# Understanding Medicare Part D and the Low-Income Subsidy

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## Introduction to Medicare Part D

Medicare Part D is the newest part of Medicare. Medicare Part D helps pay the costs of prescription drugs for Medicare beneficiaries in the United States. It was enacted as part of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) and went into effect on January 1, 2006. Anyone who is enrolled in Medicare Part A and/or Part B can enroll in Part D. Unlike with Parts A and B, Social Security does not process Part D enrollments. Beneficiaries must enroll directly with a participating approved Medicare Part D Prescription Drug Plan (PDP) or a Medicare Advantage Plan. The prescription drug plans under Part D are developed and operated by private insurance companies that contract with CMS to participate in the Medicare Part D program. SHIP is a great resource for helping beneficiaries pick out a PDP that will work best for them.

As with Part B, if a beneficiary opts out of Part D they could have to pay a premium penalty (a higher monthly penalty) if they opt for Part D later. The monthly Part D premium would increase 1% of the "national base beneficiary premium" times the number of full, uncovered months the beneficiary could have had Part D but chose not to. Months the beneficiary had credible prescription drug coverage won't count in calculating the penalty. There is a financial assistance program, Low Income Subsidy (also known as Extra Help) that can help pay the Part D out of pocket expenses. That program will be discussed later in this unit. Be sure to refer beneficiaries to SHIP if they are thinking about opted out of Part D to explore their options. Lastly, it is important to know that beneficiaries who are eligible for Medicaid will automatically be enrolled into a Part D PDP when Medicare begins, unless they choose a plan themselves.

Depending on the Prescription Drug Plan, the beneficiary may have a monthly premium, an annual deductible, and co-insurance. In regard to co-insurance, most Medicare drug plans have a coverage gap or "donut hole." When the total drug costs have reached the PDP's initial coverage limit the beneficiary enters the coverage gap and is responsible for paying a higher cost for the drugs until the point the beneficiary becomes eligible for "catastrophic coverage." The coverage gap, also known as the "donut hole", historically provided no coverage; the beneficiary paid 100% of costs incurred during the coverage gap. Under the Affordable Care Act the coverage gap is being phased out. During the phase out period beneficiaries get discounts on generics and brand name drugs. For beneficiaries who are eligible for the Low income Subsidy (LIS) program, they will receive financial help to pay these out of pocket expenses.

The following chart shows the different levels of coverage using the 2014 Standard Benefit Model Plan, which is the minimum allowable plan to be offered:

| | Monthly Premium | Annual Deductible | Initial Coverage | Coverage Gap | Catastrophic |
|---|---|---|---|---|---|
| Standard Benefit Plan | $32.42 | Beneficiary Pays:<br>$310 | Beneficiary Pays:<br>$635<br>(25% of $310 - $2850) | Beneficiary Pays:<br>$3,605<br>($4550 - $310 - $635) | Beneficiary Pays:<br>5% or $2.55/generic and $6.35/brand |

Details about when the coverage gap begins and ends can be found at the following Medicare website: http://www.medicare.gov/part-d/costs/coverage-gap/part-d-coverage-gap.html

The Affordable Care Act (ACA) included a provision to phase out the "coverage gap". By 2020 the beneficiary's co-insurance will be reduced to 25% for generic and brand name drugs, until the point in which the beneficiary reaches the catastrophic level. The resulting effect is that the coverage gap will be eliminated. Below is a list of the beneficiary's co-insurance in the coverage gap each year between now and 2020:

2014: 47.5% for brand-names and 72% for generics

2015: 45% for brand-names and 65% for generics

2016: 45% for brand-names and 58% for generics

2017: 40% for brand-names and 51% for generics

2018: 35% for brand-names and 44% for generics

2019: 30% for brand-names and 37% for generics

2020: 25% for brand-names and 25% for generics

## Medicare Part D Low Income Subsidy (Extra Help)

As explained in the first part of this unit, there are a number of Part D out-of-pocket expenses, which vary based on the private prescription drug plan the beneficiary chooses. For many beneficiaries these costs are beyond their financial means. When Part D was created, Congress also created a financial assistance program to help low-income beneficiaries pay for the Part D out of pocket expenses. The formal name for this financial assistance program is Low Income Subsidy, but it is also called "Extra Help". LIS is NOT a state program, which is often a point of confusion. LIS is a program that is administered by the Centers for Medicare and Medicaid Services (CMS). The Low Income Subsidy program provides 2 levels of help: Full Low Income Subsidy and Partial Low Income Subsidy.

To be eligible for LIS some groups must have income below certain Federal Poverty Levels (FPL), which are published in the Federal Register each year by the Department of Health and Human Services (DHHS). The poverty levels are the same regardless of the age of the family members. One set of poverty levels applies to the 48 contiguous states and the District of Columbia, with Alaska and Hawaii having separate and slightly higher poverty levels. When an individual applies for LIS, Social Security will apply the FPL that corresponds to the individual's state of residence in the month that the application is filed.

Additionally, to be eligible for LIS some groups must have resources below the current year's resource limit. If a beneficiary indicates they would use some or all of their resources for funeral or burial expenses then a $1,500 exclusion, $3,000 for a couple, is allowed. As a result, publications about LIS resource limits often inflate the current year's limit by $1,500, $3,000 for a couple, to account for this allowance. The resource limits listed in this unit do not include the allowance for funeral or burial expenses. If a beneficiary expected those expenses their resource limit, in effect would be $1,500, $3,000 for a couple, higher.

### Full Low Income Subsidy

Full LIS provides critical support to beneficiaries. With Full LIS the beneficiary generally will not have to pay a monthly premium. Subsidized premiums are paid to the prescription drug provider (PDP) or the Medicare Advantage prescription drug plan (MA-PDP) by the Centers for Medicare and Medicaid Services and are based on the service area's regional benchmark premiums. Full LIS eligible individuals who choose to participate in a more expensive plan are responsible for the difference. Those eligible for Full LIS do not have to pay an annual deductible. Additionally, they are not subject to the initial coverage, coverage gap, or catastrophic coverage payment rules. Instead, these individuals pay small co-payments, if any. Below are the co-payment details:

- No co-pays: applies to dual eligible individuals (Medicare/Medicaid) residing in a nursing facility or receiving Home and Community Based Services
- $1.20/generic, $3.60/brand name: applies to those with income equal to or less than 100% of the Federal Poverty Level
- $2.55/generic, $6.35/brand name: applies to Medicaid eligible individuals with income above 100% FPL, those not Medicaid eligible but QMB/SLMB/QI eligible, or those not Medicaid eligible but income below 135% FPL and resources at or below $7,160 (single)/$10,750 (married)

To be eligible for the Full LIS an individual must:

- Be entitled to benefits under Medicare Part A (hospital insurance) or entitled to Medicare Part B (supplementary medical insurance) or both;
- Reside in one of the 50 states or the District of Columbia; and
- Have countable income at or below 135% of the FPL and resources at or below $7,160/single or $10,750/married; or
- Be deemed eligible (the following groups are deemed Full LIS eligible: Medicaid recipients, SSI beneficiaries, QMBs, SLMBs, or QIs)

<u>Deemed Eligible:</u>

Those who are deemed eligible do not have to apply for Full LIS, instead they are automatically enrolled. CMS determines if an individual is deemed eligible for Full LIS based on monthly data from state Medicaid agencies and Social Security's records of SSI participation. CMS then automatically enrolls deemed eligible beneficiaries who have not yet enrolled with a PDP or MA-PDP. Beneficiaries who are deemed eligible can choose to switch plans at any time. Many beneficiaries don't realize that once they are eligible for Part D Medicaid will no longer cover most, if not all, of their prescriptions because they are the payer of last resort. To assure beneficiaries don't inadvertently go without prescription coverage, CMS automatically enrolls Full LIS deemed eligible beneficiaries into a plan.

<u>Not Deemed Eligible:</u>

Those who are not deemed eligible, but instead who have income and resources below the limits noted above will have to apply for the Low Income Subsidy program. While CMS is administering the LIS program, they don't have the infrastructure to process applications; they don't have offices in towns across the country for beneficiaries to go and apply. As a result, CMS established an agreement with Social Security to process LIS applications for those who are not deemed eligible. That means an individual who does not fall into one of the deemed eligible categories will need to apply for LIS at Social Security. There are 3 ways to apply: on Social Security's website, calling 1-800-772-1213 to apply over the phone, or at a local Social Security office. Once Social Security receives the application they will need to determine if the

countable income is at or below 135% of FPL and if countable resources are below $7,160/$10,750.

In determining eligibility for non-deemed eligible beneficiaries, the SSI income and resource methodology is used, with some modifications. To begin, Social Security does not use deeming. Instead they will count the following people's income and resources in determining LIS eligibility:

- Countable income of the Medicare beneficiary and living-with spouse (if any) measured against a percentage of the annual FPL for the beneficiary's family size (this includes dependent relatives living with the beneficiary); and
- Resources of the Medicare beneficiary and living-with spouse (if any).

In counting income, effective January 1, 2010 in-kind support and maintenance will not be counted as income. Interest and dividends, regardless of the source, are also excluded. And Social Security will not approve a Plan to Achieve Self Support whose sole purpose is to exclude income and resources for LIS eligibility. In regard to resource exclusions, there are a few differences from the SSI rules:

a. Social Security does not consider transfers of resources. Therefore, Social Security does not ask an applicant if he/ she transferred resources.
b. Non-liquid resources, other than non-home real property, are not resources for purposes of determining eligibility for the subsidy. For purposes of determining eligibility for the subsidy, the following non-liquid assets are not countable resources: all vehicles (autos, trucks, motorcycles, boats, snowmobiles, etc.), household goods and personal effects, irrevocable burial trusts and irrevocable burial contracts.
c. If the individual alleges that he or she expects to use some of his or her resources for funeral or burial expenses, $1,500 is excluded from that individual's countable resources. For a married couple who live together, Social Security will exclude up to $3,000. Social Security will not ask the individual for the actual value of the funds that he/she expects to use. Therefore, the exclusion is always $1,500 unless the individual alleges that he/she does not expect to use any of his or her resources for burial or funeral expenses.

In determining countable income, the basic SSI deductions apply. When determining countable unearned income, the $20 General Income Exclusion is applied to any unearned income first, then to earned income, if unused. The $65 Earned Income Exclusion is applied and earnings are divided in half to determine countable earned income. Additionally, Impairment Related Work Expenses (IRWE) and Blind Work Expenses (BWE) can be deducted. If a beneficiary indicates to Social Security they have IRWEs, an automatic 16.3% of gross wages will be deducted. If a beneficiary with statutory blindness indicates they have BWEs, an automatic 25% of gross wages will be deducted. The actual amount of the IRWE or BWE will be deducted if it more

advantageous than the standard percentage. To use these deductions the Title II disability beneficiary must be under age 65. If their spouse is under age 65 and receiving Title II disability benefits they may also use these work incentives. Below is an example calculation.

Example of a person who is likely eligible for Full LIS:

Sherry has $1,212/month in SSDI, $7,000 in resources, and is single. She tells you she is unable to pay for her prescriptions each month. Could Sherry be eligible for Full LIS?

| Step | Calculations |
|---|---|
| Unearned Income | $1,212 |
| General Income Exclusion (GIE) $20 | - $20 |
| Countable Unearned Income | = $1,192 |
| | |
| Gross Earned Income | $0 |
| Student Earned Income Exclusion | - |
| Remainder | |
| GIE (if not used above) $20 | - |
| Remainder | |
| Earned Income Exclusion (EIE) $65 | - |
| Remainder | |
| Impairment Related Work Expense (IRWE) (16% of gross wages or actual amount if higher) | - |
| Remainder | |
| Divide by 2 | |
| Blind Work Expenses (BWE) (25% of gross wages or actual amount if higher) | - |
| Total Countable Earned Income | = $0 |
| | |
| Total Countable Unearned Income | $1,192 |
| Total Countable Earned Income | + $0 |
| PASS Deduction | - $0 |

| | |
|---|---|
| Total Countable Income | = $1,192 |

Her unearned income is $1,212; after deducting the $20 General Income Exclusion her countable unearned income is $1,192. She doesn't have any earned income, so her total countable income is $1,192/month. 135% of the FPL for a single person is $1293/month (in 2013). Sherry's countable income is below that level. Since her resources are below $7,160, she would likely be eligible for Full LIS. You would also want to let her know she is likely eligible for a Medicare Savings Program, QI, and once she applies and is found eligible for QI she will be automatically enrolled in full LIS.

As a reminder, this calculation is not used for individuals who are deemed eligible for Full LIS and will continue to fall under a deemed eligible category. For example, if a beneficiary is eligible for Full LIS because they have Medicaid, when they begin working they will simply remain deemed eligible if they maintain Medicaid. Conversely, if a beneficiary will lose their deemed eligible status due to a change in income, then the calculation would be appropriate. For example, if a beneficiary is eligible for Full LIS because they have QMB, when they begin working if they lose eligibility for QMB, SLMB and QI they would be subject to the income calculation, unless they fell under one of the other deemed eligible categories (e.g. Medicaid or SSI).

## Partial Low Income Subsidy

Partial LIS provides slightly less support than Full LIS. With Partial LIS the beneficiary either has no premium or will have a premium based on a sliding fee scale. As with Full LIS, subsidized premiums are paid to the prescription drug provider (PDP) or the Medicare Advantage prescription drug plan (MA-PDP) by the Centers for Medicare and Medicaid Services and are based on the service area's regional benchmark premiums. Partial LIS eligible beneficiaries who choose to participate in a more expensive plan are responsible for the difference. Those eligible for Partial LIS have a $63 annual deductible. Additionally, they are not subject to the initial coverage, coverage gap, or catastrophic coverage payment rules. Instead, these individuals pay lower co-insurance or co-payments over the course of the year. Below are the premium and co-payment details:

- No premium, 15% coinsurance, $2.55/generic and $6.35/brand after reaching out of pocket limit of $4,550: applies to those not Medicaid eligible with income at or below 135% FPL and resources between $7,160 and $11,940 (single) or between $10,750 and $23,860 (married)
- Sliding Scale premium, 15% coinsurance, $2.55/generic and $6.35/brand after reaching out of pocket limit of $4,550: applies to those not Medicaid eligible with income between 136% - 150% FPL and resources at or below $11,940 (single) or $23,860 (married)

To be eligible for the Partial LIS an individual must:

- Be entitled to benefits under Medicare Part A (hospital insurance) or entitled to Medicare Part B (supplementary medical insurance) or both;
- Reside in one of the 50 states or the District of Columbia; and
- Have countable income at or below 150% of the FPL and resources at or below $11,940/single or $23,860/married.

As with the non-deemed eligible Full LIS beneficiaries, Partial LIS beneficiaries must apply for LIS through Social Security. There are 3 ways to apply: on Social Security's website, calling 1-800-772-1213 to apply over the phone, or at a local Social Security office. The same countable income and resource methodologies explained under Full LIS also apply under Partial LIS. The difference is merely the income and resource limits are higher.

Example of a person who is likely eligible for Partial LIS:

Sophia has $1,389/month in SSDI, $10,000 in resources, and is single. She tells you she is having a hard time paying for her prescriptions each month. Could Sophia be eligible for Partial LIS?

| Step | Calculations |
|---|---|
| Unearned Income | $1,389 |
| General Income Exclusion (GIE) $20 | - $20 |
| Countable Unearned Income | = $1,369 |
| | |
| Gross Earned Income | $0 |
| Student Earned Income Exclusion | - |
| Remainder | |
| GIE (if not used above) $20 | - |
| Remainder | |
| Earned Income Exclusion (EIE) $65 | - |
| Remainder | |

| | |
|---|---|
| Impairment Related Work Expense (IRWE) (16% of gross wages or actual amount if higher) | - |
| Remainder | |
| Divide by 2 | |
| Blind Work Expenses (BWE) (25% of gross wages or actual amount if higher) | - |
| Total Countable Earned Income | = $0 |
| | |
| Total Countable Unearned Income | $1,369 |
| Total Countable Earned Income | + $0 |
| PASS Deduction | - $0 |
| Total Countable Income | = $1,369 |

Her unearned income is $1,389; after deducting the $20 General Income Exclusion her countable unearned income is $1,369. She doesn't have any earned income, so her total countable income is $1,369/month. 150% of the FPL for a single person is $1437/month (in 2013). Sophia's countable income is below that level. Since her resources are below $11,940 he would likely be eligible for Partial LIS.

With Partial LIS there are no deemed eligible individuals. Instead every Partial LIS beneficiary must meet the income and resource limits. Given that, the calculation must be used to estimate eligibility when a beneficiary begins working.

## LIS and Earnings

To estimate the impact of earnings on a beneficiary's LIS eligibility, the first step is to clarify which category they fall into: deemed eligible for Full LIS, eligible for Full LIS (not deemed eligible), or eligible for Partial LIS. Once the category has been identified, the next step is to clarify whether the individual will lose eligibility for that category once working. If they won't lose eligibility for the category they are in, then CWICs can communicate to the beneficiary their eligibility is expected to continue. If they will lose eligibility for the category they are in, then CWICs must communicate that expected change and provide options, if any.

Example of a person who is expected to maintain deemed eligibility for Full LIS:

Devin has $320/month in SSDI, $421/month in SSI, Medicare, QMB, and Medicaid. She has been deemed eligible for Full LIS. Devin will begin working next month making

$3,000. She has several expensive prescriptions, which she relies on LIS to help her cover. What will happen to Devin's Full LIS when she begins working?

The first step is to clarify which category Devin falls into, which is deemed eligible for Full LIS. She is deemed eligible because she has Medicaid, as well as QMB. The second step is to clarify whether Devin will lose her eligibility for this category when she works. While Devin will likely lose her eligibility for QMB, she will continue to be eligible for Medicaid (using the 1619b work incentive). That means Devin is expected to continue to be eligible for Full LIS as a deemed eligible beneficiary. Since she is expected to remain deemed eligible, there is no need to do the LIS countable income calculation.

<u>Example of a person who is deemed eligible for Full LIS but is expected lose that deemed status:</u>

Tom has $1020/month in SSDI, Medicare, and SLMB. He has been deemed eligible for Full LIS because he gets SLMB. Tom will begin working next month making $850. He has several expensive prescriptions, which he relies on LIS to help him cover. What will happen to Tom's Full LIS when he begins working?

The first step is to clarify which category Tom falls into. He is deemed eligible for full LIS because he has SLMB. The second step is to clarify whether Tom will lose his eligibility for this category when he works. After reviewing the SLMB eligibility rules it is determined he will not be eligible for SLMB, nor will he be eligible for QMB or QI. He will also not be an SSI recipient. The only way Tom could continue to be considered deemed eligible LIS is if he became eligible for Medicaid. In many states there is a Medicaid Buy-In program, which may be a way for Tom to become eligible for Medicaid. Since Medicaid Buy-In programs have a premium, he'd need to decide if financially that was worthwhile for him. If Tom does not become eligible for Medicaid when he begins working, then the LIS calculation must be used to determine if he can maintain eligibility for LIS through another category.

| Step | Calculations |
|---|---|
| Unearned Income | $1,020 |
| General Income Exclusion (GIE) $20 | - $20 |
| Countable Unearned Income | = $1,000 |
| | |
| Gross Earned Income | $850 |
| Student Earned Income Exclusion | - $0 |

| | |
|---|---|
| Remainder | $850 |
| GIE (if not used above) $20 | - $0 |
| Remainder | $850 |
| Earned Income Exclusion (EIE) $65 | - $65 |
| Remainder | $785 |
| Impairment Related Work Expense (IRWE) (16% of gross wages or actual amount if higher) | - $0 |
| Remainder | $785 |
| Divide by 2 | $392.50 |
| Blind Work Expenses (BWE) (25% of gross wages or actual amount if higher) | - $0 |
| Total Countable Earned Income | = $392.50 |
| | |
| Total Countable Unearned Income | $1,000 |
| Total Countable Earned Income | + $392.50 |
| PASS Deduction | - $0 |
| Total Countable Income | = $1,392.50 |

Tom's countable income, $1,392.50, will be over 135% of the FPL ($1,293 in 2013), which means he would not be eligible for Full LIS. But, his income does fall below 150% of the FPL ($1,437 in 2013), which means he would likely be eligible for Partial LIS. To support Tom in pursuing his work goal, it will be important for him to know his options; he will be able to use Partial LIS instead of Full LIS or (if Medicaid eligibility is an option for Tom in his state) he will be able to maintain Full LIS by enrolling in Medicaid.

## Reporting Income and Resource Changes and LIS Redeterminations

To determine subsidy eligibility and whether the individual qualifies for a full or partial subsidy, Social Security considers all of the countable income the individual and living-with spouse receive (or expect to receive) for a period of 12 months. Although the computation of income for subsidy eligibility is based on income projected for 12 months, the computation is not linked to a particular calendar year. The subsidy determination system uses the 12-month projection of income because the Federal Poverty Limit (FPL) income limits are issued as annual income limits. At the point when an individual files for subsidy, the 12-month projection of income is compared to the current year's FPL income limit. If the individual's projected income is under the limit, he or she will continue to be eligible for subsidy until a redetermination or a subsidy changing event is processed.

**EXAMPLE:** Ms. Smith files for subsidy in August. The subsidy determination system uses the income reported on her application in August and projects it for 12 months starting from the subsidy computation month without regard to the expected increase in her income due to the January Cost-of-Living Adjustment (COLA), or the expected increase in the FPL limits due to the annual FPL update (usually in February). This type of computation is needed because the individual's income for next January and next year's FPL amount are not known in August when the claim is processed.

LIS determinations are made for a calendar year and will not be changed during the year unless the individual:

- Appeals the determination;
- Reports a subsidy changing event;
- Becomes eligible for SSI, Medicaid or the Medicare Savings Program (MSP) and is therefore deemed eligible for the subsidy.

Medicare subsidy beneficiaries are not required to report changes to Social Security. There are NO mandatory reporting rules in the Medicare subsidy program. In addition, there is no distinction between how first and third party reports are processed. Beneficiaries, relatives, friends or other agencies may report events that affect a beneficiary's subsidy. The source of information does not affect how the report of change is processed.

There are two types of events that can impact the subsidy determination or amount:

- Subsidy Changing Events which are effective the month after the month of report, and
- Other Events, which are events that may change the subsidy determination, but are effective the January following the report.

There are six (6) Subsidy Changing Events. These events result in the re-determination of subsidy amount or eligibility for the beneficiary. Once Social Security receives and inputs a report of a subsidy changing event, a redetermination form (SSA-1026-OCR-SM-SCE) is sent to the beneficiary. These changes become effective the month after the month they are reported:

a. Beneficiary marries
b. Beneficiary and living-with spouse divorce
c. Beneficiary's living-with spouse dies
d. Beneficiary and living-with spouse separate
e. Beneficiary and living-with spouse annul marriage

f. Beneficiary and previously separated spouse resume living together

EXAMPLE of Subsidy Changing Event:

Mary Smith, a beneficiary, contacts Social Security in May 2013. She reports that she married in March 2013. This is a subsidy changing event or SCE. Any change becomes effective in June 2013. Mrs. Smith says that she doesn't have time to complete the screens immediately. The 800# agent will input the event on the Changing Event screen in MAPS which will generate a re-determination form. The agent asks Ms. Smith if her spouse is eligible for a subsidy as well. He is. The agent then asks if Ms. Smith is reporting the change for him as well. She says she is so the agent enters an SCE for the spouse. He will receive a re-determination form as well. Both forms must be returned even though the information collected on the forms should be identical. When the forms are returned with the updated income and resource information, they will be processed in MAPS. The system will then determine the new subsidy amounts, which will be effective in June 2013 for Ms. Smith and her new spouse.

Events other than the six subsidy changing events listed above may impact a beneficiary's subsidy eligibility or amount but any changes resulting from the report of an "Other Event" are effective the following January. Typically "other events" include changes in income and resources such as getting a job, becoming eligible for unemployment insurance, receiving a large insurance settlement or inheritance, etc.

EXAMPLE of an "Other Event":

In late August 2013, Social Security mails a scheduled re-determination to Mr. Jones. He completes the form that indicates a change in his income and sends it back to Social Security on 9/19/13. Social Security re-determines Mr. Jones' eligibility based on the income he reported on 9/19/13. The subsidy determination system uses the income on this report, projects it for 12 months, and compares this annualized amount to the 2013 FPL income limits to determine his subsidy percentage. If the change he reported affects his eligibility or the amount of his subsidy, the effective date of the change will be January 2014.