Medicare Bill Offers Little to AIDS Beneficiaries Until 2006

Dual-Eligibles May Also Lose Some Benefits

The Medicare prescription drug legislation that squeaked through Congress before Thanksgiving left many disability, senior and AIDS organizations including HIVMA concerned about the drug coverage that will be available to their constituents. The drug discounts that will be available to Medicare beneficiaries who are not also eligible for Medicaid in 2004 will offer only limited relief from the high cost of HIV-related medications. In 2006, when the full drug benefit package is implemented, the nearly 6 million individuals who are dually eligible for Medicaid and Medicare, including at least 50,000 people with AIDS, may actually lose coverage for some medications. Furthermore, the coverage of all Medicare beneficiaries will be subject to the policy decisions of the health plans in their communities that choose to offer the benefit.

Provisions in the bill eliminate premiums and limit cost-sharing for low-income beneficiaries with no other source of drug coverage and replace a 4.5 percent cut in Medicare physician payments with a 1.5 percent increase. Apart from this, the legislation was a disappointment to many organizations representing health care providers and patients that will be affected by the new benefit. Serious concerns regarding access to drugs for people with AIDS arise from a number of provisions, particularly those that:

- prevent states from using federal Medicaid dollars to fill the gaps in Medicare’s prescription drug coverage for dual eligibles
- require dual-eligible beneficiaries to enroll in the Medicare drug program notwithstanding the repeated characterization of the new drug benefit as “voluntary”
- allow the private health plans that will administer the benefit to limit their formularies to 2 drugs per class

These health plans will have complete autonomy in the development of the drug formulary and are not required to cover all drugs in a therapeutic class. Plans will be required to have a pharmacy and therapeutic committee charged with developing and reviewing the formulary. This committee will be required to include at least one practicing physician and one practicing pharmacist who are independent of the plan and have expertise in the care of the elderly or the disabled. In the final days of negotiation, the grievance and appeals processes currently required by Medicare managed care plans were added to the legislation.

At least three Senators raised concerns about the impact on people with HIV/AIDS when the bill was debated in the Senate— Sens. Dianne Feinstein (D-Calif.), Barbara Boxer (D-Calif.) and Patty Murray (D-Wash.). U.S. Department of Health and Human Services Secretary Tommy Thompson wrote to Senator Feinstein on this issue and assured her that Medicare beneficiaries with HIV/AIDS would be able to access the drugs prescribed by their physicians under the new drug plan. In the coming months, HIVMA will work with the Bush administration officials on implementing regulations that protect the access of Medicare beneficiaries with AIDS to the evolving standard of HIV care. If necessary, HIVMA will work with members of Congress on a legislative remedy during the two-year period before the benefit is implemented in 2006.

The New Medicare RX Benefit

Generally...

- Beginning spring 2004, Medicare beneficiaries will be able to purchase a discount drug card (for no more than $30 annually). Bill sponsors and the Bush Administration are projecting 10 percent to 15 percent in overall savings in drug costs and as much as 25 percent savings per prescription.
- Beginning in 2006, all Medicare beneficiaries may elect to enroll in the prescription drug benefit (to be known as Medicare Part D) to receive drug coverage with a $250 annual deductible and an average monthly premium of about $35. (The deductible amount will increase annually according to growth in drug spending by Medicare beneficiaries.)
- After the deductible, the government will pay 75 percent of the cost of drugs annually, up to $2,250.
- Beneficiaries will receive no financial support for drug expenses from $2,250 to $3,600, but will still be required to continue to pay monthly premiums.
- Once the beneficiary has reached $3,600 out of pocket drug expenditures, the government will pay 95 percent of the cost of drugs.

For Low-income Medicare Beneficiaries Without Other Drug Coverage...

- Beneficiaries with incomes up to 150 percent of the federal poverty level (FPL)—about $11,400 for a single person—with no other source of drug coverage will receive a $600 annual credit on the discount card and will not be required to pay the annual enrollment fee.
- Beginning in 2006, beneficiaries with incomes up to 150 percent FPL will receive a benefit without any gaps in coverage, and will be required to pay premiums and co-payments based on a sliding scale. Co-payments will be increased annually according to growth of drug spending by Medicare beneficiaries.
- Asset tests will be applied to qualify as a low-income beneficiary. (Assets up to $6,000 will be allowed for individuals under 135 percent FPL and $10,000 for individuals under 150 percent FPL.)

For Beneficiaries Eligible for Medicaid and Medicare (Including 50,000 People with AIDS)...

- They will be required to enroll in the program in 2006, and they will continue to receive drug benefits through Medicaid until then.
- They will no longer be eligible for drug benefits through the Medicaid program in 2006. State Medicaid programs will be barred from “wrapping-around” the drug benefit as they do for other services not covered by Medicare. For example, if a drug is not included on a plan’s formulary, a Medicaid program cannot cover the drug. Some states may choose to fill in the gaps left by the Medicare program; however, they will not be eligible for federal matching funds for doing so.
- Dual eligibles under 100 percent FPL ($8,980 for a single person) will pay no deductible but will be charged co-payments of $1 for generic prescriptions and $3 for brand name prescriptions.
- Dual eligibles over 100 percent FPL will be assessed cost-sharing depending on their income. Individuals between 100 and 135 percent FPL (about $12,100 for a single person) will be charged $2 for generic drugs and $5 for brand name drugs. Others below 150 percent will pay a $50 deductible, 15 percent coinsurance and either 5 percent of the prescription cost or $2 for generic and $5 for brand, whichever is greater.

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Additional details regarding the coverage that will be provided under the new Medicare drug benefit are available from the following:

- Center on Budget and Policy Priorities (www.cbpp.org)
- Families USA (www.familiesusa.org)
- Kaiser Family Foundation (www.kff.org)