

## § 423.782

## 42 CFR Ch. IV (10–1–24 Edition)

low income benchmark as defined in § 423.780(b)(2).

[70 FR 4525, Jan. 28, 2005, as amended at 73 FR 18182, Apr. 3, 2008; 73 FR 20508, Apr. 15, 2008; 73 FR 54253, Sept. 18, 2008; 76 FR 21576, Apr. 15, 2011; 88 FR 22340, Apr. 12, 2023]

### § 423.782 Cost-sharing subsidy.

(a) *Full subsidy eligible individuals.* Full subsidy eligible individuals are entitled to the following:

(1) Elimination of the annual deductible under § 423.104(d)(1).

(2) Reduction in cost-sharing for all covered Part D drugs covered under the PDP or MA-PD plan below the out-of-pocket limit (under § 423.104), including Part D drugs covered under the PDP or MA-PD plan obtained after the initial coverage limit (under § 423.104(d)(4)), as follows:

(i) Except as provided under paragraphs (a)(2)(ii) and (a)(2)(iii) of this section, copayment amounts not to exceed the copayment amounts specified in § 423.104(d)(5)(A). This applies to both:

(A) Those full-benefit dual eligible individuals who are not institutionalized and who have income above 100 percent of the Federal poverty line applicable to the individual's family size and

(B) Those individuals who have income under 135 percent of the Federal poverty line applicable to the individual's family size who meet the resources test described at § 423.773(b)(2).

(ii) Full-benefit dual-eligible individuals who are institutionalized or who are receiving home and community-based services have no cost-sharing for Part D drugs covered under their PDP or MA-PD plans.

(iii) Full-benefit dual eligible individuals with incomes that do not exceed 100 percent of the Federal poverty line applicable to the individual's family size are subject to cost-sharing for covered Part D drugs equal to the lesser of:

(A) A copayment amount of not more than \$1 for a generic drug, biological product for which an application under section 351(k) of the Public Health Service Act (42 U.S.C. 262(k)) is approved, or preferred drugs that are multiple source (as defined under section 1927(k)(7)(A)(i) of the Act) or \$3 for

any other drug in 2006, or for years after 2006 the amounts specified in this paragraph (a)(2)(iii)(A) for the percentage increase in the Consumer Price Index, rounded to the nearest multiple of 5 cents or 10 cents, respectively; or

(B) The copayment amount charged to other individuals under this paragraph (a)(2)(i) of this section.

(3) Elimination of all cost-sharing for covered Part D drugs covered under the PDP or MA-PD plan above the out-of-pocket limit (under § 423.104(d)(5)).

(b) *Other low-income subsidy eligible individuals.* Other low-income subsidy eligible individuals are entitled to the following:

(1) In 2006, reduction in the annual deductible to \$50. This amount is increased each year beginning in 2007 by the annual percentage increase in average per capita aggregate expenditures for Part D drugs, rounded to the nearest multiple of \$1.

(2) Fifteen percent coinsurance for all covered Part D drugs obtained after the annual deductible under the plan up to the out-of-pocket limit (under § 423.104(d)(5)(iii)).

(3) For covered Part D drugs above the out-of-pocket limit (under § 423.104(d)(5)(iii)) in 2006, copayments not to exceed \$2 for a generic drug, biological product for which an application under section 351(k) of the Public Health Service Act (42 U.S.C. 262(k)) is approved, or preferred drugs that are multiple source drugs (as defined under section 1927(k)(7)(A)(i) of the Act) and \$5 for any other drug. For years beginning in 2007, the amounts specified in this paragraph (b)(3) for the previous years increased by the annual percentage increase in average per capita aggregate expenditures for covered Part D drugs, rounded to the nearest multiple of 5 cents.

(c) When the out-of-pocket cost for a covered Part D drug under a Part D sponsor's plan benefit package is less than the maximum allowable copayment, coinsurance or deductible amounts under paragraphs (a) and (b) of this section, the Part D sponsor may only charge the lower benefit package amount.

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