

(B) If an individual disagrees with SSA's determination that such individual is subject to the Part D—IRMAA, or about the amount the individual must pay, an individual may file an appeal or request a new initial determination consistent with 20 CFR part 418.

(ii) *Calculating the income-related monthly adjustment amount.* The income-related monthly adjustment is equal to the product of the standard base beneficiary premium, as determined under paragraph (c) of this section, and the ratio of the applicable premium percentage specified in 20 CFR 418.2120, reduced by 25.5 percent; divided by 25.5 percent (that is, premium percentage – 25.5 percent)/25.5 percent).

(e) *Decrease in monthly beneficiary premium for low-income assistance.* The monthly beneficiary premium may be eliminated or decreased in the case of a subsidy-eligible individual under § 423.780.

(f) *Special rules for fallback prescription drug plans.* The monthly beneficiary premium charged under a fallback prescription drug plan is calculated under § 423.867(a) and not under this section, except that enrollees in fallback prescription drug plans are subject to late enrollment penalties under paragraph (d)(3) of this section and fallback prescription drug plan premiums are reduced or eliminated in the case of a subsidy-eligible individual, as described in paragraph (e) of this section.

[70 FR 4525, Jan. 28, 2005, as amended at 76 FR 21574, Apr. 15, 2011; 86 FR 6118, Jan. 19, 2021]

**§ 423.293 Collection of monthly beneficiary premium.**

(a) *General rules.* Part D sponsors must—

(1) Charge enrollees a consolidated monthly Part D premium equal to the sum of the Part D monthly premium for basic prescription drug coverage (if any) and the premium for supplemental coverage (if any and if the beneficiary has enrolled in such supplemental coverage).

(2) Permit payment of monthly Part D premiums (if any) under the timing of payments established in § 422.262(e) of this chapter; and

(3) Permit each enrollee, at the enrollee's option, to make payment of premiums (if any) under this part to the sponsor using any of the methods listed in § 422.262(f) of this chapter.

(4) *Retroactive collection of premiums.* In circumstances where retroactive collection of premium amounts is necessary and the enrollee is without fault in creating the premium arrearage, the Part D sponsor shall offer the enrollee the option of payment by lump sum, by equal monthly installment spread out over at least the same period for which the premiums were due, or through other arrangements mutually acceptable to the enrollee and the Part D sponsor. For monthly installments, for example, if 7 months of premiums are due, the member would have at least 7 months to repay.

(b) *Crediting of late enrollment penalty.* CMS estimates and specifies the portion of the late enrollment penalty imposed under § 423.286(d)(3) attributable to increased actuarial costs assumed by the Part D sponsor and not taken into account through risk adjustment provided under § 423.329(b)(1) or through reinsurance payments under § 423.329(c) as a result of the late enrollment.

(c) *Collection of late enrollment penalty—(1) Collection through withholding.* In the case of a late enrollment penalty that is collected by the government from a Part D eligible individual in the manner described in § 422.262(f)(1) of this chapter, CMS pays only the portion of the late enrollment penalty described in paragraph (b) of this section to the Part D sponsor offering the Part D plan in which the individual is enrolled.

(2) *Collection by plan.* In the case of a late enrollment penalty collected from a Part D eligible individual in a manner other than the manner described in § 422.262(f)(1) of this chapter, CMS reduces payments otherwise made to the Part D plan by an amount equal to the portion of the late enrollment penalty.

(d) *Collection of the income-related monthly adjustment amount (Part D—IRMAA).* (1) *Collection through withholding.* Where the Social Security Administration has determined the income-related monthly adjustment amount for an individual whose income

exceeds the income threshold amounts specified at 20 CFR 418.2115, the Part D—IRMAA must be paid through withholding from the enrollee's Social Security benefit payments, or benefit payments by the Railroad Retirement Board (RRB) or the Office of Personnel Management (OPM) in the manner that the Part B premium is withheld.

(2) *Collection through direct billing.* In cases where an enrollee's benefit payment check is not sufficient to have the Part D—IRMAA withheld, or if an enrollee is not receiving such benefits, the beneficiary must be billed directly for the Part D—IRMAA. The beneficiary will have the option of paying the amount through an electronic funds transfer mechanism (such as automatic charges of an account at a financial institution or a credit or debit card account) or according to other means that CMS may specify.

(3) *Failure to pay the income-related monthly adjustment amount: General rule.* CMS will terminate Part D coverage for any individual who fails to pay the Part D—IRMAA as determined by the Social Security Administration. CMS will terminate an enrollee's Part D coverage as specified in § 423.44(e).

(e) *Special rule for fallback plans.* This section does not apply to fallback prescription drug plans. The fallback plans follow the requirements set forth in § 423.867(b).

(f) *Prohibition on improper billing of premiums.* Part D plan sponsors shall not bill an enrollee for a premium payment period if the enrollee has had the premium for that period withheld from his or her Social Security, Railroad Retirement Board or Office of Personnel Management check.

[70 FR 4525, Jan. 28, 2005, as amended at 73 FR 20506, Apr. 15, 2008; 74 FR 1544, Jan. 12, 2009; 76 FR 21574, Apr. 15, 2011; 89 FR 30836, Apr. 23, 2024]

**§ 423.294 Failure to collect and incorrect collections of premiums and cost sharing.**

(a) *Requirement to collect premiums and cost sharing.* A Part D sponsor violates the uniform benefit provisions at § 423.104(b) if it fails to collect or incorrectly collects applicable cost sharing, or fails to collect or incorrectly col-

lects premiums as required by § 422.262(e) of this chapter—

(1) In accordance with the timing of premium payments;

(2) At the time a drug is dispensed; or

(3) By billing the enrollee or another appropriate party after the fact.

(b) Refunds of incorrect collections—

(1) *Definitions.* As used in this section the following definitions are applicable:

*Amounts incorrectly collected.* (A) Means amounts that exceed the monthly Part D enrollee premium limits under § 423.286 or exceed permissible cost-sharing or copayment amounts as specified in § 423.104(d) through (f), whether paid by or on behalf of the enrollee;

(B) Includes amounts collected with respect to an enrollee who was believed to be entitled to Medicare benefits but was later found not to be entitled; and

(C) Excludes de minimis amounts, as calculated per PDE transaction or per monthly premium billing.

*De minimis amounts* means an amount per PDE transaction for claims adjustments and per month for premium adjustments that does not exceed the de minimis amount determined for purposes of § 423.34(c)(2).

*Other amounts due* means amounts due to affected enrollees or others on their behalf (other than de minimis amounts) for covered Part D drugs that were—

(A) Accessed at an out-of-network pharmacy in accordance with the requirements at § 423.124; or

(B) Initially denied but, upon appeal, found to be covered Part D drugs the enrollee was entitled to have provided by the Part D plan.

(2) *General rule.* A Part D sponsor must make a reasonable effort to identify all amounts incorrectly collected and to pay any other amounts due during the timeframe for coordination of benefits as established at § 423.466(b). A Part D sponsor must issue a refund for an identified enrollee overpayment within the timeframe specified at § 423.466(a).

(3) *Refund methods—(i) Lump-sum payment.* The Part D sponsor must use lump-sum payments for the following:

(A) Amounts incorrectly collected as cost-sharing.