

## **60.1 - Out-of-Network Pharmacy Access**

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Part D sponsors must ensure that their enrollees have adequate access to covered Part D drugs dispensed at OON pharmacies when those enrollees cannot reasonably be expected to obtain covered Part D drugs at a network pharmacy, and when such access is not routine. The coverage rules applicable to covered Part D drugs dispensed at OON pharmacies may generally mirror those applicable to covered Part D drugs dispensed at network pharmacies, to the extent that the OON pharmacy has the ability to effectuate those coverage rules. However, Part D sponsors must develop policies and procedures governing reasonable rules for appropriately limiting OON access (for example, quantity limits, purchase of maintenance medications via mail-order for extended out-of-area travel, or plan notification or authorization processes). Following are various scenarios under which CMS would expect that OON pharmacy access be guaranteed to enrollees.

**Example 1:** An enrollee is traveling outside his or her Part D plan's service area; runs out of or loses his or her covered Part D drug(s) or becomes ill and needs a covered Part D drug; and cannot access a network pharmacy.

**Example 2:** An enrollee cannot obtain a covered Part D drug in a timely manner within his or her service area because, for example, there is no network pharmacy within a reasonable driving distance that provides 24-hour-a-day/7-day-per-week service.

**Example 3:** An enrollee must fill a prescription for a covered Part D drug in a timely manner, and that particular covered Part D drug (for example, an orphan drug or other specialty pharmaceutical typically shipped directly from manufacturers or special vendors) is not regularly stocked at accessible network retail or mail-order pharmacies.

**Example 4:** An enrollee is provided covered Part D drugs dispensed by an OON institution-based pharmacy while he or she is a patient in an emergency department, provider-based clinic, outpatient surgery, or other outpatient setting, *and as a result cannot get his or her medications filled at a network pharmacy.*

**Example 5:** During any Federal disaster declaration or other public health emergency declaration in which Part D enrollees are evacuated or otherwise displaced from their place of residence and cannot reasonably be expected to obtain covered Part D drugs at a network pharmacy. In addition, in circumstances in which normal distribution channels are unavailable, Part D sponsors are expected to liberally apply their OON policies to facilitate access to medications.

If a Part D sponsor offers coverage other than defined standard coverage, it may require enrollees to not only be responsible for any cost-sharing, including a deductible, that would have otherwise applied if a covered Part D drug had been purchased at a network pharmacy, but also any differential between an OON pharmacy's (or provider's) U&C price and the plan allowance.

Given the cost-sharing requirements for defined standard coverage, under which the cost-sharing between the deductible and initial coverage limit must always be 25 percent of the actual cost of a drug at the point of sale (see section 20.3.1), Part D sponsors offering defined standard coverage may not charge enrollees the OON differential described above. Instead, Part D sponsors offering defined standard coverage must simply require their enrollees to pay any deductible or cost-sharing, relative to the OON pharmacy's (or provider's) U&C price. The Part D sponsor will pay the difference between the OON pharmacy's (or provider's) U&C price and the enrollee's cost-sharing.

In either case, enrollees will likely be required to pay more for a covered Part D drug purchased OON than one purchased at a network pharmacy. However, as explained in section 30.1, any OON differential that an enrollee is required to pay for purchases made consistent with a Part D sponsor's OON access policy will count toward his or her TrOOP balance. CMS will pay the OON differential, as applicable, for appropriate OON purchases of covered Part D drugs for individuals receiving the low-income subsidy.

Sponsors may not routinely allow more than a month's supply of medication to be dispensed at an OON pharmacy. In creating their out-of network benefit structure, sponsors may choose one of the following options:

- The plan's network cost-sharing;
- The plan's network cost-sharing plus the differential between the OON billed charge and their network allowable charge (applicable to all benefit structures except defined standard prescription drug coverage);
- The plan's network cost-sharing with a limited days supply (this limited days supply must be greater than or equal to 10 days); *or*
- *The plan's network cost-sharing plus the differential between the OON billed charge and network allowable, with a limited days supply.*

Plans may override the 1 month limit on a case-by-case basis when warranted by extraordinary circumstances.

CMS expects that enrollees obtaining covered Part D drugs at an OON pharmacy consistent with a Part D sponsor's OON access policy may be required to pay the OON pharmacy's U&C price at the point-of-sale, submit a paper claim to the sponsor, and wait for reimbursement from the sponsor as described above.