



**United States
Department of
Agriculture**

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Food and
Nutrition
Service

**Food Stamp Program Regional Letter 04-26
Subject: Revised Medicare Prescription Drug Card Policy**

Northeast Region

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Room 501
Boston, MA 02222

This is a revision of Regional Letter 04-12, dated March 11, 2004, that provided guidance on Medicare's new Prescription Drug Discount Card. This revised policy recognizes the need to hold food stamp households harmless for changes in policy resulting from implementation of the discount card program. It ensures that no food stamp applicant or participant who uses the drug discount card will lose food stamp benefits.

Authorized by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), the prescription drug discount card provides Medicare beneficiaries with negotiated prices that should be lower than the regular price of prescription drugs. In addition, from June through December 2004, Medicare is providing through the drug discount cards a \$600 subsidy ("transitional assistance") to Medicare beneficiaries whose incomes are not more than 135 percent of the poverty line and who do not have certain other drug coverage. An additional subsidy of up to \$600 will be provided in calendar year (CY) 2005.

In our earlier guidance, we advised that State agencies must not treat any discount and/or subsidy households receive through the prescription drug discount card program as income or resources in determining eligibility and benefits for the Food Stamp Program (FSP). We also noted that households receiving a discount or subsidy through the drug card could only claim their out-of-pocket costs when determining the amount of their medical deduction.

After further review of the MMA and regulations issued by the Center for Medicare and Medicaid Services (CMS), we have determined that our earlier policy denying a medical deduction for the costs of any prescriptions not paid for as an out-of-pocket expense by the beneficiary (i.e., the discounted or subsidized portion of the cost) did not fully comport with the MMA. Section 1860D-31(g)(6) of the Social Security Act, as amended by the MMA, 42 USC 1395w-141(g)(6), states that the availability of negotiated prices or transitional assistance received through the prescription drug card "shall not be treated as benefits or otherwise taken into account in determining an individual's eligibility for, or the amount of benefits under, any other Federal

program.” By allowing households to claim only their out-of-pocket costs and not the pre-discount costs of any prescriptions purchased at a discount and/or with the subsidy, we would be taking into account the benefits of the prescription discount card when determining the household’s food stamp benefit, contrary to the requirements of Section 1860D-31(g)(6). Therefore, we are announcing this revised policy.

To prevent households from experiencing any reduction in their food stamp benefits as a result of receiving the discount drug card, the Department is requiring that the discounts and subsidy a household receives through the drug discount card be treated as standard medical expenses to be used in determining the household’s medical expense deduction.

In this way, households using the drug discount card will continue to receive a medical deduction for the money they were spending on prescription drugs prior to receiving the drug card. These standard monthly expenses would be added to any other medical expenses the household incurs during the month, including any co-pay paid by a cardholder, in determining the household’s medical expense deduction.

\$600 Subsidy Recipients

Eligible Medicare beneficiaries with incomes at or below 135 percent of the income poverty line are eligible for a \$600 subsidy in both the remainder of CY 2004 and throughout CY 2005. State agencies have some choices in regard to budgeting the value of the subsidy:

- State agencies may average the subsidy over the remaining months in 2004. For example, if the cardholder received a \$600 subsidy in July 2004, the State agency may budget, in addition to any other medical expenses, \$100 a month from July 2004 to December 2004. The State agency would budget \$50 per month to account for the \$600 subsidy to be authorized for calendar year 2005. For example, a household certified in July 2004 for 12 months would have a \$100 monthly medical expense budgeted July through December and then a \$50 medical expense budgeted January through June, in addition to any out-of-pocket medical expenses. The remaining \$300 subsidy would be averaged over the next certification period beginning July 2005.
- State agencies may average the 2004 subsidy a household receives over a 12- month certification period, budgeting \$50 a month in medical expenses to the cardholder. However, the State agency would have to anticipate receipt of another \$600

subsidy in January 2005 and factor the CY 2005 subsidy into the average for the certification period. For example, for a household certified for 12 months in July 2004, the State agency would budget \$50 a month in medical expenses from July 2004 to June 2005 to account for the CY 2004 subsidy. The State agency would also anticipate and budget \$50 a month from the CY 2005 subsidy for the period January through June. The State agency would adjust the food stamp budget in January 2005 to budget a \$100 per month medical expense, in addition to the household's other medical expenses. Alternatively, the State agency could average the subsidies from the two calendar years over the certification period and budget \$75 per month for each month of the certification period. The remaining \$300 subsidy would be averaged over the next certification period beginning July 2005.

- State agencies may budget \$50 per month until the full value of the annual subsidies is realized. For example, a household certified in July 2004 for 12 months would have a \$50 monthly medical expense budgeted July through June 2005. This would account for the CY2004 subsidy. If the household also receives a \$600 subsidy for CY2005, then a \$50 medical expense would be budgeted from July 2005 to June 2006.

Discounts

All subsidy recipients will also qualify for discounts through negotiated prices. Individuals whose income exceeds 135 percent of the poverty line will not receive the \$600 subsidy, but will qualify to receive a discount on drug purchases. We anticipate that very few of this group will be eligible to participate in the FSP. Their higher income would have to be offset by substantial medical and other allowable expenses to qualify under the food stamp net income test.

However, all cardholders who participate in the Food Stamp Program will be held harmless for the loss of any out-of-pocket expenses resulting from the drug card discounts. There are two methodologies State agencies may use to hold households harmless.

Option 1: Apply Discount Factor to Actual Costs

The State agency may calculate a discount factor for each household. Under this option, the State agency would multiply the household's actual monthly out-of-pocket prescription drug expenses plus the monthly value of the subsidy by a discount factor which represents the average value of the discounts received by low-income individuals who

use the discount card. We estimate that low-income individuals who use the discount card will receive average discounts of 20 percent, which translates into a discount factor of 1.25. A cardholder's monthly medical expenses, then, would equal the cardholder's actual monthly out of pocket expenses multiplied by 1.25. If the cardholder also received the \$600 subsidy, his or her monthly expenses would equal actual out-of-pocket expenses plus the monthly value of the subsidy multiplied by 1.25.

Option 2: Use Standard Expense Allowance

Alternatively, the State agency may assign each cardholder a standard expense allowance that accounts for the value of the discount received. The Department has estimated the value of the prescription drug discounts received by holders of the card to be \$276 per year, or \$23 per month. Therefore, State agencies should budget \$23 a month in medical expenses for each cardholder that resides in the food stamp household. (For households receiving the subsidy, this would be in addition to the standard monthly subsidy expense.) A cardholder's monthly medical expenses would then equal the cardholder's actual monthly out of pocket expenses plus \$23. If the cardholder also received the \$600 subsidy, his or her monthly expenses would equal actual out-of-pocket expenses plus \$23 plus the monthly value of the subsidy.

Whichever option the State agency chooses, cardholders must be permitted to claim the actual out-of-pocket prescription expenses they incurred prior to using the discount card if those expenses exceed the total of their current out-of-pocket expenses plus the amount of all allowances the household receives. For example, if prior to using the discount card the cardholder incurred medical expenses of \$300 a month, but now pays \$150 a month using the discount card, the cardholder must be allowed to claim the \$300 in medical expenses if the cardholders current out-of-pocket costs, discount allowance and subsidy allowance together total less than \$300.


To claim their pre-discount medical costs, cardholders must provide documentation of their prior prescription drug expenses. If the cardholder is a continuing food stamp participant, the state agency may rely on information on prior expenses that is available in the cardholder's case file. If the cardholder is a new food stamp participant who cannot document past actual prescription drug costs, the State agency should determine the pre-discount cost of the cardholder's medical expenses using the discount factor method discussed above. That is, the State agency must determine the cardholder's actual

medical expense by multiplying the cardholder's current out-of-pocket expenses by the discount factor of 1.25.

As noted in our earlier memorandum, Medicare beneficiaries may be charged an enrollment fee of up to \$30 per year for the discount drug card. Any annual fee paid by a household for the prescription drug card must be treated as an allowable medical expense under 7 CFR 273.9(d)(3)(iii) and be counted when determining the household's medical expense deduction.

If you have any questions concerning this policy, please contact Katie Blanchette at (617)565-6415.

Sincerely,



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