

§ 423.2490 Release of Part D MLR data.

(a) *Terminology.* Subject to the exclusions in paragraph (b) of this section, Part D MLR data consists of the information submitted under § 423.2460.

(b) *Exclusions from Part D MLR data.* For the purpose of this section, the following items are excluded from Part D MLR data:

(1) Narrative descriptions that Part D sponsors submit to support the information reported to CMS pursuant to the reporting requirements at § 423.2460, such as descriptions of expense allocation methods.

(2) Information that is reported at the plan level, such as the number of member months associated with each plan under a contract, including information submitted for a contract consisting of only one plan.

(3) Any information that could be used to identify Medicare beneficiaries or other individuals.

(4) MLR review correspondence.

(5) Any information for a contract for those contract years for which the contract is determined to be non-credible, as defined in accordance with § 423.2440(d).

(c) *Data release.* CMS releases to the public Part D MLR data, for each contract for each contract year, no earlier than 18 months after the end of the applicable contract year

[81 FR 80558, Nov. 15, 2016, as amended at 83 FR 16756, Apr. 16, 2018]

Subpart Y—Transitional Coverage and Retroactive Medicare Part D Coverage for Certain Low-Income Beneficiaries Through the Limited Income Newly Eligible Transition (LI NET) Program

SOURCE: 88 FR 22342, Apr. 12, 2023, unless otherwise noted.

§ 423.2500 Basis and scope.

(a) *Basis.* This subpart is based on section 1860D–14 of the Social Security Act.

(b) *Scope.* This subpart sets forth the requirements for the Limited Income Newly Eligible Transition (LI NET) program that begins no later than Jan-

uary 1, 2024. Under this program, eligible individuals are provided transitional coverage for Part D drugs.

§ 423.2504 LI NET eligibility and enrollment.

(a) *Eligibility.* An individual is eligible for LI NET coverage if they satisfy the criteria at paragraph (a)(1) or (2) of this section.

(1) *LIS-eligible.* The individual is a low-income subsidy eligible individual as defined at § 423.773 and—

(i) Has not yet enrolled in a prescription drug plan or an MA–PD plan; or

(ii) Has enrolled in a prescription drug plan or MA–PD plan but their coverage has not yet taken effect.

(2) *Immediate need individuals.* An individual who states their eligibility for LIS and immediate need for their prescription, but whose eligibility as defined at § 423.773 cannot be confirmed at the point-of-sale, will be granted immediate need LI NET coverage.

(3) *Documentation of LIS eligibility.* Individuals may provide documentation to the LI NET sponsor to demonstrate LIS eligibility. Documentation may include, but is not limited to:

(i) A copy of the beneficiary's Medicaid card that includes their name and the eligibility date;

(ii) A copy of a letter from the State or SSA showing LIS or “Extra Help” status;

(iii) The date that a verification call was made to the State Medicaid Agency, the name and telephone number of the State staff person who verified the Medicaid period, and the Medicaid eligibility dates confirmed on the call;

(iv) A copy of a State document that confirms active Medicaid status;

(v) A screen-print from the State's Medicaid systems showing Medicaid status; or

(vi) Evidence at point-of-sale of recent Medicaid billing and payment in the pharmacy's patient profile.

(4) *Confirmation of LIS eligibility.* CMS uses documentation submitted under paragraph (a)(3) of this section to confirm LIS eligibility.

(5) *Inability to confirmation of eligibility.* If CMS cannot confirm an immediate need individual's eligibility during the period of LI NET coverage, the individual will not be auto-enrolled

into a standalone Part D plan in accordance with § 423.34(d) following their LI NET coverage.

(b) *Enrollment.* Individuals who are eligible for LI NET as defined in § 423.2504 are enrolled into the LI NET program as follows:

(1) *Automatic enrollment.* Beneficiaries who are LIS-eligible and whose auto-enrollment into a Part D plan (as outlined in § 423.34(d)(1)) has not taken effect will be automatically enrolled by CMS into the LI NET program unless the beneficiary has affirmatively declined enrollment in Part D per § 423.34(e);

(2) *Point-of-sale enrollment.* An individual who is not automatically enrolled in accordance with paragraph (b)(1) of this section and whose claim is submitted at the point-of-sale and accepted by the LI NET sponsor will be enrolled into the LI NET program by the LI NET sponsor; or

(3) *Direct reimbursement request.* An individual described in paragraph (a)(1) of this section who is not automatically enrolled in accordance with paragraph (b)(1) or at the point-of-sale as provided in paragraph (b)(2) of this section and who submits a direct reimbursement request form, receipts for reimbursement for eligible claims paid out of pocket (with and optional documentation of LIS eligibility listed in paragraph (a)(3) of this section), will be retroactively enrolled into the LI NET program by the LI NET sponsor. The LI NET sponsor has 14 calendar days to reply with a coverage decision; or

(4) *LI NET application form.* An individual who is not enrolled through one of the methods in paragraphs (b)(1) through (3) of this section may submit an LI NET application form to the LI NET sponsor (with optional documentation of LIS eligibility listed in paragraph (a)(3) of this section). If no documentation is submitted and accepted, the LI NET sponsor will periodically check for eligibility and enroll applicants once LIS eligibility is confirmed.

(c) *Duration of LI NET enrollment.* (1) Enrollment begins on the first day of the month an individual is identified as eligible under this section and ends after 2 months, with a longer LI NET enrollment for those with retroactive

coverage per paragraph (c)(2) of this section.

(2) Retroactive LI NET coverage begins on the date an individual is identified as eligible for a low-income subsidy as a full-benefit dual eligible or an SSI benefit recipient, or 36 months prior to the date such individual enrolls in (or opts out of) Part D coverage, whichever is later. LI NET coverage ends with enrollment into a Part D plan or opting out of Part D coverage.

(d) *Ending LI NET enrollment.* An individual's enrollment in the LI NET program ends when:

(1) The individual is auto-enrolled into a standalone Part D plan in accordance with the guidelines at § 423.34(d) and that coverage has taken effect.

(2) The individual elects another Part D plan and that coverage has taken effect.

(3) The individual voluntarily disenrolls from the LI NET program.

(4) The individual is involuntarily disenrolled under § 423.44(b).

(5) LIS eligibility for an individual in LI NET due to an immediate need cannot be confirmed within the period of LI NET coverage.

§ 423.2508 LI NET benefits and beneficiary protections.

(a) *Formulary.* The LI NET program provides access to all Part D drugs under an open formulary.

(b) *Network.* The LI NET sponsor must allow its network and out-of-network pharmacies that are in good standing to process claims under the program. Licensed pharmacies are considered to be in good standing for the LI NET program so long as they: are not revoked from Medicare under § 424.535; do not appear on the Office of Inspector General's list of entities excluded from Federally funded health care programs pursuant to section 1128 of the Act or from Medicare and State health care programs under section 1156 of the Act (unless waived by the OIG); do not appear on the preclusion list as defined at § 423.100; and do not have a determination by the LI NET sponsor of a credible allegation of fraud as defined at § 423.4.