MA-2311 LIS PROCESSING AND MAINTENANCE
REISSUED 01/01/09 – CHANGE NO. 02-09

I. INTRODUCTION

This section only applies to LIS applications taken by DSS which are not forwarded to SSA for processing because the applicant insists that DSS determine eligibility for the LIS. For LIS applications taken by DSS and forwarded to SSA for processing, see MA-2310, *Taking the LIS Application.*

The dss only determines eligibility for the LIS when the Medicare beneficiary requests the agency to process. When the agency processes an application, the DSS is responsible for notices, hearings and redeterminations for the LIS.

Do not continue to process an LIS application when the Medicare individual becomes authorized for Medicaid in any aid program/category except M-WD or NCHC during the processing period. The individual will be deemed eligible for the LIS.

II. DEFINITIONS

A. Family Size: Family size includes the applicant, the applicant's spouse living in the home and any persons related by blood, marriage or adoption, who are living with the applicant and spouse and are dependent on the applicant or spouse for at least one half their financial support.

B. Low Income Subsidy (LIS): For individuals with income less than 150% of the federal poverty level, the subsidy provides assistance with the premium payment and a reduction in the deductible and co-pays. The subsidy may be 100%, 75%, 50% or 25% of the Part D premium depending on the income range. This is also referred to as "extra help".

III. POLICY PRINCIPLES

A. An individual must be entitled to Medicare Part A and/or enrolled in Part B to be eligible for the LIS.

1. The individual must be entitled to Medicare Part A or enrolled in Part B. This means the applicant should have a Medicare card. An individual who is ineligible for free Part A and who has not yet enrolled in Part B is ineligible for the LIS.

2. Verify Medicare enrollment by viewing the Medicare card or using online verification (OLV) to access SOLQ or BENDEX.

B. An individual must have income less than 150% of the federal poverty level for the family size.

C. An individual must have resources equal to or less than $11,010 for a single person or $22,010 for a couple.

D. Follow application processing procedures in MA-2303, *Verification Procedures for Applications,* and MA-2304, *Processing the Application,* for verification requirements, requesting information and time frames.

E. Use the SSA-1020, Application for Help with Medicare Prescription Drug Plan Costs, and the DMA-1051, LIS Verification Checklist, (Figure 2) to document the eligibility determination.

F. The applicant must be provided a notice of his eligibility determination and granted an opportunity for appeal through the Medicaid hearing process.

1. For approvals, send the DMA-1052, Notice of Approval for Extra Help with Medicare Prescription Drug Costs. (Figure 3)

2. For denials, send the DMA-1053, Notice of Denial for Extra Help with Medicare Prescription Drug Costs. (Figure 4)

3. The county is responsible for all changes, redeterminations and hearings unless the individual subsequently becomes eligible for a Medicaid program. The individual is then a deemed eligible.

G. Follow redetermination procedures in MA-2320, *Redetermination of Eligibility*.

IV. INCOME

Unless otherwise indicated in this section, follow rules for determining availability, exclusions and countable income in MA-2250, *Income.*

A. Income Limit

In order to be eligible for the LIS, a Medicare beneficiary's income must be **less than** 150% of the federal poverty level (FPL). However, there are different levels of subsidy assistance with different income limit ranges between 135% and 150% of the federal poverty level. Refer to Table 1 in Figure 1.

B. Determine Whose Income is Counted

Count income available to the applicant and the spouse, if living in the home. Do not count income of any dependents who are included in family size.

C. Determine Countable Income

Verify the gross income of the applicant and spouse, if living in the home. Apply the following exclusions, if applicable, to the gross income of the applicant and spouse, if living in the home:

1. Determine countable net unearned income. Apply the following exclusions to gross unearned income, if applicable:

   a. One-third of support payments made to or for the applicant by an absent parent if the applicant is a child;

   b. The first $20 of any unearned income other than in-kind income or needs-based income;

   The remainder is countable net unearned income.

2. Determine countable net earned income. Apply the following exclusions in the order listed:

   a. Payments under Earned Income Tax Credit (EITC);

   b. Any portion of the $20 monthly exclusion which was not excluded from unearned income;

   c $65 per month of the applicant/spouse's earned income;

   d. 16.3% of gross earnings for an applicant under 65 for impairment-related work expenses (IRWE);

   e. One-half of the applicant/spouse's remaining earned income; and

   f. Twenty-five percent (25%) of gross earnings for an applicant under age 65 who receives disability based on blindness for blind work expenses (BWE).

   The remainder is the countable net earned income for the applicant.

3. Combine the net unearned and earned income. This is the countable income for the applicant.

D. Determine the Family Size and Income Limit

1. Determine the family size. Family size includes:

   a. The applicant, and

   b. The applicant's spouse, if living in the home, and

   c. Any persons who are related by blood, marriage or adoption, who are living with the applicant and the spouse and are dependent on the applicant or spouse for at least one half their financial support.

2. Compare the net countable income from IV. B.3. above to the income limit for the family size. Refer to Table 1 in Figure 1.

V. RESOURCES

Unless otherwise indicated in this section, follow rules for determining availability, countable value and exclusions in MA-2230, *Financial Resources.*

A. Determine Whose Resources are Counted

Count resources available to the applicant and the applicant's spouse, if living in the home. See MA-2230, *Financial Resources,* for availability rules.

1. If the applicant or spouse is the sole owner by the account title and can withdraw and use funds from the account, all of the account's funds are counted as a resource to the applicant/spouse regardless of the source. This presumption is not rebuttable.

   NOTE: This is different from Medicaid where a client has an opportunity to prove a resulting trust exists.

2. Jointly-held Account

   a. If the applicant/spouse is the only subsidy claimant or subsidy recipient who is an account holder on a jointly held account, presume that all of the funds in the account belong to the applicant/spouse. The client may rebut this presumption and provide proof of a resulting trust or amounts that belong to each individual owner.

   b. If more than one subsidy claimant or subsidy recipient are account holders, consider the funds belong to each in equal shares. The client may rebut this presumption.

B. Countable Resources

The following resources are countable for the LIS:

1. Liquid assets; and

2. Real property other than the homesite and contiguous property. Life estate, tenancy-in-common and remainder interests are countable for the LIS.

   To determine the value of a tenancy-in-common interest:

   a. Verify the number of owners and the equity value (market value minus any encumbrances) of the property;

   b. Divide the equity value of the property by the number of owners. This is the countable value of the tenancy-in-common interest to be included in resources for the LIS.

3. Always use the equity value of resources in determining eligibility.

C. Non-Countable Resources

The following resources are excluded in determining eligibility for the LIS:

1. Personal property such as household goods, vehicles, boats, motorcycles, non-cash business property, and personal effects.

2. Cash value of life insurance owned by an individual when the total face value of all the life insurance policies owned on any person **does not exceed $1,500.00**.

   NOTE: This is different from the Medicaid program which does not count cash value unless the total face value exceeds $10,000.

3. Funds up to $1,500 for the individual and $1,500 for the spouse who lives with the individual if the funds are intended to be used for funeral or burial expenses. The client may have other non-countable burial resources.

4. Dedicated financial institution accounts consisting of past-due benefits for an SSI-eligible individual under age 18.

D. Determine Countable Reserve

1. Use the equity value of resources. Follow procedures in MA-2301, *Conducting a Face-to-Face Interview*, MA-2303, *Verification Requirements for Applications*, and MA-2304, *Processing the Application*, for verification requirements, requesting information and time frames.

2. Apply any exclusions shown in V. C. above or in MA-2230, *Financial Resources.*

3. The remainder is countable reserve for the applicant.

E. Resource Limit

1. The maximum resource limit for the subsidy is $11,010 for one person and $22,010 for a couple. The couple limit applies as long as the applicant and the spouse are living in the home, regardless of whether one or both apply.

2. Resources at or below $6,600 for one person and $9,910 for a couple entitle the applicant to the full subsidy and co-payments for prescriptions **if** income is equal to or less than 135% of the federal poverty level.

   If the reserve is above $6,600/$9,910 but at or below the $11,010/$22,010 limit, the individual may be responsible for 15% co-payment until the total drug costs reach the catastrophic coverage limit. Once this limit is reached there will be a co-pay per prescription.

VI. DETERMINING ELIGIBILITY FOR THE LIS

Eligibility for the LIS is calculated using the countable income and reserve. The income must be less than 150% of the federal poverty level, but may fall into different levels that determine the amount of the subsidy for the premium.

Once countable income and resources have been determined, use the tables shown in Figure 1 to determine the LIS benefit level as follows:

A. Determine the poverty income range by comparing countable net income to Family Size in TABLE 1 in Figure 1.

This will give you the poverty level range for the family size to determine whether the applicant is potentially eligible for premium assistance of 100%, 75%, 50% or 25%.

B. Use TABLE 2 in Figure 1 to determine subsidy eligibility code.

1. Use the subsidy calculation for one person when the applicant is not married or lives apart from the spouse.

2. Use the subsidy calculation for a couple when the applicant is married and living with the spouse, regardless of whether the spouse is also applying.

3. Using the percent of the Federal Poverty Level and the countable resources, find the subsidy code.

C. Use TABLE 3 in Figure 1 to determine the subsidy benefit. This table shows the benefits for the subsidy benefit code calculated in VI. B. above.

EXAMPLE 1: Jane is applying for the LIS and is single. She has monthly countable income of $1,190. The family size is 1. Per TABLE 1, Jane has income greater than 135% but equal to or less than 140% FPL. Based on income alone, Jane is potentially eligible for a 75% subsidy. Her total countable resources are $4,700. Using TABLE 2, Subsidy Calculation for One Person, Jane's eligibility code is "C". The benefit for code "C" in TABLE 3, LIS Benefit Determination, is 75% of the monthly premium. She also will have an annual deductible and will be responsible for 15% of her prescription costs up to the catastrophic limit. After that, Jane will have a co-pay for prescriptions. She will not have the "donut hole".

EXAMPLE 2: James wants to apply for the LIS for himself and his wife, Lois. The monthly countable income of the couple is $1,780. There is a grandchild living in the home. The grandchild is dependent on James for at least one-half his financial support. The family size is 3. Using TABLE 1, the income of $1,780 for a family size of 3 is less than 135% of FPL. The countable resources for the couple total $15,245. Using TABLE 2, Subsidy Calculation for a Couple, income less than 135% and resources between $9,440 and $20,970, shows a subsidy code of "B". The benefit for code "B" in TABLE 3, LIS Benefit Determination, is 100% of the monthly premium. James and Lois will each have an annual deductible and will be responsible for 15% of their prescription costs up to the catastrophic limit. After that, they will have a co-pay for prescriptions. James and Lois will not have the "donut hole".

EXAMPLE 3: Lesley is married and wants to apply for the LIS. Her husband does not receive Medicare. The monthly countable income for Lesley is $1,350. The family size is 2. Using TABLE 1, the income is less than 135% of FPL. The countable resources for the couple total $24,354. Using TABLE 2, the benefit code is "F". The benefit for code "F" is no subsidy. She is not eligible for the extra help. Lesley will be responsible for the annual deductible, 25% co-payments, and catastrophic co-pays of 5%. She will have the "donut hole" during which she is responsible for 100% of her prescription costs. Lesley may reduce her reserve and reapply at any time.

VII. APPLICATION OUTCOMES

A. Approval

1. Approve assistance for the LIS when all factors of eligibility have been verified and eligibility is established. Document the eligibility factors and verification on the DMA-1051 LIS Verification Checklist. (Figure 2)

2. Complete the DMA-1052, Notice of Approval for Extra Help With Medicare Prescription Drug Costs, (Figure 3) to notify the client regarding the approval and the level of LIS benefit.

   Once the beneficiary is enrolled in a PDP, the Plan must track the prescription expenditures and notify the beneficiary when his co-pay changes.

3. For LIS applications the eligibility period is 12 calendar months beginning with the month of application.

4. Complete the DMA-1054, Report of Approval/Denial of LIS Application, to report the eligibility and benefit level to DMA. See Figure 5. Send the information to the following address:

   Division of Medical Assistance
   Claims Analysis Unit - 19
   2501 Mail Service Center
   Raleigh, NC 27699-2501

B. Denial

1. Deny the LIS application if the client does not meet an eligibility requirement, such as income, resources or Medicare enrollment, or fails to provide information to determine eligibility.

2. Complete the DMA-1053, Notice of Denial for Extra Help with Medicare Prescription Drug Costs, to notify the client regarding the denial. See Figure 4.

3. Complete the DMA-1054, Report of Approval/Denial of LIS Application, to report the denial to DMA. Send the information to the Claims Analysis Unit at the address noted in VII.A.4. above.

VIII. CASE MAINTENANCE

A. Change in Situation

1. LIS individuals are **not required** to report changes until redetermination.

2. However, if a change is reported, there are two types of changes that can impact the amount of the subsidy:

   a. Subsidy Changing Events which are effective the month after the month the change is reported. There are six subsidy changing events:

      (1) Beneficiary marries

      (2) Beneficiary and spouse divorce

      (3) Beneficiary's spouse dies

      (4) Beneficiary and spouse separate

      (5) Beneficiary and spouse annul marriage

      (6) Beneficiary and previously separated spouse begin to live together again.

   b. Other events which may change the subsidy amount, but are effective at the end of the certification period.

      (1) Document the change in the record.

      (2) Process change at redetermination.

3. When a subsidy changing event is reported the worker must send the review notice (DSS-8189) to the recipient and schedule a review.

4. Follow the application procedures in this section without changing the certification period.

5. Complete the DMA-1054, Report of Approval/Denial of LIS Application, to report the eligibility and benefit level to DMA. See Figure 5. Send the information to the following address:

   Division of Medical Assistance
   Claims Analysis Unit - 19
   2501 Mail Service Center
   Raleigh, NC 27699-2501

B. Redetermination of Eligibility

1. The DSS must offer to redetermine eligibility for any individual who insisted on a state determination for the LIS.

2. Begin the redetermination in time for the timely notice to be effective prior to expiration of the certification period. The certification period is the 12th month from the month of application.

    a. Send the review notice (DSS-8189 or DSS-8189S) to the recipient to schedule the review.

    b. Retain a copy of the review notice in the case record.

3. The applicant may choose to have Social Security Administration determine ongoing eligibility or to continue to have DSS determine ongoing eligibility.

    a. If the individual chooses to let SSA determine ongoing eligibility the caseworker can use the on-line application process or use the SSA-1020, Application for Help with Medicare Prescription Drug Plan Costs, paper application. Follow procedures in MA-2310 *Taking the LIS Application*.

    b. If the individual insists DSS process the redetermination, the caseworker must follow the application procedures in this section including any changes reported during the year.

    Individuals who appear to be eligible for any Medicaid program must be encouraged to complete an adult Medicaid application form. It must be documented in the record that his/her eligibility was explained and the decision made by the individual.