

Another area where we considered alternatives relates to proration of the \$600 transitional assistance. Section 1860D–31(g)(2)(A) of the Act provides that transitional assistance beneficiaries may receive up to \$600 each year in transitional assistance. However, section 1860D–31(g)(2)(B) of the Act permits us to prorate the amount of transitional assistance available to beneficiaries applying for transitional assistance. We considered whether or not to exercise this authority. We decided not to prorate transitional assistance amounts in 2004 in recognition that it may take time for our education campaign to reach all beneficiaries and that beneficiaries need sufficient opportunity to learn about the Medicare prescription drug discount card program without penalty. We did, however, decide to prorate the transitional assistance available to eligible enrollees applying for transitional assistance in 2005. We decided to prorate transitional assistance in 2005 because we believe that, by 2005, beneficiaries will have had ample time to learn about the Medicare prescription drug discount card program. In addition, prorating transitional assistance encourages transitional assistance eligible beneficiaries to enroll in the Medicare prescription drug discount card program as early as possible in order to maximize their transitional assistance amount, which in turn will increase the volume of covered discount card drugs obtained under an endorsed program and enhance an endorsed sponsor's ability to negotiate deeper discounts for discount card enrollees.

We also considered alternatives related to the requirements for the Secretary to establish procedures and negotiate arrangements with sponsors regarding pharmacies that support long term care facilities and I/T/U pharmacies. We considered whether to require all card sponsors to integrate pharmacies that support long term care facilities and, for sponsors serving the relevant states, I/T/U pharmacies into their networks. As discussed in greater detail previously in this document, we decided the best way to ensure that AI/ANs and residents of long term care facilities have the opportunity to receive transitional assistance is to promote a competition for "special endorsement" to serve these beneficiaries and to select at least two of the best plans for including each type of pharmacy, one type associated with long term care facilities, and the other being I/T/U pharmacies. We believe a competition among interested sponsors will encourage better, more thoughtful plans

for access to a market generally untapped by the pharmacy benefit management industry. Pharmacies supporting long term care facilities and AI/ANs are not generally included in the traditional pharmacy networks of the pharmacy benefit management industry. To require that all sponsors provide for their inclusion would represent a significant new burden and could undermine the business case for participation by some potential applicants considering participation in the broader program. A similar set of considerations also applied to how to deal with the territories and our decision to limit the number of special endorsed sponsors operating in each of the territories to at least one in order to assure that a sufficient number of beneficiaries will enroll in special endorsed sponsors' endorsed programs in the territories. We were concerned that in the absence of this decision, an insufficient number of applicants would seek to offer endorsed programs in the territories and we therefore would be unable to ensure that residents of the territories have access to negotiated prices.

List of Subjects

42 CFR Part 403

Grant programs—health, Health insurance, Hospitals, Intergovernmental relations, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 408

Medicare.

■ For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV, as follows:

PART 403—SPECIAL PROGRAMS AND PROJECTS

■ 1. The authority citation for part 403 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

■ 2. Subpart H is revised to read as follows:

Subpart H—Medicare Prescription Drug Discount Card and Transitional Assistance Program

Sec.

403.800 Basis and scope.

403.802 Definitions.

403.804 General rules for solicitation, application and Medicare endorsement period.

403.806 Sponsor requirements for eligibility for endorsement.

403.808 Use of transitional assistance funds.

403.810 Eligibility and reconsiderations.

403.811 Enrollment, disenrollment, and associated endorsed sponsor requirements.

403.812 HIPAA privacy, security, administrative data standards, and national identifiers.

403.813 Marketing limitations and record retention requirements.

403.814 Special rules concerning Part C organizations and Medicare cost plans and their enrollees.

403.815 Special rules concerning States.

403.816 Special rules concerning long-term care and I/T/U pharmacies.

403.817 Special rules concerning the territories.

403.820 Sanctions, penalties, and termination.

403.822 Reimbursement of transitional assistance and associated sponsor requirements.

Subpart H—Medicare Prescription Drug Discount Card and Transitional Assistance Program

§ 403.800 Basis and scope.

(a) *Basis.* This subpart is based on section 1860D–31 of the Social Security Act (the Act).

(b) *Scope.* This subpart sets forth the standards and procedures CMS uses to implement the Medicare Prescription Drug Discount Card and Transitional Assistance Program.

§ 403.802 Definitions.

For purposes of this subpart, the following definitions apply:

Annual coordinated election period means the period beginning on November 15, 2004 and ending on December 31, 2004, during which a discount card enrollee may elect to disenroll from their current endorsed discount card program and elect enrollment in another endorsed discount card program effective January 1, 2005.

Applicant means the non-governmental, single legal organization or entity doing business in the United States that is applying for Medicare endorsement of its prescription drug discount card program, as described in its application, to be operated by itself or in coordination with subcontractors.

Application means the document submitted to CMS by an applicant that seeks to demonstrate the applicant's compliance with the requirements specified in this subpart in order to obtain Medicare endorsement of the applicant's prescription drug discount card program.

Authorized representative means a person with legal authority to act on behalf of an individual in making decisions related to the individual's health care or the individual's