



Advocates' Guide for 2009

Rights of Beneficiaries To Transition Supplies of Medications Under Medicare Part D

Transition Policy: A Critical Protection.

The Centers for Medicare and Medicaid Services (CMS) requires that sponsors offering prescription drug coverage under Medicare Part D provide beneficiaries with access to transition supplies of needed medications to protect beneficiaries from disruption and give them time to move over to a drug that is on a plan's formulary, file a formulary exception request or, particularly for LIS recipients, enroll in a different plan.

In early 2009, the rules governing transition supplies are critical to protecting low income beneficiaries from disruption at the pharmacy counter. This fall, 1.6 million low income Medicare beneficiaries were automatically reassigned to new plans, which may or may not cover their medications. With such large numbers moving to new plans, the protections afforded by transition policies mandated by CMS are likely to impact many people. In addition, all plans change their formularies each year, so even beneficiaries who remain in the same plan may find that their plan no longer covers their medications or has newly imposed utilization management requirements.

To assist advocates in addressing transition issues, this paper sets out the CMS minimum requirements for all plans. Some plans' transition policies may offer protections that go beyond the CMS minimum requirements; each plan's policy is required to be posted on its website.

CMS Minimum Transition Requirements

CMS requires Part D plans to establish transition policies to ensure that beneficiaries who are stabilized on a medication are not left without coverage in situations:

- When they first enroll in a Part D plan.
- When they are moving to a new plan that does not cover their current drug, including when that move is mid-year.
- When the plan in which they currently enrolled drops coverage of a drug or imposes new utilization management restrictions.
- When they experience a change in level of care (for instance, leaving a nursing home).

For all enrollees:

- Plans must provide enrollees with a **30 day supply** (unless a lesser amount is prescribed) of an **ongoing** medication within the first 90 days of plan membership.
 - Covers drugs not on formulary and those subject to utilization management controls.¹
 - Applies to first 90 days in plan, even if not at the beginning of the plan year and even if the 90 day period extends over two plan years (e.g., a November enrollment).
 - Applies both to new members and to continuing members when a plan has changed formulary.
 - Transition requirements do **not** apply to non-Part D drugs.
- Plans must mail a **written notice** explaining that transition supply is temporary, including instructions for identifying appropriate substitutes, notice of the right to request a formulary exception; and instructions on how to file an exception request. The notice must be mailed within 3 business days of the temporary fill.
- If, at the point of sale, a plan cannot determine whether a newly written prescription is for ongoing drug therapy or not, the plan must assume that the prescription is ongoing and apply transition policies.

Extending Transition Supplies: Plan Responsibilities

Prescription Drug Benefit Manual, Chapter 6 at 30.4.4.3

Plans have a responsibility to extend transition periods on a case-by-case basis:

“A Part D sponsor may need to make arrangements to continue to provide necessary drugs to an enrollee via an extension of the transition period, on a case-by case basis, to the extent that his or her exception request or appeal has not been processed by the end of the minimum transition period. It is vital that sponsors give affected enrollees clear guidance regarding how to proceed after a temporary fill is provided, so that appropriate and meaningful transition can be effectuated by the end of the transition period. *Until that transition is actually made, however, either through a switch to an appropriate formulary drug, or a decision is made regarding an exception request, continuation of drug coverage is necessary, other than for drugs not covered under Part D.*”

¹ If a plan limits dosage to, for example, 14 pills, the plan may distribute 14 pills when the patient first presents the prescription but must provide refills until the 30 day transition supply is met.

Additional protections for enrollees residing in a long-term care (LTC) facility or other institution:

- Plans must provide a 31 day supply during the first 90 days.
- Plans must honor multiple 31 day fills during the first 90 days.
- After 90 days: 31 day emergency supply while an exception is being processed.

Additional protections for enrollees experiencing a change in status:

- Early refill edits may not be used to deny an enrollee access to a refill upon admission or discharge from a facility.
- Extension of transition supplies on a case-by case basis until an “appropriate and meaningful transition can be effectuated.”
- “Until that transition is actually made, however, either through a switch to an appropriate formulary drug, or decision of an exception request, continuation of drug coverage is necessary.”

For CMS Guidance on transition drug supplies, go to Medicare Prescription Drug Benefit Manual, Chapter 6 at 30.4 et seq.

<http://www.cms.hhs.gov/PrescriptionDrugCovContra/Downloads/R2PDB.pdf>

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