2006, 2:19 p.m.: 29 IR 2535)

SECTION 14. [405 IAC 8-10-2](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 8-10-2](#) General provisions for contracting for assistance with Medicare prescription drug plan monthly premium only

Authority: [IC 12-10-16-5](#)

Affected: [IC 12-10-16](#)

Sec. 2. (a) The IPDP may contract with Medicare Part D plans to administer state Medicare Part D premium-only assistance. Medicare Part D plans offering coverage in the state of Indiana may contract with the IPDP to administer the state's Medicare Part D premium assistance programs.

(b) Medicare Part D plans contracting with the IPDP to administer the state's Medicare Part D premium

assistance program may place a IPDP logo on joint IPDP and PDP member prescription drug cards, if approved by the program, and shall do the following:

- (1) Only invoice the state for premium expenses up to the ~~low income subsidy regional premium, maximum dollar amount~~ as determined by the ~~Centers for Medicare and Medicaid Services, state.~~
- (2) Provide IPDP with data on IPDP members in order for the IPDP to understand the utilization underlying its costs and for reconciliation of incurred and paid amounts.
- (3) Comply with all federal regulations pertaining to Medicare Part D plans as outlined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

(Office of the Secretary of Family and Social Services; [405 IAC 8-10-2](#); filed Mar 29, 2006, 2:19 p.m.: 29 IR 2536)

SECTION 15. THE FOLLOWING ARE REPEALED: [405 IAC 6](#); [405 IAC 8-2-14](#).

[Notice of Public Hearing](#)

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