(6) Such other matters as justice may require.

(b) Amount of penalty. CMS may impose civil money penalties in the following amounts:

(1) If the deficiency on which the determination is based has directly adversely affected (or has the substantial likelihood of adversely affecting) one or more Part D enrollees—up to $25,000 for each determination.

(2) If the deficiency on which the determination is based has directly adversely affected (or has the substantial likelihood of adversely affecting) one or more Part D enrollees, CMS may calculate a CMP of up to $25,000 for each Part D enrollee directly adversely affected (or with a substantial likelihood of being adversely affected) by a deficiency.

(3) For each week that a deficiency remains uncorrected after the week in which the Part D sponsor receives CMS’ notice of the determination—up to $10,000.

(4) If CMS makes a determination that a Part D sponsor has terminated its contract other than in a manner described under 423.510 and that the Part D sponsor has therefore failed to substantially carry out the terms of the contract, $250 per Medicare enrollee from the terminated Part D sponsor or plans at the time the Part D sponsor terminated its contract, or $100,000, whichever is greater.

§ 423.772 Settlement of penalties.

For civil money penalties imposed by CMS, CMS may settle civil money penalty cases at any time before a final decision is rendered.

§ 423.762 Settlement of penalties.

For civil money penalties imposed by CMS, CMS may settle civil money penalty cases at any time before a final decision is rendered.

§ 423.764 Other applicable provisions.

The provisions of section 1128A of the Act (except paragraphs (a) and (b)) apply to civil money penalty cases under this subpart to the same extent that they apply to a civil money penalty or procedure under section 1128A of the Act.

§ 423.772 Definitions.

For purposes of this subpart, the following definitions apply:

Applicant means the Part D eligible individual applying for the subsidies available to subsidy eligible individuals under this subpart.

Best available evidence means evidence recognized by CMS as documentation or other information that is directly tied to State or Social Security Administration systems that confirm an individual’s low-income subsidy eligibility status, and that must be accepted and used by the Part D sponsor to change low-income subsidy status.

Family size means the applicant, the spouse who is living in the same household, if any and the number of individuals who are related to the applicant or applicants, who are living in the same household and who are dependent on the applicant or the applicant’s spouse for at least one-half of their financial support.

Federal poverty line (FPL) has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 USC 9902(2)), including any revision required by that section.

Full-benefit dual eligible individual means an individual who, for any month—

(1) Has coverage for the month under a prescription drug plan under Part D of title XVIII, or under an MA-PD plan under Part C of title XVIII; and

(2) Is determined eligible by the State for medical assistance for full benefits under title XIX for the month under any eligibility category covered under the State plan or comprehensive benefits under a demonstration under section 1115 of the Act. (This does not include individuals under Pharmacy Plus program demonstrations or under...
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(a) Subsidy eligible individual. A subsidy eligible individual is a Part D eligible individual residing in a State who is enrolled in, or seeking to enroll in a Part D plan and meets the following requirements:

(1) Has income below 150 percent of the FPL applicable to the individual’s family size.

(2) Has resources at or below the resource thresholds set forth in § 423.773(b)(2) or (d)(2).

(b) Full subsidy eligible individual. A full subsidy eligible individual is a subsidy eligible individual who—

(1) Has income below 135 percent of the FPL applicable to the individual’s family size; and

(2) Has resources that do not exceed—

(i) For 2006, 3 times the amount of resources an individual may have and still be eligible for benefits under the Supplemental Security Income (SSI) program under title XVI of the Act (including the assets or resources of the individual’s spouse).