

(ii) Savings shared with discount card enrollees by manufacturer, by all retail pharmacies, by all mail order pharmacies, and by all brand name and all generic covered discount card drugs;

(iii) Dispensing fees;

(iv) Certified (by the chief financial officer) financial accounting records on transitional assistance used by the transitional assistance enrollees in each month;

(v) Participant utilization and spending statements;

(vi) Utilization and spending for selected drugs;

(vii) Performance on customer service metrics such as call center performance;

(viii) Grievance logs; and

(ix) Endorsed sponsor's compliance with the pharmacy network access standards.

(2) An endorsed sponsor must provide notice of, and the rationale for, negotiated price increases, except for increases during the week of November 15, 2004, due to reasons other than changes in average wholesale price (AWP).

(3) An endorsed sponsor must certify that based on best knowledge, information, and belief, the reported information is accurate, complete, truthful, and supportable.

(4) Through a price comparison Web site, an endorsed sponsor must report the following information:

(i) Customer service hours;

(ii) Customer service contact information;

(iii) Endorsed program Web site address;

(iv) Annual enrollment fee; and

(v) Negotiated prices (including any applicable dispensing fee), for every covered discount card drug included in the discount card program's offering.

(5) CMS may require endorsed sponsors to submit, in standard terminology, descriptions of other discount card related services they provide, such as pharmacist services.

(j) *Grievance process.* An endorsed sponsor must establish and maintain a grievance process. This process must be designed to track and appropriately address in a timely manner enrollees' complaints about any aspect of their

endorsed program for which the endorsed sponsor is responsible.

(k) *Eligibility, enrollment, and disenrollment.* (1) An endorsed sponsor must make preliminary eligibility determinations in accordance with § 403.810 and conduct enrollment and disenrollment in accordance with § 403.811.

(l) *Authorized representative.* An endorsed sponsor must treat an individual's authorized representative as the individual, if under applicable law, the authorized representative has the legal authority to act on behalf of the individual with respect to the action at issue.

(m) *Other.* An endorsed sponsor must meet the requirements of §§ 403.812, 403.813, and 403.822 of this subpart.

[68 FR 69915, Dec. 15, 2003, as amended at 70 FR 52023, Sept. 1, 2005]

#### § 403.808 Use of transitional assistance funds.

(a) *Individuals determined eligible for transitional assistance in 2004.* Subject to paragraph (d) of this section, an individual who, in calendar year 2004, is determined eligible for transitional assistance under § 403.810(b) is entitled to the following:

(1) \$600 in calendar year 2004; and

(2) \$600 in calendar year 2005.

(b) *Individuals determined eligible for transitional assistance in 2005.* Subject to paragraph (d) of this section, an individual who, in calendar year 2005, is determined eligible for transitional assistance under § 403.810(b) is entitled to one of the following amounts for calendar year 2005:

(1) If the complete application for the individual's transitional assistance eligibility is received on or after January 1, 2005 and before April 1, 2005, \$600.

(2) If the complete application for the individual's transitional assistance eligibility is received on or after April 1, 2005 and before July 1, 2005, \$450.

(3) If the complete application for the individual's transitional assistance eligibility is received on or after July 1, 2005 and before October 1, 2005, \$300.

(4) If the complete application for the individual's transitional assistance eligibility is received on or after October 1, 2005 and on or before December 31, 2005, \$150.

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(c) *Payment of enrollment fee.* An individual found eligible for transitional assistance is entitled to have CMS pay the annual enrollment fee to the endorsed sponsor on his or her behalf.

(d) *Conditions on use of transitional assistance.* A transitional assistance enrollee may access the transitional assistance described in paragraphs (a) and (b) of this section only if the following conditions are met:

(1) Except as provided in § 403.814(b)(3)(v), the transitional assistance funds are applied toward the cost of a covered discount card drug obtained under the Medicare Prescription Drug Discount Card and Transitional Assistance Program;

(2) The individual pays a coinsurance amount in accordance with § 403.808(e);

(3) The individual purchases the covered discount card drug on or after the individual's transitional assistance effective date; and

(4) The individual is enrolled in the Medicare Prescription Drug Discount Card and Transitional Assistance Program on the date the individual's claim for the covered discount card drug is adjudicated.

(e) *Coinsurance.* If sufficient transitional assistance funds are available, transitional assistance funds must be expended in accordance with the following:

(1) For beneficiaries with incomes at or below 100 percent of the poverty line, 95 percent of the price of a covered discount card drug must be paid from the available transitional assistance funds.

(2) For beneficiaries with incomes greater than 100 percent but at or below 135 percent of the poverty line, 90 percent of the price of a covered discount card drug must be paid from the available transitional assistance funds.

(f) *Rollover.* An individual with transitional assistance retains access to any balance of transitional assistance not expended in a calendar year during the next calendar year, up to and including the transition period, if the individual—

(1) Remains in his or her current endorsed discount card program;

(2) Elects a new endorsed program in an Annual Coordinated Election Period; or

(3) Is eligible for a Special Election Period under § 403.811(b)(2) and elects a new endorsed discount card program during such Special Election Period.

### § 403.810 Eligibility and reconsiderations.

(a) *Eligibility for an endorsed discount card program.* An individual is eligible to enroll in an endorsed discount card program only if such individual meets the following conditions:

(1) The individual is entitled to benefits, or enrolled, under Medicare Part A or enrolled under Medicare Part B; and

(2) The individual, at the time of applying to enroll in an endorsed discount card program, is not enrolled in a State medical assistance program under Title XIX of the Act or under a waiver pursuant to section 1115 of the Act, under which the individual is entitled to any medical assistance for outpatient prescribed drugs as described in section 1905(a)(12) of the Act, except as allowed in § 403.817(d).

(b) *Eligibility for transitional assistance.* An individual is eligible to receive transitional assistance if, at the time of applying for transitional assistance, the individual meets the following conditions:

(1) The individual meets the conditions in paragraph (a) of this section;

(2) The individual resides in one of the 50 States or the District of Columbia;

(3) The individual's income is not more than 135 percent of the poverty line applicable to the individual's family size;

(4) The individual does not have coverage for covered discount card drugs under one or more of the following sources:

(i) A group health plan or health insurance coverage, as these terms are defined under section 2791 of the Public Health Service Act, other than a Part C plan or a group health plan consisting solely of excepted benefits (such as a Medigap plan) as the term is defined under section 2791 of the Public Health Service Act;

(ii) Coverage provided under Chapter 55 of Title 10, United States Code, including TRICARE; or

(iii) A Federal Employee's Health Benefits Program plan; and