

20.12 - Low-Income Subsidies

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For each beneficiary entitled to the low-income subsidy (LIS), CMS pays the beneficiary's premium (up to the plan's low-income premium subsidy amount) and cost sharing obligations minus the beneficiary's cost-sharing responsibilities under the LIS rules. However, for EGWPs there are a number of important additional requirements that must be adhered to concerning both the low-income premium subsidy and the low-income cost-sharing subsidy as set forth below.

20.12.1 - Premium Subsidy

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Low-Income Premium Subsidy Pass Through Requirements

PDP sponsors offering EGWPs are required to comply with the same low-income premium subsidy amount requirements that apply to PDP sponsors offering plans to individual Medicare beneficiaries. See [42 CFR 423.800\(b\)](#). Thus, EGWP Part D sponsors are responsible for identifying employer/union group health plan LIS Part D eligibles and passing through the low-income premium subsidy amount payments made by CMS on behalf of these Part D eligibles to reduce their premium contributions.

Premiums charged (to the beneficiary and/or the employer/union) for a particular “800 series” PDP plan benefit package can vary between different employer/union group health plan sponsors and also among a particular employer group health plan’s Part D eligibles based on legitimate criteria such as years of service. See section 20.4 of this chapter. CMS does not take into account these variations in premiums because CMS does not receive information on these variations during the annual Part D bidding process. Even though premium amounts may vary among and between employer/union group health plan enrollees as described above, the LIS premium subsidy amounts paid by CMS to all EGWPs for all enrollees of a particular “800 series” or Direct Contract plan benefit package do not vary.

As a condition of receiving the waivers and modifications described above, CMS requires that all PDP sponsors offering EGWPs ensure that any low-income premium subsidy amount paid on behalf of an LIS beneficiary accrues first to the benefit of the LIS-eligible employer/union group health plan Part D eligible. Specifically, the low-income premium subsidy must first be used to reduce any portion of the monthly beneficiary premium paid by the Part D eligible (or in those instances where the subscriber to or participant in the employer/union plan pays premiums on behalf of a low-income eligible spouse or dependent, the amount the subscriber or participant pays), with any remaining portion of the premium subsidy amount then applied toward the portion of any monthly premium paid for by the employer/union. However, if the sum of the enrollee’s monthly premium (or the subscriber’s/participant’s monthly premium, if applicable) and the employer/union sponsor’s monthly premiums (i.e., total monthly premium) is less than the monthly low-income premium subsidy amount, any portion of the low-income premium subsidy amount above the total monthly premium must be returned directly to CMS.

Similarly, if there is no monthly premium charged to the beneficiary (or subscriber/participant, if applicable) or employer/union, the entire low-income premium subsidy amount must be returned directly to CMS and cannot be retained by the PDP sponsor, the employer/union, or the employer/union group Part D eligible (or the subscriber/participant, if applicable). If low-income premium subsidy amounts need to be returned to CMS for any employer/union group sponsor enrollees that meet the above criteria,

PDP sponsors are required to immediately contact their CMS account manager for instructions on how to return these amounts.

As stated in section 10.5, PDP sponsors may enter into reinsurance or administrative services arrangements with self-insured (i.e., self-funded) employers/unions. Therefore, instead of paying an insurance premium to the PDP sponsor, the employer/union group typically pays an administrative fee to the PDP sponsor. In these kinds of arrangements, in order to properly administer the low-income premium subsidy requirements outlined above, the PDP sponsor must develop an “illustrative premium.” The “illustrative premium” is equal to the premium the employer/union group plan sponsor would have paid if they had purchased an equivalent product offered by the PDP sponsor. The same rules outlined above would be applied using the illustrative premium in the place of actual premium. The PDP sponsor will be required to develop and apply an “illustrative premium” for each self-insured or self-funded employer/union group plan sponsor.

Note that if the low-income premium subsidy amount for which an enrollee is eligible is less than the portion of the monthly beneficiary premium paid by the Part D eligible (or subscriber/participant, if applicable), then the employer/union should communicate to the Part D eligible (or subscriber/participant) the financial consequences of the low-income subsidy eligible individual enrolling in the employer/union sponsored group health plan as compared to enrolling in another PDP with a monthly beneficiary premium equal to or below the low-income premium subsidy amount.

Ability to Refund Low-Income Premium Subsidy Amounts

In accordance with [42 CFR 423.800](#), where the PDP sponsor offering the EGWP directly bills the employer/union sponsor’s Part D eligibles for their premium contributions, the Part D sponsor is required to reduce up-front the premiums charged to reflect the low-income premium subsidy payments paid to the PDP sponsor by CMS on behalf of these individuals.

If, however, the PDP sponsor does not or cannot directly bill an employer/union group health plan’s Part D eligibles, CMS will waive this up-front reduction requirement and permit the PDP sponsor to directly refund the amount of the low-income premium subsidy to the LIS beneficiary. This refund must meet the above requirements concerning beneficiary premium contributions; specifically, that the amount of the refund not exceed the amount of the monthly premium contribution by the Part D eligible (or subscriber/participant, if applicable) and/or the employer/union sponsor. In addition, the PDP sponsor must refund these amounts to the beneficiary within a reasonable time period. However, under no circumstances may this time period exceed 45 days from the date that the PDP sponsor receives from CMS the low-income premium subsidy amount payment for the low-income subsidy eligible enrollee.

Alternatively, the PDP sponsor and the employer/union may agree that the employer/union will be responsible for reducing up-front the premium contribution required for its Part D eligibles that are eligible for the Low-Income Subsidy. In those instances where the employer/union is not able to reduce up-front the premiums paid by the enrollee (or subscriber/participant, if applicable), the PDP sponsor and the employer/union may agree that the employer/union shall directly refund to the Part D eligible (or subscriber/participant, if applicable) the amount of the low-income premium subsidy up to the monthly premium

contribution previously collected from the Part D eligible (or subscriber/participant, if applicable). The employer/union is required to complete the refund on behalf of the PDP sponsor within 45 days of the date the PDP sponsor receives from CMS the low-income premium subsidy amount payment for the low-income subsidy eligible enrollee.

Note that in some cases the LIS beneficiary may not be the subscriber to or participant in an employer/union sponsored group health plan, but the spouse or dependent of the subscriber/participant. In these instances, where the PDP sponsor or employer/union refunds low-income premium subsidy amounts to LIS enrollees, it may refund such amounts directly to the employer/union group health plan subscriber/participant on behalf of a spouse or dependent who is an LIS-eligible beneficiary.

Requirement to Retain and Provide Documents

As a condition of receiving the waivers and modifications described above and to support the PDP sponsor's compliance with the low-income pass-through requirements, CMS requires that all PDP sponsors offering EGWPs retain documents and/or working papers that support their adherence to these requirements. These include documents evidencing that low-income premium subsidy amounts were properly passed through or refunded by either the PDP sponsor or the employer/union group plan sponsor and documents or working papers evidencing the calculation of "illustrative premium" for each self-insured/self-funded employer/union group plan sponsor. Also, 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).

Requirement to Obtain and Provide Written Agreements With Employer/Union Group Plan Sponsors

As a condition of receiving the waivers and modifications described above, CMS also requires that all PDP sponsors offering EGWPs enter into written agreements with employers/unions which require the employer/union to comply with the above requirements and to retain and provide documents upon request to the PDP sponsor evidencing the employer/union group plan sponsor's adherence to such requirements. This includes the requirement that any low-income premium subsidy amount paid to the employer/union sponsor on behalf an LIS beneficiary is first used to reduce any portion of the monthly PDP premium paid for by the Part D eligible (or subscriber/participant, if applicable). Also, if the employer/union assumes responsibility for either reducing up-front LIS beneficiaries' monthly premiums or refunding to LIS beneficiaries their monthly premium contributions, the PDP sponsor shall ensure that its written agreement with the employer/union also reflects the employer/union sponsor's assumption of these duties consistent with the above requirements (including a provision requiring that any refunds to an LIS beneficiary be completed within 45 days of the date the PDP sponsor receives the low-income premium subsidy amount payment for that beneficiary from CMS). PDP sponsors will be required to retain all of these written agreements with employers/unions and must provide access to these written agreements for inspection or audit by CMS (or its designee) in accordance with [42 CFR 423.504\(d\)](#) and [423.505\(d\)](#) and (e).

CMS Payment of LIS Premium Amounts to All EGWPs

Beginning in 2007, HPMS included a new table that provides all Part D sponsors with the monthly payments they are receiving to subsidize their low-income enrollees' premiums. These same payment amounts are reflected in the electronically generated reports received by all PDP sponsors on a regular basis from CMS. HPMS will continue to have a separate table providing the low-income premiums that beneficiaries pay in the plans. However, HPMS will no longer display the low-income premiums for EGWP enrollees in this table. These amounts will be reflected as "N/A" for all EGWPs because, as stated above, the premiums for beneficiaries enrolled in these plans can vary, and CMS does not collect this information.

Note that beginning in 2007, the following rounding rules were used in determining EGWP LIS premium payment amounts: the base beneficiary premium (\$27.35) was rounded to the nearest \$.10 (\$27.40) and was used as the Direct Contract or "800 series" plan premium. See [42 CFR 423.780\(b\)\(1\)](#). The rounded base beneficiary premium was compared to the unrounded low-income benchmark premium amount for the PDP region. If the low-income benchmark premium amount was less than the rounded base beneficiary premium, the low-income benchmark premium amount was rounded to the nearest \$.10 to derive the low-income premium subsidy amount.

20.12.2 - Cost-Sharing Subsidy

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Benefits provided to EGWP enrollees cannot vary based on the Part D eligible's LIS eligibility. In addition, for an LIS Part D eligible enrollee in an EGWP, CMS will subsidize only those cost-sharing obligations actually imposed on the Part D eligible under the plan, which includes any supplemental prescription drug coverage offered by the employer/union group health plan sponsor, with the supplemental coverage primary to the LIS program.

For example, an "800 series" PDP that provides benefits exclusively to employer X's Part D eligibles has a \$100 deductible. For expenses incurred by a full subsidy eligible individual, CMS' payments to the plan will be determined based on that \$100 deductible (minus any minimal co-pays an individual is responsible for under [42 CFR 423.782\(a\)](#)). CMS payments will not be based on the plan having a \$265 deductible (as reflected in Part D defined standard prescription drug coverage).

As noted above, beginning with the 2008 contract year, PDP sponsors are no longer required to submit Part D EGWP bids. As a result, beginning in 2008, CMS will not pay interim prospective LIS cost sharing amounts to EGWPs because these amounts are directly derived from Part D bids. Instead, as a condition of the waiver of the requirements to submit a Part D bid, CMS will make LICS payments during the normal year-end reconciliation process.