

#### **40.1 - Eligibility Through Application**

**(Rev. 14, Issued: 10-01-18, Effective Date: 10-01-18; Implementation**

**Date: 10-01-18)**

This section describes the *application process to determine* eligibility for the LIS. A beneficiary who believes he or she may be eligible for the LIS--and is not deemed eligible by virtue of being Medicaid, MSP, or SSI eligible---may apply for the subsidy through the Social Security Administration (SSA) or *his/her* State Medicaid agency. The agency (SSA or State Medicaid agency) that makes the subsidy decision is responsible for on-going case activity, including notices, redeterminations of subsidy eligibility, and appeals. If an application is filed with the State Medicaid agency, that agency is responsible for screening the applicant for eligibility for a Medicare Saving Program (MSP) and offering to enroll any applicant who qualifies. If a State Medicaid agency determines LIS eligibility, the applicant would be subject to state reporting requirements, which might result in different timeframes for reduction or termination of eligibility than under the process administered by SSA.

*State Medicaid agencies, at the request of the applicant, must make subsidy eligibility determinations using the same financial rules used by SSA but apply the case processing standards (including time frames for making decisions and notifying applicants) that the State uses for its Medicaid cases. State LIS applications are available at State Medicaid agencies.*

*The Guidance to States on the Low-Income Subsidy may be found at:*

*<https://www.cms.gov/Medicare/Eligibility-and-Enrollment/LowIncSubMedicarePresCov/EligibilityforLowIncomeSubsidy.html>*

*For effective CY2019 SEP enrollment Guidance*  
<https://www.cms.gov/Medicare/Eligibility-and-Enrollment/MedicarePresDrugEligEnrol/index.html>

Eligibility determinations made by SSA are made in accordance with requirements set forth by the Commissioner of Social Security (see 42 CFR § 423.774). SSA and the states notify CMS of individuals whom they have determined to be eligible for the LIS and CMS in turn provides the subsidy information, including effective date and level of subsidy, to the Part D plan in which the beneficiary enrolls. (For details on how CMS communicates LIS eligibility to Part D sponsors, see section 70 of this chapter.) The agency (SSA or State Medicaid agency) that makes the subsidy determination is responsible for all on-going case activity, including notices, redeterminations of subsidy eligibility, and appeals.

*The surviving spouse of a subsidy-eligible couple receive an extension of the effective period for a determination or redetermination through the date that is one (1) year after the date on which the next redetermination after the death of a spouse would have occurred. Subsequently, the subsidy eligible widow/widower is to be determined or redetermined, as appropriate, for the subsidy on the same basis as other subsidy-eligible beneficiaries. States must, therefore, adjust their redetermination schedule when the death of a spouse is reported.*

For LIS subsidy applications under this section to be considered complete, applicants (or personal representatives applying on the individual's behalf) are required to:

- Complete all required elements of the application;
- Provide any requested statements from financial institutions to support information in the application; and
- Certify, under penalty of perjury or similar sanction for false statements, as to the accuracy of the information provided on the application form.

SSA verifies most information through data matches with existing SSA, Internal Revenue Service and other government files. The agency (SSA or State Medicaid agency) that makes the subsidy decision may request additional documentation if there are discrepancies between the data matches and the attestations on the application. If the individual, or his or her personal representative, files an application with the State or SSA seeking subsidy eligibility for any portion of an eligibility period covered by an earlier application, the later application is void if the individual has received a subsidy approval on that earlier application from the State or SSA.

*The current open-ended Special Election Period for dual-eligible and Low Income Subsidy (LIS) beneficiaries is being limited beginning with CY2019. As long as the beneficiary has not been flagged as “at-risk” by pharmacy*

*management programs, such individuals will be eligible to change plans once per quarter in each of the first three quarters.*

- Calling 1-800-MEDICARE;
- Filing a request with the On-Line Enrollment Center at [www.medicare.gov](http://www.medicare.gov) ; or
- Calling the Part D sponsor directly.

#### **40.1.1- Financial Standards for Low-Income Subsidy (LIS) Applications (Rev. 7, Issued: 11-21-08; Effective/Implementation: 11-21-08)**

To qualify for the LIS, beneficiaries must have resources and income no greater than the resource and income limits established by the Medicare Modernization Act (MMA). The financial standards applicable to LIS applications are those in effect on the date of application. When determining whether a beneficiary qualifies for LIS, \$1,500 in resources per person (applicant and spouse) are excluded from consideration if the beneficiary indicates that they expect to use some of their resources for burial expenses.

CMS is required by law to update the Part D income and resource limits each year. Resource limits for the next calendar year are updated based on the September Consumer Price Index (CPI) Resource limits (see <https://secure.ssa.gov/apps10/poms.nsf/lnx/0603030025> for the current year resource limits). Early each year, the U.S. Department of Health and Human Services updates that income level equivalent to 100% of the Federal Poverty Level (FPL) for that same calendar year (see <https://aspe.hhs.gov/poverty-guidelines>) . CMS calculates the corresponding FPL (income) levels necessary for qualifying for the LIS benefit, i.e., 135%, 140%, 145% and 150%, and notifies Part D sponsors of the updated levels via an HPMS memo by the end of January or early February. The new FPL guidelines are retroactive to January 1 of that year.

#### **40.1.2 Effective Date of Initial Determinations**

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