

20.4 - Premium Requirements

(Rev.6, Issued: 11-07-08, Effective/Implementation: 11-07-08)

Waiver of Uniform Premium Requirement

The uniform premium requirement (see [42 CFR §423.286\(a\)](#)) has been waived for entities offering “800 series” plans under certain circumstances. Under this waiver of the uniform premium requirement, entities offering “800 series” plans serving multiple regions or the nation will be allowed to vary premium and cost sharing between defined market areas within the same employer/union sponsored group plan. This waiver is contingent on the requirement that the market areas (geographic areas) within the employer sponsored group plan with premium variation are based on objective market information demonstrating verifiable differences in drug costs between these market areas. The PDP sponsor must have documentation validating the drug cost variation in these market areas comprising the plan. PDP sponsors will be required to retain all of these documents and must provide access to this documentation for inspection or audit by CMS (or its designee) in accordance with the requirements of [42 CFR 423.504\(d\)](#) and [423.505\(d\)](#) and (e).

Premium Subsidization by Employer/Union Group Health Plan Sponsors

Under its waiver authority, CMS will allow the employer/union sponsoring the PDP flexibility in determining how much of a plan enrollee’s Part D monthly beneficiary premium it will subsidize, subject to the conditions set forth below.

First, an employer/union sponsor can subsidize different amounts for different classes of enrollees in a plan provided such classes are reasonable and based on objective business criteria, such as years of service, date of retirement, business location, job category, and nature of compensation (e.g., salaried vs. hourly). Different classes cannot be based on eligibility for the Part D Low-Income Subsidy. Second, the premium cannot vary for individuals within a given class of enrollees. Third, with regard to the Part D premium, an

employer/union cannot charge an enrollee for prescription drug coverage provided under the PDP more than the sum of his or her monthly beneficiary premium attributable to basic prescription drug coverage and 100% of the monthly beneficiary premium attributable to his or her non-Medicare Part D benefits (if any). The employer/union must pass through any direct subsidy payments received from CMS to reduce the amount that the beneficiary pays (or in those instances where the subscriber to or participant in the employer/union-only plan pays premiums on behalf of a Medicare eligible spouse or dependent, the amount the subscriber or participant pays).

As a condition of CMS providing these particular waivers, PDP sponsors that offer “800 series” PDPs to employers/unions will be required to obtain in writing from such employers/unions their agreement that they will satisfy the requirements of this waiver with respect to the premiums charged to their participants. Also, PDP sponsors will be required to retain these agreements with employers/unions and provide access to these written agreements to CMS (or its designees) in accordance with [42 CFR 423.504](#)(d) and [423.505](#)(d) and (e).

Charging Different Premiums to Different Employer/Union Group Health Plan Sponsors

In addition to the flexibilities outlined above for employers/unions to subsidize different amounts of an enrollee’s premium contribution, “800 series” PDPs have the flexibility to negotiate with and vary the premium charged to particular employer/union group health plan sponsors. This includes the ability to “experience rate” “800 series” employer/union group health plan sponsors in determining these premiums.