

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Medicare & Medicaid Services****42 CFR Parts 403 and 408****[CMS-4063-IFC]****RIN 0938-AM71****Medicare Program; Medicare Prescription Drug Discount Card****AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.**ACTION:** Interim final rule with comment period.

SUMMARY: Section 101, subpart 4 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, codified in section 1860D-31 of the Social Security Act, provides for a voluntary prescription drug discount card program for Medicare beneficiaries entitled to benefits, or enrolled, under Part A or enrolled under Part B, excluding beneficiaries entitled to medical assistance for outpatient prescription drugs under Medicaid, including section 1115 waiver demonstrations. Eligible beneficiaries may access negotiated prices on prescription drugs by enrolling in drug discount card programs offered by Medicare-endorsed sponsors.

Eligible beneficiaries may enroll in the Medicare drug discount card program beginning no later than 6 months after the date of enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and ending December 31, 2005. After December 31, 2005, beneficiaries enrolled in the program may continue to use their drug discount card during a short transition period beginning January 1, 2006 and ending upon the effective date of a beneficiary's outpatient drug coverage under Medicare Part D, but no later than the last day of the initial open enrollment period under Part D.

Beneficiaries with incomes no more than 135 percent of the poverty line applicable to their family size who do not have outpatient prescription drug coverage under certain programs—Medicaid, certain health insurance coverage or group health insurance (such as retiree coverage), TRICARE, and Federal Employees Health Benefits Program (FEHBP)—also are eligible for transitional assistance, or payment of \$600 in 2004 and up to \$600 in 2005 of the cost of covered discount card drugs obtained under the program. In most cases, any transitional assistance

remaining available to a beneficiary on December 31, 2004 may be rolled over to 2005 and applied toward the cost of covered discount card drugs obtained under the program during 2005. Similarly, in most cases, any transitional assistance remaining available to a beneficiary on December 31, 2005 may be applied toward the cost of covered discount card drugs obtained under the program during the transition period.

The Centers for Medicare & Medicaid Services will solicit applications from entities seeking to offer beneficiaries negotiated prices on covered discount card drugs. Those meeting the requirements described in the authorizing statute and this rule, including administration of transitional assistance, will be permitted to offer a Medicare-endorsed drug discount card program to eligible beneficiaries. Endorsed sponsors may charge beneficiaries enrolling in their endorsed programs an annual enrollment fee for 2004 and 2005 of no more than \$30; CMS will pay this fee on behalf of enrollees entitled to transitional assistance.

To ensure that eligible Medicare beneficiaries take full advantage of the Medicare drug discount card program and make informed choices, CMS will educate beneficiaries about the existence and features of the program and the availability of transitional assistance for certain low-income beneficiaries; and publicize information that will allow Medicare beneficiaries to compare the various Medicare-endorsed drug discount card programs.

DATES: *Effective Date:* The provisions of this interim final rule with comment period are effective December 15, 2003.

Comment date: Comments will be considered if we receive them no later than 5 p.m. on January 14, 2004, at the appropriate address, as provided below.

ADDRESSES: In commenting, please refer to file code CMS-4063-IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Mail written comments (1 original and 3 copies) to the following address **ONLY:** Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-4063-FC, P.O. Box 8013, Baltimore, MD 21244-8013.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays.

If you prefer, you may deliver (by hand or courier) your written comments (1 original and 3 copies) to one of the following addresses: Room 445-G,

Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5-14-03, 7500 Security Boulevard, Baltimore, MD 21244-1850.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for commenters wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Teresa DeCaro, (410) 786-6604.

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Inspection of Public Comments: Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, please call: (410) 786-7197.