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Medicare Part D Prescription Drug Coverage

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The Medicare Modernization Act of 2003 (the Act) added a new provision, commonly known as Medicare Part D prescription drug coverage, to the federal Medicare laws. Since January 1, 2006, all Medicare beneficiaries have had a choice of private drug plans, offered by many insurance companies, to help them reduce the costs of their prescription drug expenses.

The Act created two categories of drug plans: stand-alone prescription drug plans (PDPs), offering only prescription drug coverage, and Medicare Advantage Plans, which are managed care plans offering less choice in selecting health care providers. Most Medicare beneficiaries are in the traditional (original or fee-for-service) Medicare program. This article will therefore discuss only PDPs, which individuals who are enrolled in traditional Medicare must purchase if they wish to have prescription drug coverage. Other rules of coverage pertaining to low income individuals, or to those who have prescription drug coverage through their employers or labor unions, are beyond the scope of this article.

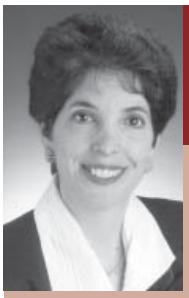
How the Plans Operate

Each private insurance company offering a PDP charges a monthly premium, which can vary greatly among companies. The PDP member has a choice of having the premium deducted from the monthly Social Security benefit or paying it directly. In addition to the premium, the PDP member is required to pay a co-payment for each drug. The co-payment is typically $5 to $7 for generic (non-brand name) drugs, and $25 to $30 for brand name drugs. Each PDP has a list of covered prescription drugs (called a "formulary") detailing how much the plan charges for each drug. In most cases, only drugs listed on the formulary will be covered.

A PDP must cover at least two drugs in each class of drugs used to treat a particular medical condition. It must also cover nearly all drugs used in the following six classes: anticonvulsants, antidepressants, antipsychotics, antiretrovirals, immunosuppressants (to combat transplant rejection), and anticancer drugs. Some of these drugs may have higher co-payments, and so it is necessary to consult the PDP's formulary.

A PDP is permitted to change the drugs on its formulary and the cost of a drug, but it must inform any affected PDP members at least 60 days in advance of the change.

A PDP member must use a pharmacy that participates in the particular PDP, or else the PDP member will have to pay the full cost of any drug. Many PDPs offer mail order services for the delivery of prescriptions. Some PDPs are regional, and some are national. The geographic scope of the plan can be important if the PDP member spends part of the year in different states.



Abbe I. Herbst

who's who

Abbe I. Herbst is a shareholder in the New York office of Anderson Kill & Olick, P.C., and editor of Anderson Kill's Estate Planning & Tax Advisor. Ms. Herbst is admitted to practice in New York and New Jersey, and has broad experience in the areas of estate and tax planning and trust and estate administration. She is a member of numerous bar associations and the Financial Women's Association of New York.

Helpful Tip: *The Medicare-approved drug discount cards that have been in use for a few years were intended to be temporary. They will no longer be recognized as of May 15, 2006, or when a Medicare beneficiary joins a PDP, whichever occurs sooner. Therefore, those who decide not to join a PDP may find that their out-of-pocket drug costs will increase after May 15, 2006, because the discounts obtained through the drug discount cards will be discontinued.*

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A PDP member is also required to pay for the first $250 of drug costs per calendar year, but many of the PDPs consider the retail cost of covered drugs in meeting that $250 threshold, and so this does not necessarily mean $250 in out-of-pocket costs. For example, if the PDP price for a certain generic drug is $5 for a 30-day supply, but its retail cost is $50, the $250 deductible is satisfied after five months, although the out-of-pocket cost has been only $25.

After the PDP member has met the $250 annual deductible, the member pays 25% of yearly drug costs from $250 to $2,250 (and the PDP pays the other 75%). The PDP member must pay for **all drug costs** (at the PDP price) between $2,250 and $5,100 per year. This gap has often been called the "doughnut hole." For drug expenses exceeding $5,100, the PDP member pays 5% of the remaining drug costs for the year, and the PDP pays 95%.

In order to enroll without penalty, a Medicare beneficiary must join a PDP no later than May 15, 2006. Coverage becomes effective on the first day of the month following the date of enrollment. For example, the coverage for someone who enrolls on April 20, 2006, would begin on May 1, 2006.

The window of opportunity to join a PDP closes on May 15, 2006, and it will not open again until November 15, 2006. At that point, there will be a penalty of at least 1% per month for every month after May 15, 2006, that the Medicare beneficiary delays in joining.

Choosing a Plan

The first step in selecting a PDP is to make a list of each prescription drug currently used, the dosage, the number of times a day each drug is taken, and the current amount paid for each prescription every month.

Then go to the Medicare website at www.medicare.gov until the "Compare Medicare Prescription Drug Plans" link is reached. After the Medicare beneficiary has answered the many questions, the website will produce a customized listing of available plans and their costs. For those lacking access to the Internet, Medicare's toll-free number is 1-800-MEDICARE (1-800-633-4227).

Even if the Medicare beneficiary currently has only minimal prescription drug expenses, my advice is to enroll in a PDP, even if it is the least expensive plan. No one knows what the future may hold, and if the Medicare beneficiary's drug costs should increase, at least the coverage will be in place, without that penalty of 1% per month for each month of delay. Once enrolled in a PDP, a change to a different PDP (without any penalties) may be made at a certain time every year.