



July 31st, 2023

Sent Electronically

Chiquita Brooks-LaSure
Administrator, Center for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

RE: Facilitating point-of-sale enrollment in the Medicare Part D maximum monthly out-of-pocket cap option, as enacted in the Inflation Reduction Act

Dear Administrator Brooks-LaSure,

As organizations that represent millions of people living with severe, chronic, and in some cases life-threatening conditions, we are writing to provide our recommendations on facilitating beneficiary enrollment, at the point of sale, in the maximum monthly cap enacted in Section 11202 of the Inflation Reduction Act.

The annual \$2,000 out-of-pocket cap and the maximum monthly cap protections will greatly help beneficiaries access their medication and avoid financial distress, removing a significant barrier that has contributed to inequity and limited the ability of beneficiaries to access necessary care. Critically, CMS's implementation of these new patient protections will play a key role in determining the extent to which all Part D beneficiaries have access to the smoothing option when they need it.

Key among the mechanisms needed to successfully implement the maximum monthly cap benefit is a clear and beneficiary-friendly enrollment process. Beneficiaries must be able to enroll in the maximum monthly cap option during annual plan selection and at any point during the plan year. Critically, patients must have the option to enroll at the pharmacy point-of-sale, if they have yet to enroll and would otherwise face high out-of-pocket costs. To ensure every patient has the opportunity to benefit from this new protection, the Centers for Medicare & Medicaid Services (CMS) must set minimum standards for plans to follow to facilitate point-of-sale enrollment.

We recommend that CMS implement standards for point-of-sale enrollment in the maximum monthly cap option similar to the current Best Available Evidence (BAE) policy adopted for the Part D Low-income Subsidy (LIS) program. Under CMS's BAE policy, Part D sponsors and pharmacies must provide access to Part D drugs at no greater than the correct LIS cost-sharing level when presented with evidence of LIS eligibility, even if the sponsor's and CMS' systems do not yet reflect that eligibility.¹ Upon being presented with evidence of LIS subsidy status, Part D plan sponsors are then required to update their systems within 48-72 hours.

Our organizations believe a similar approach should be taken in implementing point-of-sale enrollment in the maximum monthly out-of-pocket cap. Patients should be able to opt in at the pharmacy counter, or other point-of-sale location, and immediately get the benefits of enrollment—mirroring how LIS-eligible individuals do not have to pay out-of-pocket to access the relevant LIS cost-sharing levels before they have been formally enrolled in the LIS program. As CMS recently detailed in a technical memorandum on calculating the monthly cap, Part D enrollees that opt into smoothing will pay \$0 at the pharmacy and be billed by their Part D plan sponsor.² This approach should extend to patients who opt-in at the pharmacy counter, as without immediate access, patients may still need to delay or forego their medications. Similarly, following a point-of-sale enrollment, CMS should require Part D plans to update their systems within 48-72 hours to reflect the beneficiary's enrollment in the smoothing option.

We look forward to working together with your office on the successful implementation of Section 11202 and welcome the opportunity to meet and discuss our recommendations further. To arrange a meeting, please contact to discuss this recommendation, please contact Beverly Hart at Beverly.Hart@lls.org.

Sincerely,

The Leukemia & Lymphoma Society
Epilepsy Foundation
The PAN Foundation
Alliance for Aging Research
Lupus Foundation of America
American Cancer Society Cancer Action Network
Cystic Fibrosis
National MS Society
National Health Council
Arthritis Foundation

¹ Centers for Medicare & Medicaid Services, Best Available Evidence (BAE), https://www.cms.gov/medicare/prescription-drug-coverage/prescriptiondrugcovcontra/best_available_evidence_policy

² Centers for Medicare & Medicaid Services, Technical Memorandum on the Calculation of the Maximum Monthly Cap on CostSharing Payments Under Prescription Drug Plans, <https://www.cms.gov/files/document/monthly-cap-cost-sharing-technical-memo-july-2023.pdf>