Medicare Part D Training

Medicare Part D for 2008:
Training for Low Income Advocates

Part I: The Basics

November 5, 2007
National Senior Citizens Law Center
California Health Advocates

CHA and NSCLC copyright 2007

Welcome!

Please use one of your drawing tools and mark where you are on the map to the left.

NSCLC Mission

- National Senior Citizens Law Center advocates nationwide to promote the independence and well-being of low-income elderly and disabled Americans.
- NSCLC represents the interests of low-income people before Congress and administrative agencies; trains, informs and assists local and state level advocates so that low-income elderly and disabled people have the best possible representation; and litigates cases to keep open access to health care and income benefits.

www.nsclc.org

CHA and NSCLC copyright 2007

CHA’s Focus

California Health Advocates is dedicated to Medicare beneficiary advocacy and education for Californians.

- **Policy** – Public policy research and recommendations for improved rights and protections, partner with national Medicare organizations based in Washington D.C.
- **Training** – Professionals and informal helpers, vibrant web resources, newsletter and regional forums
- **Advocacy** – Bring the experience of Medicare beneficiaries to the public through media and educational campaigns with the legislative staff at federal and state levels.

www.cahealthadvocates.org

CHA and NSCLC copyright 2007

Medicare Overview

- Federal program for individuals 65 and over who are eligible for Social Security retirement benefits and individuals under 65 with disabilities who are eligible for Social Security disability benefits
  - Not means tested (unlike Medi-Cal/Medicaid)
  - Neither free nor comprehensive

CHA and NSCLC copyright 2007

Part A: Overview

- Part A: Hospital Insurance
  - Inpatient Hospital Care
    - Limited in Duration
  - Skilled Nursing Facility
    - Limited in Duration
    - Must be “skilled care”
  - Home Health Care
    - Beneficiary must be “homebound”
    - Must be “skilled care”
  - Hospice Care

CHA and NSCLC copyright 2007

Part B: Overview

- Part B: Supplemental Medical Insurance
  - Physician services
  - Rehabilitation therapy services
  - Outpatient Hospital
  - Ambulance
  - Diagnostic and laboratory tests
  - Mental Health Services
  - Durable Medical equipment

CHA and NSCLC copyright 2007

Part C: Medicare Advantage (MA)

- Medicare Advantage (MA) Program
  - Private plans through which enrollees obtain all Medicare covered services
    - Plans must offer all services covered under Medicare Parts A and B
    - Plans may offer Part D prescription drug benefit
  - Often covers additional benefits
  - Must have both Parts A and B to be eligible
  - Must generally see contracted providers

CHA and NSCLC copyright 2007

Part D: Overview

- The Medicare Modernization Act of 2003 (MMA) created a new "voluntary" Part D prescription drug benefit for Medicare beneficiaries, effective January 2006
- Part D benefit only available through private, commercial plans
  - Stand-alone prescription drug plans (PDPs)
  - Medicare Advantage-Prescription Drug Plans (MA-PDs)

Part D and Low Income Individuals

- Individuals dually eligible for Medicare and Medi-Cal (Medicaid) must be enrolled in a Medicare Part D drug plan in order to obtain drug coverage
  - Dual eligibles lost access to most of their drug coverage through Medi-Cal
- MMA created a Part D Low-Income Subsidy (“LIS” or “Extra Help”) available for qualifying individuals
  - Helps pay for some Part D costs
  - Some people automatically eligible for LIS, others must actively apply

Part D Options

- PDPs: Beneficiaries who choose to remain in the original, fee-for-service Medicare program will have the option of purchasing a stand-alone, private prescription drug plan ("PDP"); *or*

- MA-PDs: Individuals may enroll in a private Medicare Advantage plan that offers a prescription drug benefit (called Medicare Advantage - Prescription Drug plans or "MA-PDs").

Medicare Advantage Plans

- 3 Types of MA plans:
  - Coordinated Care Plans
    - Health Maintenance Organizations (HMOs)
    - Preferred Provider Organizations (PPOs)
    - Special Needs Plans (SNPs)
  - Private Fee-for-Service (PFFS) Plans
  - Medicare Medical Savings Accounts (MSAs)

Medicare Advantage and Other Part D Coverage

- Individuals enrolled in an MA coordinated care plan (HMO, PPO, SNP) cannot also be enrolled in a PDP, even if MA plan does not provide Part D coverage
- PFFS enrollees – if plan does not offer Part D coverage, can enroll in a PDP
- MSAs cannot offer Part D coverage, so enrollees can also enroll in a PDP

CHA and NSCLC copyright 2007

Part D Drug Coverage

- Prescription drugs
- PDPs and MA-PDs do not need to cover *all* drugs for a particular condition
  - But must cover all or substantially all FDA approved drugs in six classes: antipsychotics, antidepressants, anticonvulsants, antiretrovirals, immunosuppresants, and antineoplastics.
- Formularies offer both brand name and generic drugs

Part D Formularies

- Private plans have discretion to design benefit packages
  - No national, standard Part D formulary
  - Plans must cover at least two drugs per category and class
  - Plans have “preferred” and “non-preferred” pharmacies

CHA and NSCLC copyright 2007

Part D Formularies

- Plans may encourage use of less expensive drugs through techniques such as:
  - Prior authorizations
  - Step therapy
  - Dosage limitations
  - Cost tiering structure
    - Different cost tiers for generic, preferred brand name (and non-preferred generics), non-preferred brand name, and specialty drugs.

Part D Formularies

- Formularies may change each year.
- Plans can also add individual drugs from the formulary, except Nov. 15 through February.

Part D Formularies

- Congress excluded certain types of drugs.
  - Examples: anorexia; weight loss or weight gain; fertility; relief of cough and cold symptoms; prescription vitamins and minerals; barbiturates (anti-seizure and anti-anxiety); benzodiazepines (incl. sleep aids, anti-anxiety).
- Drugs covered by Part A or Part B.
- Medi-Cal covers many excluded drugs.
- “Enhanced” plans offer more or different coverage than “basic” plans.

CHA and NSCLC copyright 2007

Part D Costs

- Costs change annually.
- Next slides discuss costs for people who do not have the Low Income Subsidy.

CHA and NSCLC copyright 2007

Part D Costs for 2008

- Cost #1: Premiums.
  - Must be paid monthly, whether or not the enrollee uses coverage.
  - Premiums in California range from $14.30 to $102.70 per month in 2008.
- Cost #2: Initial deductible.
  - Deductible is enrollee’s out-of-pocket payment for initial drug costs during the year.
  - Deductibles in California range from $0 to $275 for the year.

CHA and NSCLC copyright 2007

Part D Costs for 2008

- Cost #3: Co-payments.
  - May be a percentage of drug cost or a flat fee.
  - Vary depending on the "tier" the drug is in:
    - Preferred generics, other generics, preferred brand name drugs, other brand name drugs, "specialty" drugs.
  - Standard benefit is 25% coinsurance.

Part D Costs for 2008

- Cost #4: "Donut Hole" coverage gap.
  - Second deductible when enrollee incurs between $2,510 and $5,726.25 in annual drug costs.
  - Enrollee has to pay full price for drugs in the gap.
  - In California in 2008:
    - 41 Part D plans provide no coverage in gap.
    - Seven plans cover all generic drugs in gap.
    - Eight plans cover some generics or all preferred generics in gap.
    - No plans cover brand name drugs in gap.

Part D Costs for 2008

- Cost #5: "Catastrophic" coverage.
  - Once annual drug costs reach $5,726.25, Part D coverage resumes.
  - Enrollee pays 5% of costs.
- Without a subsidy, Part D enrollees with high drug needs pay thousands of dollars out-of-pocket.
- Calculate costs using the Plan Finder at Medicare.gov.

CHA and NSCLC copyright 2007

Low Income Subsidy

- Also known as “Extra Help” and as the “Limited Income Subsidy”
- Handled by the Social Security Administration as well as CMS and state Medicaid offices
- Two routes to LIS eligibility:
  1. “Deemed” eligible.
  2. “Determined” eligible.

Low Income Subsidy

- “Deemed eligible” for LIS: all dual eligibles; all Medicare Savings Plans participants; all SSI-only.
  - Receive notices from CMS informing them no need to apply for LIS; need take no action
- “Determined eligible” (everyone else) must apply and be assessed

Low Income Subsidy

- Group 1
  - Full Medi-Cal dual eligibles with countable incomes at or below 100% Federal poverty level (FPL) “**deemed** eligible”
- Group 2
  - Full-Medi-Cal dual eligibles above 100% of FPL; QMB, SLMB, QI, SSI-only, “**deemed** eligible”; and
  - Non-dual eligible beneficiaries with countable incomes below 135% FPL and limited countable resources ($7,620 per individual and $12,190 married couple) “**determined** eligible”
- Group 3
  - Beneficiaries with countable incomes below 150% FPL and limited countable resources ($11,710 individual and $23,410 married couple) “**determined** eligible”

CHA and NSCLC copyright 2007

	Group 1	Group 2	Group 3
Cost #1: Premium	**$0 (up to $19.80)**	**$0 (up to $19.80)**	**Sliding scale based on income**
Cost #2: Deductible	**$0**	**$0**	**$56**
Cost #3: Co-payments	**$1.05/$3.10**	**$2.25/$5.60**	**15% coinsurance**
Cost #4: Gap/"Donut Hole"	**None (co-pays still $1.05/$3.10)**	**None (co-pays still $2.25/$5.60)**	**None (still 15% coinsurance)**
Cost #5: Catastrophic Coverage	**$0**	**$0**	**$2.25/$5.60**

CHA and NSCLC copyright 2007

Low Income Subsidy

- Applications available in Spanish and English
- Instruction and assistance available in 14 languages at http://ssa.gov/prescriptionhelp/
  - Arabic, Armenian, Chinese, Farsi, French, Greek, Haitian-Creole, Italian, Korean, Polish, Portuguese, Russian, Spanish, Tagalog, Vietnamese
  - Scannable form preferred by SSA

Low Income Subsidy

- Others (if not dual eligible or MSP) must apply at SSA or County Medi-Cal Offices; or online at http://ssa.gov/prescriptionhelp/

- Does it matter where you apply?
  - **State**
    - State/county duty to screen and enroll
    - MSP programs are undersubscribed
      - (but: dual eligibles better off under Medi-Cal?)
    - MSP people are deemed eligible for LIS
    - Can insist on state processing; using Medi-Cal appeals system
  - **SSA**
    - Application, outreach, funding incentives
    - No duty to screen and enroll, forward info
    - Appeal rights are different than Medi-Cal system

Low Income Subsidy

- Keeping LIS from 2007 to 2008:
  - **Redeeming**: those who were "deemed" eligible in 2007 will be reviewed by CMS to see if they should be deemed into LIS again.
  - **Redetermination**: those who were "determined" eligible by SSA based on an application will be reviewed by SSA.
  - Covered in detail in Part II of training.

CHA and NSCLC copyright 2007

Low Income Subsidy

- Dual eligibles and other Low Income Subsidy often encounter problems getting subsidy at the pharmacy counter.
- "Best available evidence" policy applies to plans:
  - First, contact plan and provide evidence of Medi-Cal eligibility or other LIS status.
  - If that doesn't work, file a complaint with CMS.

Low Income Subsidy

- Resources about the Low Income Subsidy:
  - LIS: Redetermination and Redeeming Tool
  - LIS: Summary of Regulations and Procedures
  - All available online (http://www.nsclc.org/areas/medicare-part-d/area_folder.2006-09-28.4596471630/area_folder.2006-10-31.2509406405).

Enrollment

- Should someone enroll?
- No real choice for dual eligibles: will lose Medi-Cal drug coverage for Part D drugs.
- Late enrollment penalty:
  - 1% of plan premium per month for each month eligible, but not enrolled in Part D.
  - No penalty if have creditable coverage.
  - 63 day grace period.
  - No penalty if LIS (thru 2008)
- Part D enrollees could lose employer or retiree drug coverage.

CHA and NSCLC copyright 2007

Enrollment

- Where to enroll?
  - Directly with plan
  - Through Medicare:
    - 1-800-MEDICARE
    - www.medicare.gov
- Consider:
  - All current medications, availability of generics, restrictions on use of drugs, in-network pharmacies, premiums, deductible, and co-payments.

CHA and NSCLC copyright 2007

Enrollment

- Initial Enrollment Period: seven month window for initial Medicare eligibility.
- Annual Coordinated Election Period: November 15-December 31.
- Special Enrollment Periods

CHA and NSCLC copyright 2007

Enrollment

- Dual eligibles are particularly vulnerable.
- Full dual eligibles receive a yellow notice from CMS informing them which plan they will be enrolled in if they do <u>not</u> select a plan themselves.
- Auto-enrollment is random assignment into a standard plan with fully subsidized premium.

CHA and NSCLC copyright 2007

Enrollment

- Take all documents and information to the pharmacy.
- Point of Sale (POS) process, a.k.a. Wellpoint, for dual eligible beneficiaries who should have been automatically enrolled, but do not appear in a plan.
  - Pharmacist can choose whether or not to use Wellpoint.

CHA and NSCLC copyright 2007

Enrollment

- Special Enrollment Periods (SEPs) include:
  - Continuous SEP for all LIS recipients, not just dual eligibles.
  - Continuous SEP for institutionalized individuals.

Enrollment

- Resources about enrollment:
  - Chart of Prescription Drug Plan Enrollment Periods
  - Overview of CMS Guidance on Eligibility, Enrollment and Disenrollment
  - All online at http://www.nsclc.org/areas/medicare-part-d/area_folder.2006-09-28.4596471630/area_folder.2006-10-31.1884975563

CHA and NSCLC copyright 2007

Part D Exceptions and Appeals

- Exceptions process
  - To obtain medically necessary drugs not on the drug plan's formulary.
  - To obtain a prescribed drug at a lower cost-sharing rate.
- Other types of appeals:
  - Appeals of other coverage determinations.
  - Grievances.

Part D Exceptions and Appeals

- Transaction at the pharmacy does <u>not</u> start the appeals process.
- Enrollee must contact plan to begin process.

Part D Exceptions and Appeals

- Standard timeframe: 72 hours from doctor's submission.
- Expedited timeframe: 24 hours. If physician indicates that life or health, or ability to regain maximum function is in jeopardy.
- Keep records.

CHA and NSCLC copyright 2007

Part D Exceptions and Appeals

- Standard is medical necessity
- Dr. supporting statement required
  - Know and respond to reason for denial
  - Any format is OK
  - Based on clinical and medical evidence
  - Dr. statement given “great weight”

CHA and NSCLC copyright 2007

Part D Exceptions and Appeals

- Five levels of appeal; 60 day deadline to appeal initial coverage determination:
  - Redetermination by plan.
  - Reconsideration by Independent Review Entity.
  - Administrative Law Judge Hearing.
  - Medicare Appeals Council.
  - Federal district court.

CHA and NSCLC copyright 2007

Transition Coverage

- To provide sufficient time to switch to formulary drug or request exception.
  - Applies to on-going medications, not new prescriptions
  - One 30 day transition supply within first 90 days of enrollment.
  - Long-term care residents: 31 day transition supply may be extended over entire 90 days.
- Transitions may be extended pending exception or appeal decision.
- Changes in levels of care.

CHA and NSCLC copyright 2007

Part D Exceptions and Appeals

Resources on Exceptions/Transition:

- NSCLC: Exceptions and Appeals: A Practical Guide
- Medicare Part D Manual:
  - Ch. 6 – Formulary, including transition policy requirements
  - Ch. 18 – Coverage determinations, including exceptions
- All on NSCLC website:http://www.nsclc.org/areas/medicare-part-d/area_folder.2006-09-28.4596471630/area_folder.2006-10-31.2079546039

CHA and NSCLC copyright 2007

Issues for Dual Eligibles

Client Concerns

- Limited English Proficient Populations
- Cognitive impairments
- Physical disabilities
- Confusion
- Need for individual assistance
- Mistakes, computer glitches
- Reduced coverage; reduced health status

Reporting Problems

- Advocates and beneficiaries should report problems with enrollment, the Low Income Subsidy, or improper plan actions to CMS:
  - 1-800-MEDICARE.
  - CMS Region IX:
    - **1-415-744-3628**
    - **PartDComplaints_RO9@cms.hhs.gov**

CHA and NSCLC copyright 2007

Consumer Help

- www.Medicare.gov
  - TTY users 1-977-486-2048
- 1-800-Medicare
- Medicare and You Handbook
- HICAPs- 1-800-434-0222
- Legal Services Programs
- www.nsclc.org
- www.cahealthadvocates.org

CHA and NSCLC copyright 2007

Common Problems

- Client's plan won't cover needed medication.
  - Why won't plan cover the drug?
    - Reasons: Part D coverage, plan formulary, plan utilization management.
  - File request for an exception.
  - Ask for transition supply.
  - Use Special Enrollment Period to switch plans.

CHA and NSCLC copyright 2007

Common Problems

- Dual eligible client should have been automatically enrolled but hasn't received any paperwork from a plan.
  - Check Medicare.gov or 1-800-MEDICARE for enrollment information.
  - Ask pharmacist to do a query.
  - Ask pharmacist to use POS/Wellpoint to enroll in plan.
  - Choose new plan based on individual medication needs.

Common Problems

- Client is supposed to have LIS, but is charged full price at pharmacy.
  - Call 1-800-MEDICARE, plan to see if LIS information is in CMS/plan systems.
  - Get information showing subsidy eligibility.
    - E.g., Medi-Cal card; letter from state; letter from SSA; information from county caseworker.
  - Ask plan to apply best available evidence policy.

CHA and NSCLC copyright 2007

Common Problems

- Plan and/or 1-800-MEDICARE are unhelpful or fail to respond to complaint.
  - Document, document, document.
  - File complaint with CMS Region IX.
  - Tell CMS when your client has less than two weeks of medication left, less than two days, or no medication left.
  - File complaint about other problems with Ombudsman's office.

CHA and NSCLC copyright 2007

Questions

Call with questions, problems, send client stories

National Senior Citizens Law Center

Anna Rich
1-510-663-1055 ext. 305
arich@nsclc.org

Georgia Burke
1-510-663-1055 ext. 303
gburke@nsclc.org

California Health Advocates

David Lipschutz
1-213-381-3670
dlipschutz@cahealthadvocates.org

Copyright 2007 by the National Senior Citizens Law Center. All rights reserved.
Permission to copy will be granted to non-profit entities with appropriate acknowledgment of credit.