



CMS Issues Policy Guidelines Ensuring that Seniors Don't Lose Coverage for Their Prescription Drugs

-Action similar to legislation sponsored by Senators Feinstein, Collins, Dorgan and Snowe earlier this year –

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Washington, DC -- The Centers for Medicare and Medicaid Service (CMS) today announced a new policy guideline that will prevent Medicare prescription drug plans from ending coverage of drugs that were available when seniors enrolled in the plan.

CMS's action by comes on the heels of legislation introduced earlier this year by U.S. Senators Dianne Feinstein (D-Calif.), Susan Collins (R-Maine), Byron Dorgan (D-ND) and Olympia Snowe (R-Maine) that would have required this change by law.

While CMS' action will change the policy, it is not a change in law and could be changed by subsequent policy guidelines by this or future Administrations.

“This new policy should give seniors some peace of mind,” Senator Feinstein said. **“It means that they shouldn't experience ‘bait and switch’ tactics of Medicare prescription drug plans, but I will be watching the plans closely. So this is a step in the right direction, but it is no guarantee. That's why I will continue to work with Senators Collins, Dorgan and Snowe to lock in a senior's drug formulary from the time of enrollment until the end of the year. Seniors deserve to know that the drugs the plan says it will cover will in fact be covered throughout the year.”**

“The previous policy subjected seniors and disabled individuals to a potential ‘bait and switch’ situation where they would choose a plan because it covered the drugs they were taking, only to have the formulary changed after they enrolled,” Senator Collins said. **“I am pleased that CMS has made this important policy change which will give seniors peace of mind that they will not suddenly lose coverage for the drugs that they need.”**

“This decision finally injects a little common sense into the rules,” Senator Dorgan said. **“It's only fair to guarantee seniors that the plan they choose won't change overnight, leaving them locked into the plan but the coverage for medicines they need suddenly unavailable. This is a victory for common sense.”**

“The way the drug benefit was implemented was weighted against seniors – each had to commit to a plan for a year, while insurers could make changes in what drugs they would provide,” Senator Snowe said. **“In fact, plans have already requested about 4,500 drug formulary changes. It is unreasonable to ask seniors to spend so much time and effort choosing a plan that suits their needs, only to see coverage changed for the very drugs on which they based their choice. I am pleased to see that CMS has recognized how critical it is that seniors must be assured of access to their needed drugs through the year of enrollment in a plan.”**

Summary of Feinstein-Collins-Dorgan-Snowe Bill

The Medicare Drug Formulary Protection Act would guarantee seniors that the prescription drugs covered by their plan will continue to be covered the remainder of the calendar year in which they enrolled. If a senior signs up for a plan in January, the drugs covered by the plan will continue to be covered the rest of that year.

- If a senior become eligible for Medicare during the year, for instance he or she turns 65 in May, and signs up for a plan, the drugs covered by the plan when at the time of enrollment will continue to be covered the rest of that year; and
- If at the end of the year during the open enrollment period, a prescription drug plan wants to change its formulary, it can do that. The plan must then notify its enrollees of the formulary changes and seniors can then decide whether to stick with that plan or switch to a different plan.

Exceptions when a plan can change its formulary during the year:

- A generic alternative is introduced in the market;
- A brand name drug loses its patent protection;
- The FDA Commissioner removes the drug from the market or imposes a restriction on the use of the drug; or
- The drug is deemed to be ineffective.

In each of these instances, the plan must notify the Health and Human Services Secretary, affected enrollees, physicians, and pharmacies of the change.

The legislation is cosponsored by Jeff Bingaman (D-N.M.), Lincoln Chafee (R-R.I.), Hilary Rodham Clinton (D-N.Y.), Charles Schumer (D-N.Y.), Patty Murray (D-Wash.), and Barbara Boxer (D-Calif.), and Benjamin Nelson (D-NE).

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