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# Issue Brief

FEDERAL ISSUE BRIEF



*Analysis provided for MHA by Larry Goldberg, Goldberg Consulting*

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## **CMS Issues Draft Guidance on New Program to Allow People with Medicare to Pay Out-of-Pocket Prescription Drug Costs in Monthly Payments**

The ***Inflation Reduction Act***, gives people with Medicare prescription drug coverage (Medicare Part D) the option to pay out-of-pocket costs in monthly payments spread out over the year, starting in 2025.

The Centers for Medicare & Medicaid Services (CMS) have released a 56-page draft guidance that outlines the requirements and procedures for aspects of the new Medicare Prescription Payment Plan.

Comments about the draft are due September 20. A copy is available at:

<https://www.cms.gov/files/document/medicare-prescription-payment-plan-part-1-guidance.pdf>.

### **Comment**

At first glance, the draft appears complicated. However, after reading the many examples, the material is not difficult to navigate. Nonetheless, the administration of the program will require extensive calculations and ongoing reporting.

Please note that under the ***Inflation Reduction Act***, the maximum out-of-pocket (OOPs) will be reduced to \$2,000 in calendar year 2025.

The following material is from portions of the guidance report.

### **Introduction**

This provision applies to all Part D sponsors including both stand-alone Medicare prescription drug plans (PDPs) and Medicare Advantage (MA) plans with prescription drug coverage (MA-PDs), as well as Employer Group Waiver Plans (EGWPs), cost plans, and demonstration plans. This guidance document will be followed by a second round of guidance, set to be released by early 2024.

The shorthand name for the program will be the “Medicare Prescription Payment Plan.”

### **Overview**

Beginning in 2025, the statute requires Part D sponsors to provide all Part D enrollees the option to pay their OOP prescription drug costs in monthly installments over the course of the plan year, instead of paying OOP costs at the point of sale (POS).

As a result, Part D enrollees who opt into the Medicare Prescription Payment Plan will pay \$0 at the POS for a covered Part D drug, instead of the OOP cost sharing they would normally pay when filling a prescription. The Part D sponsor must pay the pharmacy the OOP cost sharing amount that these participants would have paid if they were not in the Medicare Prescription Payment Plan and then bill the program participants monthly for any OOP cost sharing they incurred while in the program according to

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the calculations described below. The amount that the Part D sponsor bills the participant for a month under the program cannot exceed a maximum monthly cap. While this program is available to anyone with Medicare Part D drug costs, Part D enrollees incurring high OOP costs earlier in the plan year are generally likely to benefit.

### **Program Calculations and Examples**

The participant will not have any monthly bills to pay under this program until opting into the program and incurring OOP costs. Once a participant incurs an OOP Part D drug cost, all their OOP costs for all covered Part D drugs will be billed on a monthly basis as long as the participant remains in the program.

Under section 1860D-2(b)(2)(E)(iv)(I) of the Act, for the first month for which the Part D enrollee has opted into the Medicare Prescription Payment Plan, the term "maximum monthly cap" means an amount determined by calculating the annual OOP threshold minus any Part D costs the Part D enrollee incurred during the year before opting in, divided by the number of months remaining in the plan year.

The example calculation presented below is illustrative and intended to help ensure Part D sponsors program their claims and billing systems correctly for 2025.

Under section 1860D-2(b)(2)(E)(iv)(II) of the Act, for each subsequent month for which the Part D enrollee has opted into the program, the maximum monthly cap is determined by calculating the sum of any remaining OOP costs owed by the participant from a previous month that have not yet been billed and any additional OOP costs incurred by the participant in the subsequent month, divided by the number of months remaining in the plan year. The number of months remaining includes the month for which the cap is being calculated. This calculation repeats for each month in which the participant remains in the Medicare Prescription Payment Plan. The resulting maximum monthly cap will change if additional OOP costs are incurred.

#### *Example: January Election; First Fill in February with No Refills*

This example demonstrates how the maximum monthly cap would be calculated for a participant with no prescriptions filled in the first month of their participation in the program. The individual opts into the Medicare Prescription Payment Plan in January 2025. They have no additional prescription drug coverage through a third party. They fill no prescriptions during January.

Step 1: Determine the previously incurred costs. The participant has had no prior pharmacy expenditures in January 2025; the TrOOP Accumulator is \$0.

Step 2: Calculate the maximum monthly cap for the first month in which the program is effective for the participant. The annual OOP threshold for 2025 is \$2,000. The month is January; months remaining in the plan year equals 12 (includes January).  $(\$2,000 - \$0)/12 = \$166.67$

The plan will not bill the participant for January, since the participant has not incurred any OOP costs.

The participant fills a high-cost prescription at the pharmacy in February. The OOP cost sharing for this prescription is \$1,030.37.

Step 1: Determine the remaining costs owed by the participant. The participant incurred \$0 in January and thus did not receive a bill.  $\$0 - \$0 = \$0$

Step 2: Determine the additional OOP costs incurred by the participant. The participant fills a single prescription with an OOP cost of \$1,030.37. Additional OOP costs incurred = \$1,030.37.

Step 3: Calculate the maximum monthly cap for the subsequent month. The month is February; months remaining in the plan year equals 11 (includes February).  $(\$1,030.37 + \$0)/11 = \$93.67$

The calculation for the maximum monthly cap in subsequent months, described above, is repeated for each month remaining in the plan year and will change if there are additional OOP costs incurred by the participant. If the participant in this Example continued to have no new covered Part D prescription drug costs, their maximum monthly cap would be \$93.67 for all the months remaining in the plan year, as shown below.

Month	OOP Costs Incurred	Maximum Monthly Cap	Monthly Participant Payment
January	\$0	\$166.67	\$0
February	\$1,030.37	\$93.67	\$93.67
March	\$0	\$93.67	\$93.67
April	\$0	\$93.67	\$93.67
May	\$0	\$93.67	\$93.67
June	\$0	\$93.67	\$93.67
July	\$0	\$93.67	\$93.67
August	\$0	\$93.67	\$93.67
September	\$0	\$93.67	\$93.67
October	\$0	\$93.67	\$93.67
November	\$0	\$93.67	\$93.67
December	\$0	\$93.67	\$93.67
<b>TOTAL</b>	<b>\$1,030.37</b>		<b>\$1,030.37</b>

There are 2 other examples.

### Participant Billing Requirements

Section 1860D-2(b)(2)(E)(iii) of the Act requires Part D sponsors to bill participants who are in the Medicare Prescription Payment Plan and incur OOP costs an amount for each month that cannot exceed the applicable maximum monthly cap. For each billing period after an individual has opted into the program and incurred OOP costs, the Part D sponsor will calculate a monthly amount that takes into account the OOP costs in that month that were incurred on or after the date on which the individual opted into the program. Each billing period will be a calendar month. A Part D sponsor must not bill a participant who is in the program but has not yet incurred any OOP costs during the plan year.

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Because Part D sponsors (and any third parties Part D sponsors contract with) may not bill a participant more than the maximum monthly cap, late fees, interest payments, or other fees, such as for different payment mechanisms, are not permitted under the program.

### **Pharmacy Payment Obligations and Claims Processing**

To ensure that an individual's participation in the Medicare Prescription Payment Plan has no effect on the amount paid to pharmacies in accordance with section 1860D-2(b)(2)(E)(v)(III)(ff) of the Act, the Part D sponsor must pay the pharmacy for the amount the individual would have otherwise paid at the POS.

### **Requirements Related to Part D Enrollee Outreach**

Part D enrollees with high OOP costs earlier in the plan year, in particular, are more likely to benefit from participating.

Under section 1860D-2(b)(2)(E)(v)(III)(dd), Part D sponsors must have a mechanism to notify a pharmacy when a Part D enrollee incurs OOP costs with respect to covered Part D drugs that make it likely the enrollee may benefit from participating in the program.

### **Procedures for Termination of Election, Reinstatement, and Preclusion**

Part D sponsors must have a process to allow a participant that has opted into the Medicare Prescription Payment Plan to opt out during the plan year.

Section 1860D-2(b)(2)(E)(v)(IV)(aa) of the Act requires a Part D sponsor to terminate an individual's Medicare Prescription Payment Plan participation if that individual fails to pay their monthly billed amount. A participant will be considered to have failed to pay their monthly billed amount only after the conclusion of the required grace period.

### **Participant Disputes**

Part D sponsors must apply their established Part D appeals procedures to any dispute made by a Medicare Prescription Payment Plan participant about the amount of Part D cost sharing owed by that participant for a covered Part D drug.

### **Data Submission Requirements**

42 CFR § 423.514(a) requires each Part D sponsor to have a procedure to develop, compile, evaluate, and report to CMS, its Part D enrollees, and the public, at the times and in the manner that CMS requires.

### **Comment**

The material above is but a snapshot of CMS' draft guidance. There is no substitute for reviewing the entire document.