

under receivership must notify its enrollees, in the form and manner directed by CMS, of the enrollees' eligibility for this SEP and how to use the SEP.

(32) The individual is enrolled in a plan that has been identified with the low performing icon in accordance with § 423.186(h)(1)(ii). This SEP exists while the individual is enrolled in the low performing Part D plan.

(33) The individual was involuntarily disenrolled from an MA-PD plan due to loss of Part B but continues to be entitled to Part A. This SEP begins when the individual is advised of the loss of Part B and continues for 2 additional months.

(34) The individual enrolls in Medicare premium-Part A or Part B using an exceptional condition SEP, as described in 42 CFR parts 406.27 and 407.23. The SEP begins when the individual submits their premium-Part A or Part B application and continues for the first 2 months of enrollment in premium Part A or Part B. The Part D plan enrollment is effective the first of the month following the month the Part D plan receives the enrollment request.

(35) The individual meets other exceptional circumstances as CMS may provide.

(d) *Enrollment period to coordinate with MA annual 45-day disenrollment period.* Through 2018, an individual enrolled in an MA plan who elects Original Medicare from January 1 through February 14, as described in § 422.62(a)(5) of this chapter, may also elect a PDP during this time.

(e) *Enrollment period to coordinate with MA open enrollment period.* For 2019 and subsequent years, an individual who makes an election as described in § 422.62(a)(3) of this chapter, may make an election to enroll in or disenroll from Part D coverage. An individual who elects Original Medicare during the MA open enrollment period may elect to enroll in a PDP during this time.

[70 FR 4525, Jan. 28, 2005, as amended at 75 FR 19816, Apr. 15, 2010; 76 FR 21570, Apr. 15, 2011; 83 FR 16737, Apr. 16, 2018; 85 FR 33909, June 2, 2020; 88 FR 22337, Apr. 12, 2023]

§ 423.40 Effective dates.

(a) *Initial enrollment period.* (1) An enrollment made prior to the month of entitlement to Part A or enrollment in Part B is effective the first day of the month the individual is entitled to or enrolled in Part A or enrolled in Part B.

(2) Except as otherwise provided under § 423.34(f), an enrollment made during or after the month of entitlement to Part A or enrollment in Part B is effective the first day of the calendar month following the month in which the enrollment in Part D is made.

(3) If the individual is not eligible to enroll in Part D on the first day of the calendar month following the month in which the election to enroll in Part D is made, the enrollment in Part D is effective the first day of the month the individual is eligible for Part D.

(4) In no case is an enrollment in Part D effective before January 1, 2006 or before entitlement to Part A or enrollment Part B.

(b) *Annual coordinated election periods*—(1) *General rule.* Except as provided under paragraph (b)(2) of this section, for an enrollment or change of enrollment in Part D made during an annual coordinated election period as described in § 423.38(b), the coverage or change in coverage is effective as of the first day of the following calendar year.

(2) *Exception for January 1, 2006 through May 15, 2006.* Enrollment elections made during the annual coordinated election period between January 1, 2006 and May 15, 2006 are effective the first day of the calendar month following the month in which the enrollment in Part D is made.

(c) *Special enrollment periods.* For an enrollment or change of enrollment in Part D made during a special enrollment period specified in § 423.38(c), the coverage or change in coverage is effective the first day of the calendar month following the month in which the election is made, unless otherwise noted.

(d) *PDP enrollment period to coordinate with the MA annual disenrollment period.* Through 2018, an enrollment made from January 1 through February 14 by an individual who has disenrolled from an MA plan as described in § 422.62(a)(5) of

this chapter will be effective the first day of the month following the month in which the enrollment in the PDP is made.

(e) *PDP enrollment period to coordinate with the MA open enrollment period.* For 2019 and subsequent years, an enrollment made by an individual who elects Original Medicare during the MA open enrollment period as described in § 422.62(a)(3) of this chapter, will be effective the first day of the month following the month in which the election is made.

[70 FR 4525, Jan. 28, 2005, as amended at 76 FR 21570, Apr. 15, 2011; 83 FR 16737, Apr. 16, 2018; 85 FR 33911, June 2, 2020]

§ 423.44 Involuntary disenrollment from Part D coverage.

(a) *General rule.* Except as provided in paragraphs (b) through (d) of this section, a PDP sponsor may not—

(1) Involuntarily disenroll an individual from any PDP it offers; or

(2) Orally or in writing, or by any action or inaction, request or encourage an individual to disenroll.

(b) *Basis for disenrollment—(1) Optional involuntary disenrollment.* A PDP sponsor may disenroll an individual from a PDP it offers in any of the following circumstances:

(i) Any monthly premium is not paid on a timely basis, as specified under paragraph (d)(1) of this section; or

(ii) The individual has engaged in disruptive behavior, as specified under paragraph (d)(2) of this section.

(2) *Required involuntary disenrollment.* A PDP sponsor must disenroll an individual from a PDP it offers in any of the following circumstances:

(i) The individual no longer resides in the PDP's service area.

(ii) The individual loses eligibility for Part D.

(iii) Death of the individual.

(iv) The PDP sponsor's contract is terminated by CMS or by a PDP or through mutual consent. The PDP sponsor must disenroll affected enrollees in accordance with the procedures for disenrollment set forth at § 423.507 through § 423.510.

(v) The individual materially misrepresents information, as determined by CMS, to the PDP sponsor that the

individual has or expects to receive reimbursement for third-party coverage.

(vi) The individual is not lawfully present in the United States.

(c) *Notice requirement.* (1) If the disenrollment is for any of the reasons specified in paragraphs (b)(1), (b)(2)(i), or (b)(2)(iv) of this section (that is, other than death or loss of Part D eligibility, the PDP sponsor must give the individual timely notice of the disenrollment with an explanation of why the PDP is planning to disenroll the individual.

(2) Notices for reasons specified in paragraphs (b)(1) through (b)(2)(i) and (b)(2)(iii) of this section must—

(i) Be provided to the individual before submission of the disenrollment notice to CMS; and

(ii) Include an explanation of the individual's right to file a grievance under the PDP's grievance procedures.

(d) *Process for disenrollment—(1)* Except as specified in paragraph (d)(1)(iv) of this section, a PDP sponsor may disenroll an individual from the PDP for failure to pay any monthly premium under the following circumstances:

(i) The PDP sponsor can demonstrate to CMS that it made reasonable efforts to collect the unpaid premium amount.

(ii) The PDP sponsor gives the enrollee notice of disenrollment that meets the requirements set forth in paragraph (c) of this section.

(iii) The PDP sponsor provides the individual with a grace period, that is, an opportunity to pay past due premiums in full. The grace period must—

(A) Be at least 2 months; and

(B) Begin on the first day of the month for which the premium is unpaid or the first day of the month following the date on which premium payment is requested, whichever is later.

(iv) *Reenrollment in the PDP.* If an individual is disenrolled from the PDP for failure to pay monthly PDP premiums, the PDP sponsor has the option to decline future enrollment by the individual in any of its PDPs until the individual has paid any past premiums due to the PDP sponsor.

(v) A PDP sponsor may not disenroll an individual who had monthly premiums withheld per § 423.293(a) and (e)