



August 3, 2023

Dr. Meena Seshamani
Deputy Administrator and Director, Center for Medicare
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244-1850

**Re: CMS-10453–Medicare Advantage and Prescription Drug Programs; Part C and Part D
Explanation of Benefits
88 Fed. Reg. 37066 (June 6, 2023)**

Dear Deputy Administrator Seshamani:

The American Cancer Society Cancer Action Network (ACS CAN) appreciates the opportunity to comment on the collection request related to the Medicare Advantage (MA) and Prescription Drug Programs (PDP): Part C and Part D Explanation of Benefits. ACS CAN is making cancer a top priority for public officials and candidates at the federal, state, and local levels. ACS CAN empowers advocates across the country to make their voices heard and influence evidence-based public policy change, as well as legislative and regulatory solutions that will reduce the cancer burden. As the American Cancer Society's nonprofit, nonpartisan advocacy affiliate, ACS CAN is more determined than ever to end cancer as we know it, for everyone.

As Congress debated the *Inflation Reduction Act* (IRA) we strongly advocated for both an annual cap on total Part D out-of-pocket costs and a mechanism that would allow an enrollee the option to pay the required cost-sharing in capped monthly installments. We are pleased the proposed changes to the Part D EOBs reflect the imposition of the Part D cap, beginning in plan year (PY) 2024. As CMS begins to implement the provision of the IRA that allows beneficiaries the option to smooth their cost sharing over the course of the plan year, we strongly encourage CMS to conduct robust education and outreach to inform beneficiaries of this new and important consumer benefit.

To that end, we strongly encourage CMS to include in the Part D EOB information related to the maximum monthly cap described in section 1860D-2(b)(2)(E)(iv). We appreciate CMS noting that it will "conduct extensive stakeholder engagement and consumer testing for communications"¹ related to the maximum monthly cap. We encourage CMS to focus group test whether the term "maximum monthly cap" resonates with consumers or whether a better descriptive term should be used in enrollee educational materials. Once an appropriate descriptive term has been identified, we would encourage CMS to conduct education and outreach to ensure that all stakeholders are using the same term so as to avoid enrollee confusion.

We recognize that the option to elect a maximum monthly cap has never before been implemented in the Medicare program. Enrollees will need clear and concise information educating them about their option to elect a maximum monthly cap. We strongly encourage CMS to use the EOB (1) as a mechanism to inform Part D enrollees about their opportunity to elect to have their monthly prescription drug costs capped, and (2) to inform beneficiaries who have already elected to have their monthly prescription drug costs capped of their remaining financial obligations.

¹ Centers for Medicare & Medicaid Services. Supporting Statement A: The Medicare Advantage and Prescription Drug Programs: Part C and Part D Explanation of Benefits (CMS-10452, OMB 0938-1228), available at <https://www.cms.gov/regulations-and-guidance/legislation/paperworkreductionactof1995/pralisting/1719218337/cms-10453>.

EOB as an information tool: We encourage CMS to require Part D plans to include information on the first page of the EOB regarding the availability of enrolling in the maximum monthly cap. This could be done by inserting a new (fourth) bullet under the “Your Medicare Part D Explanation of Benefits (EOB)” which reads:

- **You have the option to cap your monthly prescription drug costs.**

You have the option to spread the cost of your prescription drugs out through a monthly cap. If you have questions, or would like more information, please call us at the number below.

EOB for those who have elected to enroll in a maximum monthly cap: Enrollees who elect the maximum monthly cap but who are under the annual out-of-pocket cap will need a notice to remind them of their cost sharing obligations and provide notice these costs could increase if the enrollee fills subsequent prescriptions. We recommend that CMS require Part D plans to issue an EOB with information providing the enrollee information regarding their monthly payment amounts. This chart will be different depending on whether or not the enrollee has met their maximum monthly cap within the first month.

Enrollees who hit their Maximum Monthly Cap in first month/initial prescription: Enrollees who meet their annual out-of-pocket cap with their initial prescription drug(s)² should receive a notice regarding their remaining cost sharing obligations for the remainder of the year with specific information that their cost sharing obligations will not increase over the course of the year. We recommend that CMS require Part D plans include the following in the EOB:

You have elected to cap your prescription drug costs.

You have elected to enroll in a program that allows you to pay a maximum monthly cap for your prescription drug costs. You will pay [maximum monthly amount] for the rest of the plan year. This amount will not change regardless of whether you continue to take the same prescription drugs or even if you take new prescription drugs. Your monthly prescription drug costs will not exceed [maximum monthly cap amount].

Enrollees who do not hit their Maximum Monthly Cap in the first month/initial prescription: Enrollees who elect the maximum monthly cap but who are under the annual out-of-pocket cap will need a notice to remind them of their cost sharing obligations and provide notice these costs could increase if the enrollee fills subsequent prescriptions. We recommend that CMS require Part D plans to include the following in the EOB:

You have elected to cap your monthly prescription drug costs.

You have elected to enroll in a program that caps your prescription drug costs per month. If you take no other prescription drugs, you will pay [maximum monthly cap amount] monthly for the rest of the plan year, regardless of whether you continue to take the same prescription drugs. If you take additional prescription drugs, this amount may increase.

² Enrollees may hit the annual out-of-pocket cap with one prescription drug or they may hit the cap as a result of multiple prescription drugs filled at the same time.

CONCLUSION

Thank you for the opportunity to comment on the collection request related to the Medicare Advantage (MA) and Prescription Drug Programs (PDP): Part C and Part D Explanation of Benefits. If you have any questions, please feel free to contact me or have your staff contact Anna Schwamlein Howard, Policy Principal, Access and Quality of Care at Anna.Howard@cancer.org.

Sincerely,

A handwritten signature in blue ink that reads "Kirsten Sloan". The signature is written in a cursive style and is positioned above a light yellow rectangular highlight.

Kirsten Sloan
Managing Director, Public Policy
American Cancer Society Cancer Action Network