

accommodate long term care pharmacies in the event they do not decide to join the special endorsed sponsor's network.

Section 1860D–31(g)(5) of the Act grants the Secretary the authority to waive requirements of the Medicare drug discount card program as necessary to ensure that transitional assistance may be applied toward covered discount card drugs obtained from long-term care and I/T/U pharmacies. In recognition of the unique challenges facing special endorsed sponsors who agree to include these pharmacies in their pharmacy networks, we will waive application of certain requirements if doing so is necessary to: (1) Ensure that a sufficient number of applicants seek special endorsement; (2) enable the Medicare drug discount program to start within 6 months of enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003; and (3) accommodate the unique needs of long-term care and I/T/U pharmacies.

Section 403.806(e)(4) of our regulations require endorsed sponsors to ensure that their pharmacies make available to transitional assistance enrollees at the point of sale, either electronically or by telephone, the amount of transitional assistance remaining available to them. Because long-term care pharmacies may process claims off-line due to coordination of benefit issues, there may be a lag in updating the transitional assistance amount to reflect recent transactions involving transitional assistance funds. Consequently, transitional assistance enrollees could be informed that they have more transitional assistance available to them than actually available if prior claims are still pending. Because I/T/U pharmacies do not charge AI/ANs for drugs obtained by them, AI/ANs obtaining drugs from these pharmacies will not have any out-of-pocket expenditures, and therefore their drug purchasing decisions will not be influenced by the amount of transitional assistance remaining available to them. Therefore, as provided in § 403.816(c)(ii) and § 403.816(e)(ii) of our regulations, special endorsed sponsors are not required to ensure that their long-term care and I/T/U pharmacies make available to transitional assistance enrollees at the point of sale the amount of transitional assistance remaining available to them.

In addition, section 1860D–31(g)(5) requires the availability of transitional assistance to long-term care residents and those using I/T/U pharmacies, but it does not discuss negotiated prices. Therefore, under §§ 403.816(c) and

403.816 (e) of our regulations, we provide that special endorsed sponsors will not be required to provide card enrollees access to negotiated prices at long-term care and I/T/U pharmacies. Special endorsed sponsors will be required to provide AI/ANs access to negotiated prices through non-I/T/U pharmacies included in the endorsed sponsor's network. We believe that waiving this provision is consistent with the statute as provided in section 1860D–31(g)(5) of the Act, and the resultant reduction in administrative burden is necessary so that applicants will be more likely to apply to become a special endorsed sponsor.

As permitted under section 1860D–31(g)(5) of the Act, we will allow applicants seeking special endorsement to request that we waive application of one or more of the other requirements of the Medicare drug discount card program. For instance, an applicant that intends to solely contract with long term care pharmacies for the purpose of administering transitional assistance through special endorsement, but who is not interested in otherwise becoming an endorsed sponsor under the Medicare drug discount card program, might request general waivers of certain requirements pertaining to endorsement. In its application, the applicant must cite the statutory or regulatory provision(s) it wishes us to waive, and explain why: (1) Such waiver is necessary to enable the applicant to either initiate enrollment activities within six months of enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 or accommodate the unique needs of long-term care and/or I/T/U pharmacies; or (2) compliance with the requirement(s) in question would be impracticable or inefficient. Applicants also must provide an assessment of the impact of waiving the requirement(s) in question on long-term care residents and/or AI/ANs. If we grant the waiver, we will waive the applicable requirement(s) for all similarly situated applicants seeking special endorsement.

TABLE 3.—I/T/U PHARMACIES BY STATE

Alaska	14
Alabama	1
Arizona	21
California	11
Colorado	2
Connecticut	1
Idaho	3
Kansas	3
Maine	3
Michigan	5
Minnesota	6
Mississippi	1

TABLE 3.—I/T/U PHARMACIES BY STATE—Continued

Montana	13
North Carolina	1
North Dakota	6
Nebraska	3
New Mexico	20
Nevada	8
New York	3
Oklahoma	37
Oregon	7
South Dakota	11
Texas	1
Utah	1
Washington	11
Wisconsin	6
Wyoming	2
Total	201

J. Special Rules Concerning Territories

1. Background

As discussed above in section II.A. of this document, Medicare beneficiaries residing in the territories may be eligible for the Medicare drug discount card program, but are not eligible for transitional assistance under the program. However, as provided for under section 1860D–31(j)(2) of the Act, the territories may establish their own programs providing transitional assistance to low-income beneficiaries. This section first discusses special rules for applicants seeking to offer endorsed programs in the territories, followed by a discussion of the transitional assistance available to beneficiaries residing in the territories under programs established by the territories. As background, Table 4 provides the total number of Medicare beneficiaries in each of the U.S. Territories.

TABLE 4.—MEDICARE BENEFICIARIES BY U.S. TERRITORY

Territory	Total Medicare beneficiaries as of 07/01/2003
American Samoa	2,977
Commonwealth of the Northern Mariana Islands	1,257
Guam	9,372
Puerto Rico	573,468
Virgin Islands	11,797

Source: Medicare Enrollment Database

2. Discount Card

Medicare beneficiaries residing in the U.S. territories, which include American Samoa, Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, and Virgin Islands, are eligible to enroll in the Medicare drug discount card program. Whereas Medicare beneficiaries residing in the 50 States or