Part D: The New Medicare Prescription Drug Law
Implications for Medicaid

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Medicare Prescription Drug, Improvement, and Modernization Act – “MMA”
Public Law 108-173 of 2003

• Drug discount card for 2004 and 2005
• Part D prescription drug benefit beginning 2006
• Many other changes, such as:
  – Increased Medicare payments for hospitals, physicians, & health plans
  – Created Medicare Advantage to replace Medicare + Choice (i.e., managed care plans)
  – Created “Health Savings Accounts”
• Estimated Cost:
  – $400 billion (by the CBO) to $553 billion (by the HHS) over 10 years from 2004-2013
States Have Much at Stake in the New Medicare Drug Benefit

- Prescription drugs for low-income Medicare beneficiaries ("Dual Eligibles") have been a major Medicaid cost.
- The MMA mandates that Medicaid drug coverage for Part D drugs for Duals end on January 1, 2006.
- The transition from Medicaid to Medicare for 6.4 million dual eligibles must be quick and perfect to avoid potential loss of coverage and harm to beneficiaries.

Medicaid’s Role in the U.S. Health System

Medicaid was 19% of national prescription drug spending in 2003, the nation’s largest single purchaser of prescription drugs.

<table>
<thead>
<tr>
<th>Service</th>
<th>Total National Spending (billions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Personal Health Care</td>
<td>$1,441</td>
</tr>
<tr>
<td>Hospital Care</td>
<td>$516</td>
</tr>
<tr>
<td>Professional Services</td>
<td>$542</td>
</tr>
<tr>
<td>Nursing Home Care</td>
<td>$111</td>
</tr>
<tr>
<td>Prescription Drugs</td>
<td>$179</td>
</tr>
</tbody>
</table>

Almost Half of Medicaid Spending for Prescription Drugs Is for “Duals”

Total Medicaid Rx Spending = $23.4 Billion

SOURCE: Urban Institute estimates prepared for KCMU based on MSIS data for FFY2000 and Form 64 FFY2002 data. Data reflect expenditures on outpatient prescription drugs only and are net of Medicaid rebates.

Medicare Part D: Basic Facts for the Standard Benefit

- Enrollment: ................. Voluntary
- Initial enrollment period: ... 6 months: 11-15-05 to 5-15-06
- Annual enrollment periods: Nov. 15 to Dec. 31
- Coverage will begin: ......... Jan. 1, 2006
- Premiums in 2006......... $35 per month (Estimated)

Those who don’t enroll initially, or who don’t maintain continuous coverage, will pay higher premiums
Part D Prescription Drug Plans

• The Part D benefit will be administered primarily by risk-bearing private plans:
  – Prescription Drug Plans (PDPs)
  – Medicare Advantage Prescription Drug plans (MA-PDs)
  – Federal non-risk fall-back plan (only if needed)

• Beneficiaries can choose from at least 2 plans.

• The plan chosen will determine which drugs are covered and the price for drugs
  – The Federal government is prohibited from negotiating prices for PDPs & MA-PDs.

Part D Plans Must Cover Drugs In Every Class – But Not All Drugs

• Will include at least 2 drugs in all 209 drug classes

• Will exclude certain drugs, such as those for:
  – Weight loss or weight gain, fertility
  – Cosmetic or hair growth
  – Cough or cold relief
  – Vitamins and minerals
  – Over-the-counter (OTCs) available without a prescription
  – Valium, Ativan, Phenobarital (benzodiazepines & barbiturates)
  – Drugs covered under Medicare Parts A or B
Beneficiary Premiums

- Beneficiary premiums will be a percentage of submitted bids and will vary from plan to plan.
- Federal subsidy of premiums will be 74.5%.
- Beneficiaries will pay premiums set at 25.5% of average bid, +/- the plan bid less the average bid.

<table>
<thead>
<tr>
<th>Plan Bids</th>
<th>Nat’l Weighted Avg</th>
<th>Premium</th>
</tr>
</thead>
<tbody>
<tr>
<td>$130</td>
<td>$135</td>
<td>$30</td>
</tr>
<tr>
<td>$135</td>
<td>$135</td>
<td>$35</td>
</tr>
<tr>
<td>$140</td>
<td>$135</td>
<td>$40</td>
</tr>
</tbody>
</table>

Part D Standard Benefit in 2006: Beneficiary Coverage & Out-of-Pocket Drug Costs

Part D Beneficiary Out-Of-Pocket Costs Indexed

Projected Increases from 2006 to 2013:

- **Deductible:** $250 will go to $445
- **Donut hole:** $2,850 will go to $5,066
- **Catastrophic threshold:** $5,100 will go to $9,600

Growth in Out-of-Pocket Costs Below the Catastrophic Threshold (Excluding Premiums)


Part D Will Be Very Helpful for Beneficiaries with Low-Incomes

- Discounted or zero premiums, deductibles and coinsurance
- No “donut hole” gap in coverage
- Must be on Medicaid or qualify with both an income and asset test

Part D Subsidies are Means-Tested Based on Income (as a Percentage of the Federal Poverty Level) and Assets

<table>
<thead>
<tr>
<th>Household Size</th>
<th>Percentage of the 2004 Federal Poverty Level</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>100% FPL</td>
</tr>
<tr>
<td>Individual</td>
<td>$9,310</td>
</tr>
<tr>
<td>Couple</td>
<td>$12,490</td>
</tr>
</tbody>
</table>

NOTE: Federal Poverty Levels change each year.

Part D “Partial” Low-Income Subsidies Non-Medicaid Beneficiaries Incomes Up to 150% FPL

FPL in 2004: $13,965 (individual)
$18,735 (couple)

Asset Test: $10,000 (individual)
$20,000 (couple)

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Premium: $1 to $34 – based on income
Deductible: $50
Coincurrence: 15% before catastrophic threshold
Donut Hole: None
Catastrophic: $2 for generics and $5 for brands

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Part D “Full” Low-Income Subsidy
Non-Medicaid Beneficiaries
Incomes Up to 135% FPL

FPL in 2004: $12,568 (individual)
$16,862 (couple)
Asset Test: $6,000 (individual) or $9,000 (couple)

Premium: $0
Deductible: $0
Copayment: $2 for generics and $5 for brands before catastrophic threshold
Donut Hole: None
Catastrophic: No copayments

Part D Low-Income Subsidy
Beneficiaries on Medicaid “Dual Enrollees”

Premium: $0
Deductible: $0
Copayments:* • $1 for generics & $3 for brands below 100% FPL
• $2 for generics and $5 for brands at & above 100% FPL
• $0 copay, if institutionalized
Donut Hole: None
Catastrophic: $0 copay

* Beyond 2006, copays are indexed
More Than One-Third of Medicare Beneficiaries Will Qualify for the Low-Income Drug Subsidy in 2006

Medicare Part B Beneficiaries = 39.9 Million
SOURCE: Congressional Budget Office cost estimates, July 2004. Due to rounding, data do not sum to 39.9 million.

Characteristics of 14 Million Subsidy-Eligible Individuals, 2006

Subsidy Eligible Individuals = 14.2 Million
SOURCE: KCMU analysis of CBO’s cost estimate of the Medicare prescription drug benefit, July 2004. Due to rounding, data do not sum to 14.2 million.
State Issue 1: Can Dual Eligibles Be Transitioned to Medicare in Time?

- Timeframe is very short: Information on PDPs will become known in September 2005
- All Dual Eligibles will be auto-enrolled
  - CMS is committed to assuring no gap in coverage
  - CMS expects auto enrollment of duals before initial enrollment period
  - Duals will be assigned to a benchmark or lower-premium plan
- Unlike others on Medicare, Duals can switch plans in any given month, not just annually
- Medicaid officials concern: a complex process involving 6.4 million duals must be perfect


State Issue 2: What If PDP Coverage Is Less Comprehensive than Medicaid?

- Medicaid coverage is comprehensive
  - Most states use Preferred Drug Lists (PDLs)—formularies outlawed
  - Prior authorization process is quick
  - Appeals process is quick on exceptions to coverage or limits
- PDPs may use formularies comparable to employer-sponsored drug coverage
  - CMS regulations shortened the appeals process, but still not did not require an emergency supply during the appeal like Medicaid
  - CMS regulations require a transition process for individuals whose drugs are not covered by the PDP (details are not yet available)
  - PDPs will not have access to Medicaid clinical information
- Some states expect pressure to “wrap-around” Medicare coverage if beneficiaries cannot get current medications

State Issue 3: How Will States Carry Out Their Role in Administering Part D?

• Beginning in July 2005, regulations require states to take applications for the Part D Subsidy
  – States must develop the capacity to process applications
• States must offer applicants the opportunity to apply for Medicaid if they appear to be eligible
• States fear that key information they need to develop policies and systems is not available with enough time to make the needed changes
• States do not have additional staff or systems resources (beyond 50% federal administrative match)


State Issue 4: Will Low-Income Subsidies Increase the Number of Dual Eligibles?

• The Part D benefit is much more comprehensive and costs less for individuals below 150% of the Federal Poverty Level
• Low-income Medicare beneficiaries will have a strong incentive to apply for subsidies
• State officials are concerned about the higher costs they will incur for more Duals: Part A and B premiums, deductibles, coinsurance, and other benefits not covered by Medicare.

State Issue 5: Will State Costs Increase or Decrease?

- New administrative costs for taking applications for low-income subsidies
- More low-income Medicare beneficiaries will enroll in Medicaid as dual eligibles
- Diminished Medicaid market share will mean less ability to negotiate supplemental manufacturer rebates
- Loss of prescription drug paid claims information to use for disease management
- Potential costs of “wrapping around”
- The Clawback


- States are concerned: States sending the federal government money to help pay for a federal benefit is a “troubling precedent”
- States are concerned: The Clawback formula is flawed
  - The 2003 base year will not reflect 2006
  - The base reflects a Medicaid benefit likely more comprehensive than that offered by a PDP
  - National index to inflate the 2003 base to 2006 does not account for state actions to control costs of drugs, or audits or recoveries
  - The Clawback goes forever – it phases down but never phases out
- Most states expect no savings and many expect the clawback to cause state costs to increase

**Clawback Formula**

Multiply:

1. Per Capita Monthly Amount

2. Full-Benefit CY03 Duals Enrolled in Month

3. Monthly Factor Adjustment

Clawback Total Amount

**Clawback Basics**

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/12th CY 03 Rx Payments</td>
<td>Full-Benefit CY03 Duals</td>
<td>State Match Rate [1-FMAP] For Clawback Month</td>
<td>Mfg Rebate Percent</td>
</tr>
</tbody>
</table>

**For a month in:**

<table>
<thead>
<tr>
<th>Year</th>
<th>Factor</th>
</tr>
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<tbody>
<tr>
<td>2006</td>
<td>90%</td>
</tr>
<tr>
<td>2007</td>
<td>88.33%</td>
</tr>
<tr>
<td>2008</td>
<td>86.67%</td>
</tr>
<tr>
<td>2009</td>
<td>85%</td>
</tr>
<tr>
<td>2010</td>
<td>83.33%</td>
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<tr>
<td>2011</td>
<td>81.67%</td>
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<tr>
<td>2012</td>
<td>80%</td>
</tr>
<tr>
<td>2013</td>
<td>78.33%</td>
</tr>
<tr>
<td>2014</td>
<td>76.67%</td>
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<tr>
<td>2015 &amp; After</td>
<td>75%</td>
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</tbody>
</table>

**Medicaid Prescription Drug Policy Changes FY 2004 and FY 2005**

Other Key Issues: Beneficiary Copayments & Nursing Home Patients

• Part D copayments are set nationally
  – “Dual eligibles [in our state] have no cost sharing for pharmacy. Under Part D, cost sharing will be required.”

• Nursing home patients under Part D present a difficult challenge

Source: Health Management Associates interviews of State Medicaid Directors, for Kaiser Commission on Medicaid and the Uninsured, July and August 2004.

States Must Be Prepared for Medicare Part D Transition Issues

• Beneficiaries may call Medicaid, the Governor, their Legislator or Member of Congress if they
  – Discover a gap in coverage if they do not enroll by January 1, 2006
  – Don’t know how to use plan
  – Find that the drug Medicaid covered isn’t covered by their PDP
  – Have higher out-of-pocket costs for copays or non-covered drugs

• Pharmacists and prescribers will have to assist millions of beneficiaries with potentially new Rx coverages, copay rules, and billing rules

Source: Focus group discussion with Medicaid directors conducted by Health Management Associates for Kaiser Commission on Medicaid and the Uninsured, November 2004.
Conclusion

• States must be ready for significant change under Part D
  – Assure a perfect transition of duals from Medicaid to Medicare
  – Prepare to accept, process, forward applications for low-income subsidies to SSA
  – Calculate and budget for monthly Clawback payments to federal government beginning January 2006.
  – Prepare to work with legislators and other policy makers to assure state resources
  – Deal with the inevitable issues that arise with a complex change

• Ongoing CMS guidance & interpretation of MMA will affect ultimate impact.