

**MA/PDP/Cost Enrollment Guidance - Draft Update
Comment Form**

*Comments due 5:00 p.m. EDT on May 22, 2009
Please e-mail all comments to PDPENROLLMENT@cms.hhs.gov*

Organization Name: Joint Comments of The National Senior Citizens Law Center and The Center for Medicare Advocacy, Inc.

Contact Person's Name: Georgia Burke (NSCLC) and Vicki Gottlich (CMA)

E-mail: GBurke@nslc.org and VGottlich@medicareadvocacy.org

Telephone #: 510-663-1055 ex. 303 (NSCLC) and 202-293-5760 (CMA)

Document (Specify MA, PDP, or Cost guidance)	Section number and Page number	Description of Issue or Question	Suggested Revision/Comment
PDP and MA	PDP 10.5, p. 10 MA 20.4.2, p. 22	Passive enrollment by CMS	We are pleased that CMS is limiting passive enrollment to the specific situations involving plan termination or where remaining in a plan could provide harm to the enrollee. For clarity, we would appreciate an additional statement that passive MA enrollments will not be used in cases of plan non-renewals. We also ask that the section make clear that affected enrollees are eligible for a SEP so that they may chose a plan other than the drug plan in which they were passively enrolled as set forth in PDP 20.3.4. We have an additional concern that members of terminating/non-renewing plans may not receive notice about their Medigap rights and urge CMS include that information in communications to affected beneficiaries.
PDP and MA	PDP 20.3.1, p. 17 MA 30.4.1, p. 35-37	SEP for change of residence w/in region	The current wording of this SEP is unclear. If new plans are available in the service area, is the beneficiary permitted to change to any plan, including a plan that is not new? We urge CMS to clarify that the change can be made to any plan; otherwise, the SEP presents a bias

			<p>toward the MA-PD model, since the new plans available within a region would generally be Medicare Advantage plans with different service areas within a region.. We further suggest that CMS consider broadening this SEP further to allow a change in plans upon any change of residence, even if new plans are not available because of the move. We note in particular two types of situations where such a SEP would be of value for beneficiaries. One is for people living in rural areas where pharmacy access is limited. Individuals changing residence within the same region may very well need to change plans in order to get convenient pharmacy access. Another area of concern is people moving into assisted living or board and care or other facilities not currently considered institutions for purposes of the SEP for institutionalized individuals. The pharmacy associated with their prior plan may not be willing, for example, to deliver to their facility, which could raise access problems for those individuals.</p>
PDP and MA	<p>PDP 20.3.2 and 20.3.8(7) MA 30.4.4(5) and 30.4.4(12)</p>	Combining SEP for duals and SEP for LIS	<p>For clarity, we recommend combining the SEP for duals and the SEP for other LIS beneficiaries.</p>
PDP and MA	<p>PDP 20.3.8(8)(C) p. 25 MA 30.3.2, p. 32</p>	SEP and OEP for institutionalized individuals	<p>The reference in the PDP SEP to the MA guidance should be to 30.3.2, not 30.3.4. Further, we urge CMS to extend this SEP/OEP to individuals who are receiving an institutional level of care in the community. CMS should eliminate any policies that discriminate against individuals using community-based models for institutional levels of care.</p>
PDP and MA	<p>PDP 20.3.8(8)(G) p. 26 MA 30.4.4(13)</p>	SEP for Chronic care SNP	<p>We object to providing an ongoing SEP to join a chronic care SNP without the opportunity to leave the chronic care SNP if it fails to meet the needs of the enrollee. People with chronic conditions have by definition high medical needs. Because of the open-ended SNP, they</p>

	p. 13		can be marketed to throughout the year. However, if they find that a SNP does not offer the benefits they need, they cannot disenroll until the annual enrollment period. They should either have a continuous enrollment period allowing them to both join and leave a C-SNP or plans should only have the opportunity to market to them during the AEP. The current imbalance works to the detriment of these vulnerable beneficiaries.
PDP	30.1.2	On-line enrollment	We appreciate the clarification that on-line enrollment via a broker's web site is not permitted
PDP	30.1.4(A)(2) p. 39	Facilitated enrollment	On p. 39, the reference to 40.1.6 of the MA guidance should be to 40.1.5.
PDP	30.1.4(C), pp.40-43	Auto-facilitated enrollment process	We appreciate the inclusion of (5) which requires plans to have procedures in place to provide interim coverage prior to confirmation of auto/facilitated enrollment on the weekly TRR.
PDP	30.1.4(D)(1) p.46	Retroactive reimbursements	As written, the guidance appears to require the beneficiary to contact the demonstration contractor in order to get reimbursement for uncovered months in the circumstances set out. We urge CMS to modify these procedures so that there is outreach to the beneficiary. Experience has shown that dual beneficiaries have great difficulty in navigating the Part D maze. Many will not get the reimbursements to which they are entitled without a system in place that helps them and follows up.
PDP	40.3.1, p. 86	Option to retain low income subsidy members	We appreciate this option and also appreciate removal of the confusing reference to elimination of the policy through newsletter notice
PDP and MA	All Exhibits	Plain English	We appreciate the efforts by CMS throughout the model communications to use simpler wording. We urge CMS to continue to work to bring communications down to a lower grade reading level. We do suggest, however, that contractions be avoided since they are difficult for limited English proficient readers to understand.
PDP and MA	All Exhibits	References to extra help	We urge capitalizing Extra Help throughout to make it clearer that the phrase refers to a particular benefit.
PDP and MA	All Exhibits	Translation/interpretation	The forms and letters contained in the exhibits all are vital communications to beneficiaries that should be

			translated into multiple languages. We urge CMS to require plans to track the language preferences of their members and communicate with them in their preferred language.. If this cannot be accomplished immediately, we suggest as an interim measure that, at least, CMS require that plans prominently include taglines in multiple languages telling members that they can get interpreter assistance by calling the plan’s customer service line. An alternative interim approach would be for CMS to create a new model “stuffer,” a one-page document to be included with all plan communications to members that consists of taglines in multiple languages, telling beneficiaries that they can receive language assistance from the plan’s customer assistance line.
PDP and MA	PDP Exh. 1, p. 118 MA Exh. 1, p.138-41	Extra help discussion	We appreciate the new formulation concerning the benefits of extra help and its inclusion in almost every communication. The wording is a beneficiary-friendly improvement. We do question the basis of the 75% savings figure since savings vary greatly among beneficiaries and, for many with high needs, the savings can be significantly greater.
PDP and MA	PDP Exh. 1, p. 119 MA Exh. 1, p. 140 and all enrollment forms	Assistance in languages other than English	We appreciate the inclusion of instructions on how to get assistance in a language other than English but are concerned that, because the instructions are in the middle of a 5 page form, a person who does not read English well will not find them. We urge that this instruction be moved to the front of the form. See also our suggestions above.
PDP and MA	PDP Exh. 1, p. 120 MA Exh. 1, p. 140 and all enrollment forms	Attestation by beneficiary--Availability of counseling	As written, the sentence does not provide any useful information to the beneficiary. At the very least, the national SHIP 800 number should be included.
PDP and MA	PDP Exh 1a, p. 122	SEP eligibility list	Change the first box to say “I am new to Medicare or I am turning 65.” The third box “I recently moved and this

	MA Exh. 1a, p. 143		plan is a new option for me” is inconsistent with the wording of the SEP at 20.3.1, which appears to allow enrollment in any plan, not just a plan that is a new option.
PDP	Exh. 2b, p. 132	Late enrollment penalty	The current instructions require inclusion of the late enrollment paragraph for all new members. We urge that the instructions be changed to say that the paragraph should be omitted for new members identified as receiving the low-income subsidy. Since they are not subject to the late enrollment penalty, inclusion of the paragraph will only cause confusion.
PDP	Exh. 4, p. 136	Late enrollment penalty	Same issue as above.
PDP	Exh. 5, p. 138	Loss of employer coverage	We appreciate the strengthening of the warning but urge also adding “and, if you have a spouse or dependents, their coverage also could be lost.”
PDP	Exh. 9, p. 144	Missing word-first paragraph after the box, third sentence	Change to “join other Medicare <i>plans</i> ”
PDP	Exh. 10b, p. 149	Disenrollment notice	In the second to last paragraph, we urge addition of a reference to the availability of SHIP counseling with an 800 number.
PDP	Exh. 14, p. 154	Disenrollment due to loss of Medicare eligibility	The second paragraph is unclear. The beneficiary is instructed to call Social Security “to have their records corrected.” The instructions should be more explicit, as in, “to tell them that you . . . “
PDP and MA	PDP Exh. 17, p. 157 MA Exh. 17, p. 211	Reinstatement	These notices require the beneficiary to compose and send a letter requesting continued enrollment. This request is a burden for many beneficiaries, particularly those with limited English literacy. We suggest instead that the plans be required to include a form that only requires check marks and filling in blanks, as well as a self addressed envelope.
PDP and MA	PDP Exh. 19, p. 159 MA Exh. 19, p. 213	Disenrollment for failure to pay premiums	Since PDP 40.3.1 and MA 50.3.1 allow plans to use a rollover approach for partial premium payments, we urge CMS to permit plans using the rollover approach to add a sentence, preferably at the end of the first paragraph, along the following lines: “If you are having trouble making your payments, please call us at 1-800-xxxx to

			discuss payment options.”
PDP and MA	PDP Exhs. 20, 21, p. 161, 163 MA Exh. 20-22, p. 215-220	Disenrollment-reconsideration	These letters tell the beneficiary about the right to file a grievance but require reference to the EOC or Member Handbook for details. Whenever a beneficiary is told of grievance or appeals rights, the letter should provide complete information and not require the beneficiary to search for another document.
PDP	Exh. 22, p. 165	Cancellation of enrollment	This letter is confusing. The first paragraph concerns restoring enrollment in a prior plan but the next two paragraphs tell the beneficiary that changes generally are not permitted. While both are accurate, they are confusing when placed together without any segue. Adding headings such as “Returning to your old plan” and “Other changes” might make the distinction clearer.
PDP	Exh 23, p. 167	Cancellation	Same issue as Exhibit 22.
PDP and MA	PDP Exh. 24 and 25, p. 168-171 MA Exh. 27 and 27a, p. 226-230	Auto enrollment confirmation	The “Important” paragraph should be more forceful. Suggest something like “Please contact --- and they will tell you what you need to do to get these costs back. You can also visit ___ for more information.” Also, recommend adding “You have the right to change plans at any time.”
PDP and MA	PDP Exh. 24 and 25, p. 168-171 MA Exh. 27-28a, p. 226-234	Auto and facilitated enrollment notices	Also, add as a last sentence to the letter along the following lines, “If you have questions about what is right for you, you can get free help from State Health Insurance Program (SHIP) counselors. Call 800 to find the SHIP office near you.”
PDP	Exh 26, p. 172	Opt-out acknowledgement	For clarity, suggest changing the heading to PDP Acknowledgement of Request by LIS Eligible Beneficiary to Opt-out of Part D
PDP	Exh. 27, p. 173	Reassignment	Add sentence about help available from SHIP counselors.
PDP	Exh 28, p. 174	LIS enrollees moving to new region	Include sentence about SHIP assistance.
PDP	Exh. 29, p. 175	Reassignment confirmation	After “you aren’t required to be in xxx” add a sentence saying “You may change plans at any time.” Also add

			sentence re availability of SHIP help.
PDP	Exh 30, p. 176	Losing plan notice	Add sentence re availability of SHIP help.
PDP	Exh 34, p. 183	Disenrollment for out-of-area status	Third sentence, change “pertains” to “is about.” Paragraph on grievance should give explicit instructions and not require reference to EOC. Add SHIP reference.
PDP	Exh. 35, p. 185-6	Disenrollment after notice of out-of-area status	Same as Exh. 34. In addition, change heading for “What should I do if I’ve moved” paragraph since the individual has already reported moving. Suggest “Who else do I need to tell about my move?”
MA	40.1.5, p. 55-56	Auto and facilitated enrollment of full benefit dual eligibles in MA only plans	We do not believe that CMS should auto enroll full duals who are in MA only plans into an MA-PD plan of the same sponsor. Some MA-only plans are PFFS. Beneficiaries typically enroll in PFFS because they are attracted by the promise that they can use and provider who accepts the plan payment. But under this provision those individuals could be moved into a non-PFFS managed care plan where they are limited to network providers. There is no basis for assuming that such a move would meet their needs better than Original Medicare.
MA	Exh 3a, p. 163	Plan selection	Since these letters are going to existing members, plan sponsors should know which members receive LIS. Letters going to LIS members should be tailored to them by making reference to the fact that they already receive Extra Help, by dropping reference to the late enrollment fee, by calculating premiums taking into account LIS status, etc.
MA	Exh.4 -4c, p. 168-178	Acknowledgement of receipt of enrollment	This letter also should have a version tailored to beneficiaries who already receive LIS.
MA	Exh. 14, p. 208	Loss of Part A or B	The second paragraph is confusing and should be spelled out more clearly, e.g., “Because you continue to have Medicare Part [A or B] coverage, you still can join a Medicare prescription drug plan.” The reference to Medicare Advantage is confusing and should be omitted.
MA	Exh. 32-33, p. 242-245	Loss of SNP status	These letters need to be much more tailored. Many dual eligibles and other LIS recipients are members of I-SNPs or C-SNPs. Statements about late enrollment penalties,

			one-time opportunities to change plans, and enrollment periods are inappropriate for these beneficiaries. A different letter should go to LIS beneficiaries.
MA	Exh. 33	Disenrollment from SNP	This letter tells the beneficiary about the right to file a grievance but requires reference to the EOC or Member Handbook for details. Whenever a beneficiary is told of grievance or appeals rights, the letter should provide complete information and not require the beneficiary to fish for another document.
Comment form		Thank you for switching from Excel to Word. Word is much easier to work with.	