DEPARTMENT OF HEALTH & HUMAN SERVICES
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MEDICARE ENROLLMENT & APPEALS GROUP

DATE: June 9, 2022

TO: All Medicare Advantage Organizations (MAOs), Prescription Drug Plans (PDPs), Cost Plans, Special Needs Plans (SNPs) and Medicare-Medicaid Plans (MMPs)

FROM: Jerry Mulcahy
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SUBJECT: **Update Announcement of June 26, 2022 Software Release** – Disenrollment for Individuals Who Are Incarcerated and Not Lawfully Present in the United States[1]

On November 2, 2021 CMS issued two HPMS memos detailing CMS policy as well as required systems changes regarding enrollment and disenrollment for individuals who are incarcerated or not lawfully present in the United States. That memo also announced that CMS would do a subsequent software release related to these changes in June 2022. On June 26, 2022 CMS plans to disenroll incarcerated or not lawfully present individuals in accordance with eligibility requirements codified in 42 CFR §§ 417.422, 422.50, and 423.30. This memo details information about the upcoming June 26th software release and addresses some questions received after the release of the November 2, 2021 memos titled:

- **Announcement of June 26, 2022 Software Release -** Disenrollment for Individuals Who Are Incarcerated in the United States
- **Announcement of June 26, 2022 Software Release -** Disenrollment for Individuals Who Are Not Lawfully Present in the United States

This memo is organized in three main sections:

1. System Changes for Incarcerated and Not Lawfully Present Individuals

[1] The contents of this document do not have the force and effect of law and are not meant to bind the public in any way, unless specifically incorporated into a contract. This document is intended only to provide clarity to the public regarding existing requirements under the law, as well as information and instructions regarding Department procedures.

2. Updated MARx User Interface (UI) screens- Incarceration (Attachment A)
3. Updated MARx User Interface (UI) screens- Not Lawfully Present (Attachment B)

For system related questions please contact the MAPD Help desk at 1-800-927-8069 or email mapdhelp@cms.hhs.gov. Please direct enrollment policy questions to https://enrollment.lmi.org. MMP related inquiries should be directed to MMCOEnrollment@cms.hhs.gov with a copy to your Contract Management Team.

Systems Changes for Incarcerated and Not Lawfully Present Individuals

Plans are encouraged to reference the following Health Plan Management System (HPMS) Memoranda issued on November 2, 2021 for important information and a detailed summary of applicable policy, beneficiary notifications, system updates, and MARx disenrollment actions due to periods of not lawful present status and incarcerated individuals:

- **Announcement of June 26, 2022 Software Release -** Disenrollment for Individuals Who Are Incarcerated in the United States
- **Announcement of June 26, 2022 Software Release -** Disenrollment for Individuals Who Are Not Lawfully Present in the United States

Plans are reminded that individuals who are incarcerated or not lawfully present are ineligible for enrollment into a Part D Plan and, therefore, according to 42 CFR 423.46, are not subject to the late enrollment penalty based on the months in which they were ineligible to be enrolled. However, once an individual regains Part D eligibility, the individual would be subject to the late enrollment penalty if they do not enroll in a Part D Plan or obtain other creditable coverage within 63 days.

I. CMS Initiated Involuntary Disenrollment and Re-Enrollment Transactions for Incarcerated Individuals:

One–time automatic involuntary disenrollments and re-enrollments happening on June 26, 2022:

MARx will act to automatically involuntarily disenroll incarcerated individuals with a Medicare Plan ineligibility period that overlaps the individual's enrollment in a Plan. For the years 2019 through 2022, the disenrollments will be effectuated for enrollment periods that overlap either an "open" (i.e. – start date with no end date) or "closed" (i.e. – start date and end date) incarceration period. CMS will consider taking disenrollment action for periods prior to 2019 at a future date. If CMS decides to take additional action, more information will be provided in a future HPMS memorandum. The MARx UI will still display periods of incarceration that are prior to 2019; however, no disenrollment or payment transactions will occur for these periods. CMS will notify Plans of this action through the Special Transaction Reply Report (STRR) using the new Transaction Reply Code (TRC) 346 (Disenrollment due to Confirmed Incarceration). The effective date of these disenrollments will be the first of the month after the incarceration start date. These disenrollments will receive a Disenrollment Reason Code (DRC) of 70 (Confirmed Incarceration). CMS will begin populating the MARx automatic disenrollment for incarceration with an 'S'

election type code and a Special Election Period (SEP) reason code of 00 "SYS GENERATED ENRLMT/DSENRLMT".

Additionally, as part of the **one-time** process outlined in the aforementioned November 2, 2021 HPMS memoranda, MARx will automatically attempt to re-enroll the beneficiary back into the Plan the first of the month after the beneficiary's incarceration has ended. Re-enrollments will not be processed for any incarceration periods that close after June 30, 2022. Example 1, a beneficiary is enrolled in a Plan effective 1/1/2020 with no end date. CMS receives notification of a retroactive period of incarceration beginning 3/1/2020 and ending 1/31/2022. MARx will disenroll the beneficiary effective 4/1/2020. MARx will attempt to re-enroll the beneficiary back into the Plan effective 2/1/2022. Example 2, a beneficiary is enrolled in a Plan effective 1/1/2020 through 8/31/2021. CMS receives notification of a retroactive period of incarceration beginning 3/1/2020 and ending 7/31/2021. MARx will disenroll the beneficiary effective 4/1/2020. MARx will attempt to re-enroll the beneficiary back into the Plan effective 8/1/2021. The new TRC 347 (Reenrollment due to Closed Incarceration Period) will be provided on the STRR for the re-enrollment. MARx automatic re-enrollments for incarceration completed during this one-time process will be populated with an 'S' election type code and an SEP reason code of 00 "SYS GENERATED ENRLMT/DSENRLMT". The TRCs for this one-time process will be sent to the plans on a STRR on June 28, 2022. Plans should look at their STRR or the MARx UI in order to see the disenrollment effective date. The one-time process will include the Cleanup ID of MEPS90 on the STRR, the Monthly Membership Report (MMR) and the Late Enrollment Penalty Data File (LEPD).

Automatic involuntary disenrollments after June 26, 2022:

MARx will act to automatically involuntarily disenroll incarcerated individuals with a Medicare Plan ineligibility period that overlaps the individual's enrollment in a Plan. The disenrollments will be effectuated for enrollment periods that overlap either an "open" (i.e. – start date with no end date) or "closed" (i.e. – start date and end date) incarceration periods. CMS will notify Plans of this action through the Daily Transaction Reply Report (DTRR) using the new Transaction Reply Code (TRC) 346 (Disenrollment due to Confirmed Incarceration). The effective date of these disenrollments will be the first of the month after the incarceration start date. These disenrollments will receive a Disenrollment Reason Code (DRC) of 70 (Confirmed Incarceration). CMS will begin populating the MARx automatic disenrollment for incarceration with an 'S' election type code and a Special Election Period (SEP) reason code of 00 "SYS GENERATED ENRLMT/DSENRLMT".

For incarceration periods received by CMS after the June 26, 2022 implementation, MARx **will not be** re-enrolling the beneficiary back into the Plan they were in after the beneficiary's incarceration has ended.

II. Plan Submitted Transactions for Incarcerated Individuals:

A. Plan Enrollment Transactions

For new enrollments, Plans need to first check MARx to see if the beneficiary is no longer incarcerated. If the beneficiary has an open-ended period of incarceration, the Plan should instruct the beneficiary to contact 1-800-MEDICARE. The 1-800-MEDICARE Team will work

with the Social Security Administration (SSA) to have SSA's system updated to reflect the beneficiary is no longer incarcerated. The incarceration data will then be sent from SSA to the MARx system monthly. Once MARx is updated to reflect a closed period of incarceration, and the previously incarcerated individual regains eligibility for enrollment in a Medicare Plan, the individual may request enrollment in a Medicare Advantage (MA) or Part D Plan using the existing SEP for Change in Residence (42 CFR §§ 422.62(b)(16), 423.38(c)(21)). The change of residence is associated with MARx election type code 'V'.

Plan submitted enrollments for a beneficiary with an effective date that falls within a Medicare Plan ineligibility period will be rejected with a new TRC 345 (Enrollment Rejected – Confirmed Incarceration). If the enrollment submission begins prior to a Medicare Plan ineligibility period and overlaps the incarceration period, the accepted enrollment will also include a disenrollment date to the end of the day prior to the start of the Medicare Plan ineligibility period. When the enrollment is entered and MARx automatically adds an enrollment end date in addition to the disenrollment transaction reply code (TRC 018 Automatic Disenrollment), the Plan will receive the new informational TRC 346 (Disenrollment due to Confirmed Incarceration). These disenrollments will receive a Disenrollment Reason Code (DRC) of 70 (Confirmed Incarceration).

B. Plan Disenrollment Transactions

If a Plan learns from a source other than CMS that a beneficiary may be incarcerated, the Plan must investigate to determine whether the individual is currently incarcerated and therefore does not reside in the geographic service area of the Plan, and, if confirmed, involuntarily disenroll the member (42 CFR §§ 417.460(f)(1)(i)(A), 422.74(d)(4)(v)(A) and 423.44(d)(5)(iii)). If the Plan confirms an individual's current incarceration status but does not obtain the start date of the current incarceration, the Plan must disenroll the individual prospectively for the first of the month following the date on which the current incarceration was confirmed. If the Plan confirms an individual's current incarceration status as well as the start date of the current incarceration, the Plan must disenroll the individual for the first of the month following the start date of the incarceration. If that disenrollment effective date is outside the range of effective dates allowed by MARx (based on the current calendar month), the Plan must submit the retroactive disenrollment request to the CMS Retroactive Processing Contractor. For involuntary disenrollment based on incarcerated status, Plans should enter Disenrollment Reason Code 07 (For Cause) on the MARx M212- Enrollment Update Screen, followed by disenrollment election type code 'V' (Permanent Change in Residence Address) on the MARx M230- Additional Update Enrollment Information Screen.

III. CMS Initiated Involuntary Disenrollment Transactions for Not Lawfully Present Individuals:

Effective June 26, 2022 MARx will automatically involuntarily disenroll not lawfully present individuals with a Medicare Plan ineligibility period that overlaps the individual's enrollment in a Plan. There are beneficiaries that currently have an open Not Lawfully Present period in the CMS

database. When this change is implemented on June 26, 2022, CMS will take a **one-time** action to identify all the beneficiaries that have an open Not Lawfully Present period that overlaps a current enrollment. MARx will then process a disenrollment transaction for individuals from June 26, 2022 onwards based on the Plan Notification Date for non-future periods only. Individuals disenrolled on June 26, 2022 will have an effective date of July 1, 2022, the month after the Plan Notification Date. If the Not Lawfully Present period is for a future timeframe, MARx will disenroll the beneficiary effective the start date of the Medicare Plan Ineligibility Period. For example, a beneficiary with a Medicare Plan Ineligibility Period Start date of 8/1/2023 will have an 8/1/2023 disenrollment effective date. The TRCs for this one-time process will be sent to the plans on a STRR on June 28, 2022. Plans should look at their STRR or the MARx UI in order to see the disenrollment effective date. The one-time process will include the Cleanup ID of MEPS90 on the STRR, the Monthly Membership Report (MMR) and the Late Enrollment Penalty Data File (LEPD). The MARx UI will display periods of Not Lawful Presence that are in the CMS database; however, no disenrollment or payment transactions will occur for retroactive periods.

IV. Plan Submitted Transactions for Not Lawfully Present Individuals:

A. Plan Enrollment Transactions

For new enrollments, Plans need to first check MARx to see if the beneficiary has an open-ended period of not lawfully present status. If the beneficiary has an open-ended period of not lawfully present status, the Plan should instruct the beneficiary to contact 1-800-MEDICARE. The 1-800-MEDICARE Team will work with SSA to have SSA systems updated to reflect the beneficiary's attainment of legal status. SSA will then send this data to MARx to reflect the beneficiary's legal status has been updated to reflect that the individual is a non-U.S. citizen who is lawfully present in the United States. The Not Lawfully Present data will then be sent from SSA to the MARx system daily. The beneficiary may request enrollment in an MA or Part D Plan using the SEP for non-U.S.citizens who become lawfully present, which begins the month the individual attains lawful presence status and ends the earlier of when the individual makes an enrollment election or two (2) calendar months after the month the individual attains lawful presence status. (42 CFR §§ 422.62(b)(16), 423.38(c)(21))

For applicants determined eligible for the *SEP for Non-U.S. Citizens who become Lawfully Present*, Plans will use SEP reason code 37 (Lawfully Present) under the 'General' SEP reason code group. For additional information about the SEP reason codes, please refer to Table 3-8 Election Type "S – Special Election Period (SEP)" Reason Code Table in the MAPD Plan Communication Guide (PCUG).

Plan submitted enrollments for a beneficiary with an effective date that falls within a Medicare Plan ineligibility period will be rejected with a new TRC 348 (Enrollment Rejected – Not Lawfully Present Period). If a submitted enrollment begins prior to a Medicare Plan ineligibility period and overlaps the period of not lawfully present status, the accepted enrollment will also include a disenrollment date prior to the start of the Medicare Plan ineligibility period. When the enrollment is entered and MARx automatically enters an enters an enrollment end date , in addition to the

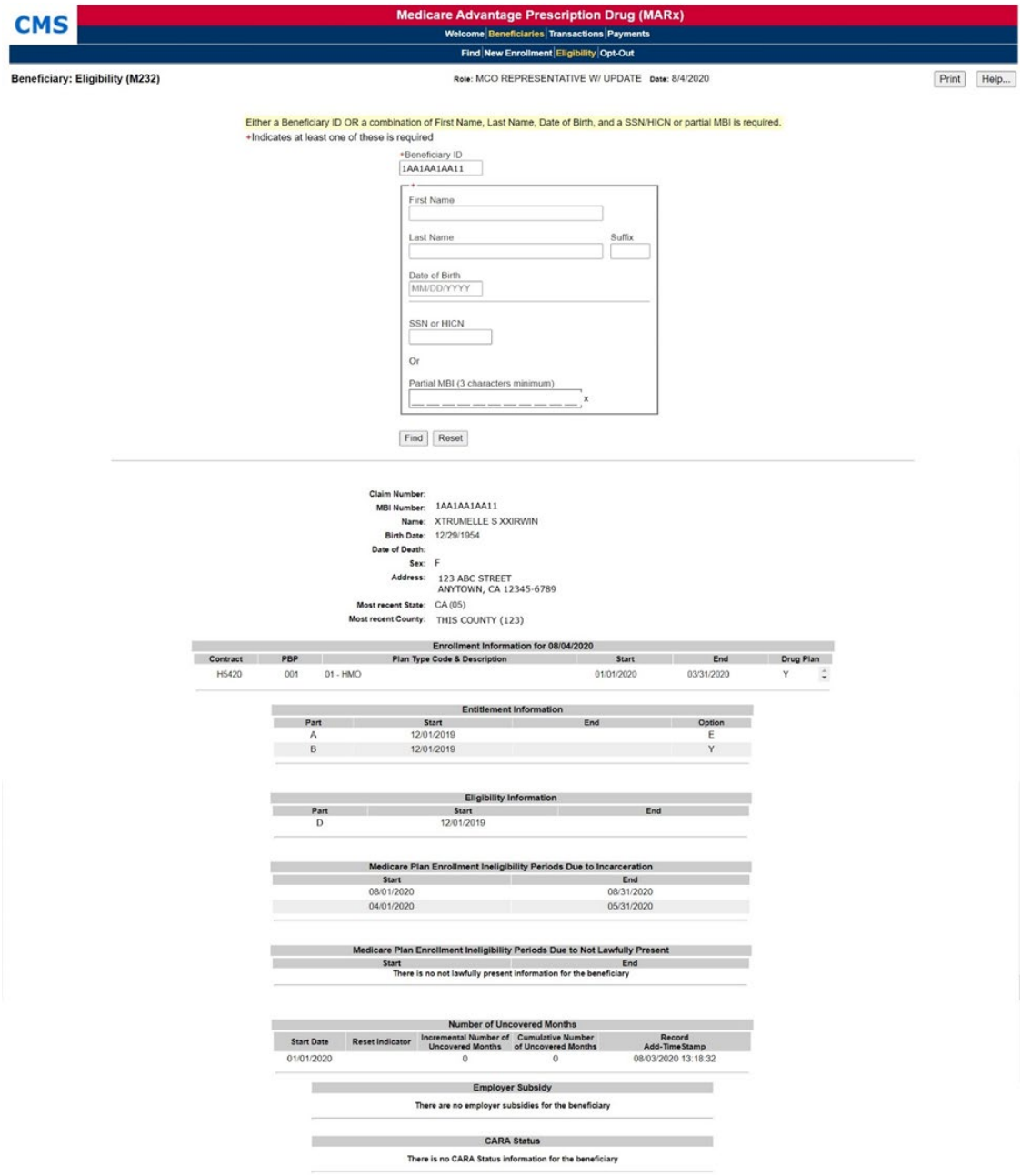
disenrollment reply code (TRC 018 Automatic disenrollment), the Plan will receive the new informational TRC 349 (Disenrollment Due to Not Lawfully Present Period). These disenrollments will receive a Disenrollment Reason Code (DRC) of 71 (Not Lawfully Present). CMS will begin populating the MARx automatic disenrollment for not lawfully presence with a 'S' election type code and an SEP reason code of 00 "SYS GENERATED ENRLMT/DSENRLMT".

B. Plan Disenrollment Transactions

Per CMS enrollment policy, plans are not permitted to disenroll a beneficiary based on a status of not lawfully present in the U.S. CMS will automatically process the involuntary disenrollment for individuals with an open period of not lawfully present status.

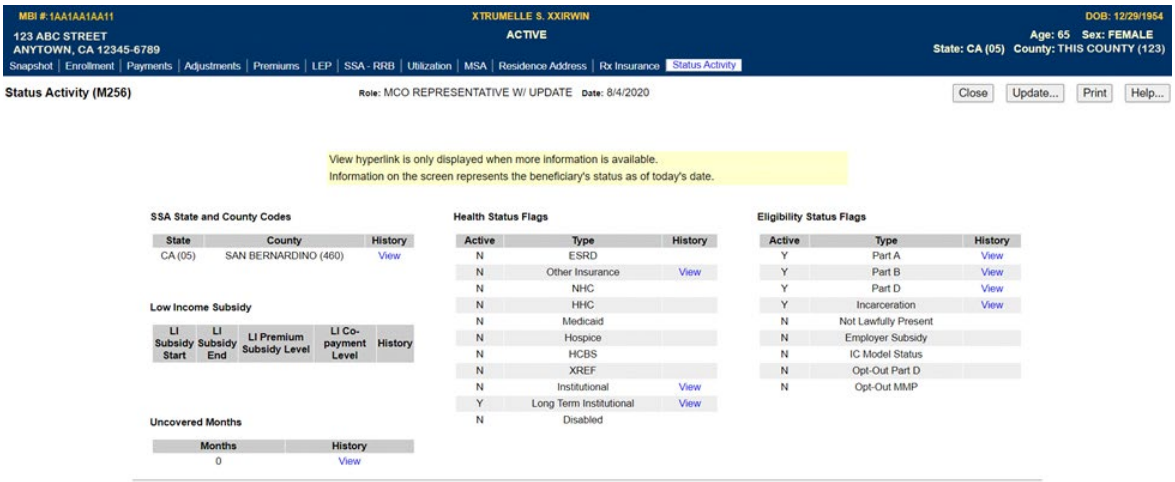
Attachment A: Updated MARx User Interface (UI) screens- Incarceration

Eligibility Screen (M232)



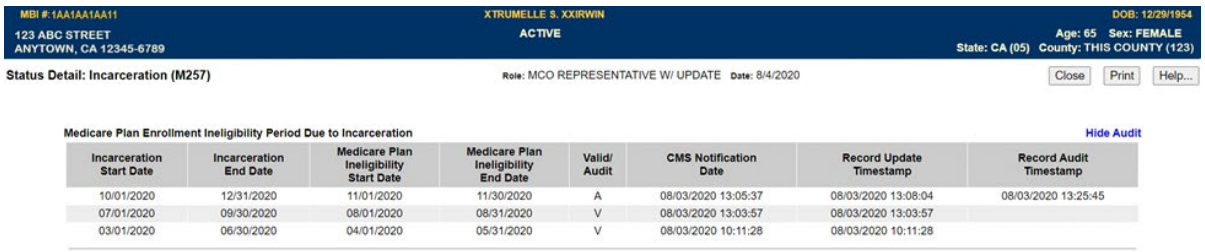
The Medicare Plan Enrollment Ineligibility Due to Incarceration start date is the first day the beneficiary is ineligible to enroll in a plan. The Medicare Plan Enrollment Ineligibility Due to Incarceration end date is the last day the beneficiary is ineligible to enroll in a plan.

Status Activity (M256)



If the Active value is a "Y", the beneficiary has a current period of incarceration. If the Active value is a "N", either the beneficiary does not have any period of incarceration or the beneficiary has a historical incarceration period.

Status Detail: Incarceration (M257)

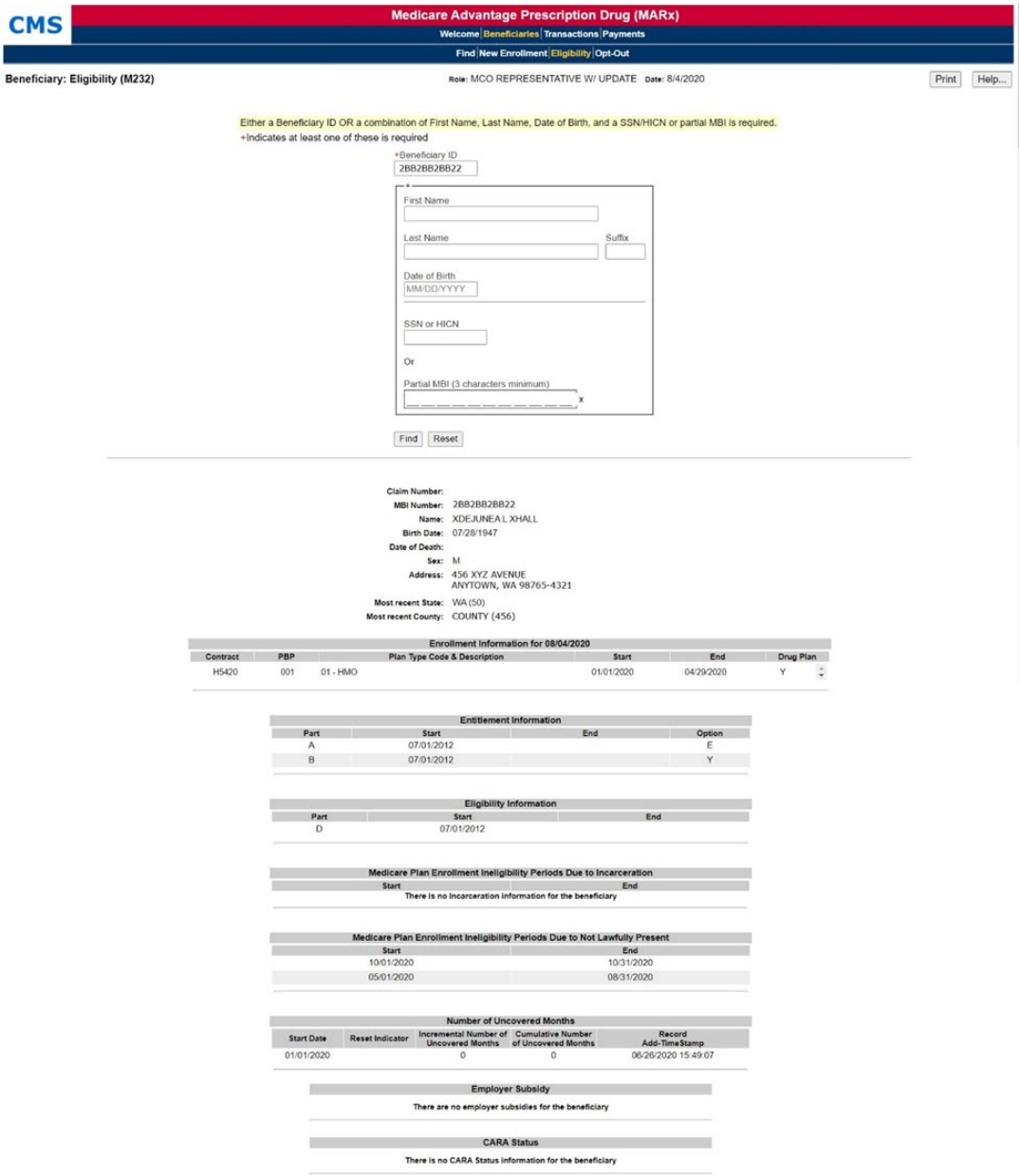


Field Definitions:

Incarceration Start Date – the first day the beneficiary was incarcerated.
Incarceration End Date – the last day the beneficiary was incarcerated.
Medicare Plan Ineligibility Start Date – the first day the beneficiary is ineligible to be enrolled in a Plan.
Medicare Plan Ineligibility End Date – the last day the beneficiary is ineligible to be enrolled in a Plan.
Valid/Audit – V is a valid record; A is an audited record.
CMS Notification Date – the day and time CMS received the incarceration period.
CMS Record Update Timestamp - the day and time the incarceration period was last updated.
Record Audit Timestamp – the day and time the incarceration period was removed.

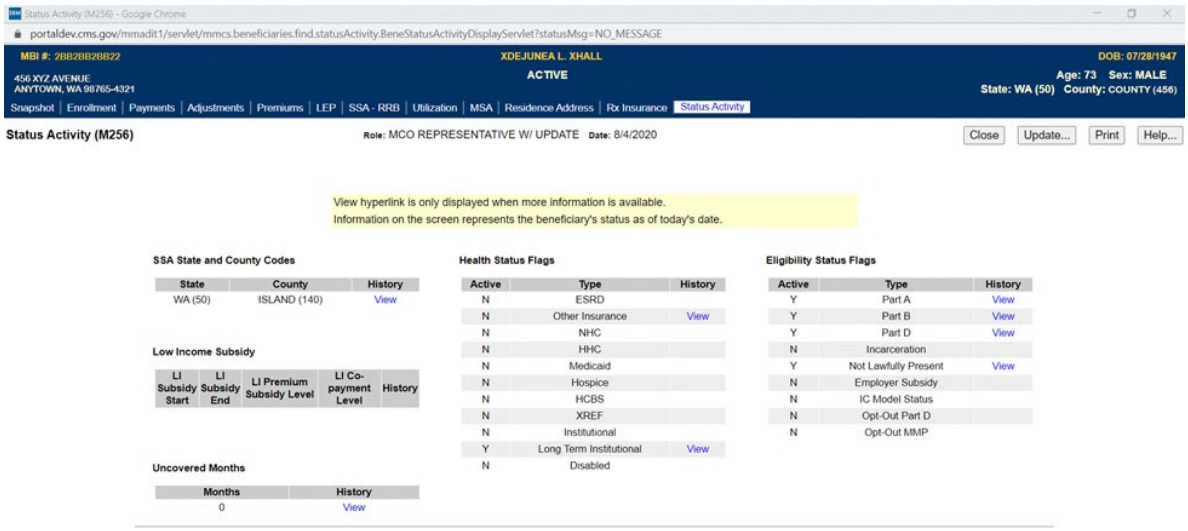
Attachment B: Updated MARx User Interface (UI) screens- Not Lawfully Present

Eligibility Screen (M232)



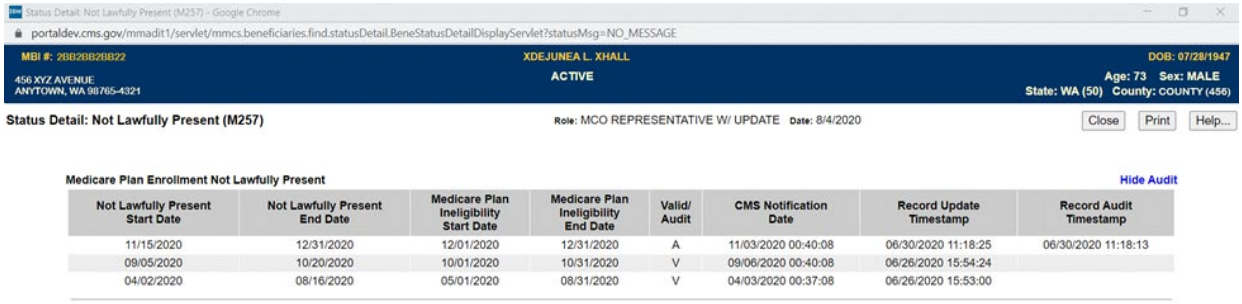
The Medicare Plan Enrollment Ineligibility due to not lawfully present start date is the first day the beneficiary is ineligible to enroll in a plan. The Medicare Plan Enrollment Ineligibility due to not lawfully present end date is the last day the beneficiary is ineligible to enroll in a plan.

Status Activity (M256)



If the Active value is a "Y", the beneficiary has a current period of not lawfully present. If the Active value is a "N", the beneficiary either does not have any period of not lawfully present or has a not lawfully present historical period.

Status Detail: Not Lawfully Present (M257)



Field Definitions:

Not Lawfully Present Start Date – the first day the beneficiary was not lawfully present.
Not Lawfully Present End Date – the last day the beneficiary was not lawfully present.
Medicare Plan Ineligibility Start Date – the first day the beneficiary is ineligible to be enrolled in a Plan.
Medicare Plan Ineligibility End Date – the last day the beneficiary is ineligible to be enrolled in a Plan.
Valid/Audit – V is a valid record; A is an audited record.
CMS Notification Date – the day and time CMS received the not lawfully present period.
CMS Record Update Timestamp - the day and time the not lawfully present period was last updated.
Record Audit Timestamp – the day and time the not lawfully present period was removed.