

§ 423.34

42 CFR Ch. IV (10–1–06 Edition)

PACE (as defined in § 460.6 of this chapter) that offers prescription drug coverage under this part as of December 31, 2005, remain enrolled in that plan as of January 1, 2006, and receive Part D benefits offered by that plan until one of the conditions in § 423.32(e) are met.

§ 423.34 Enrollment of full-benefit dual eligible individuals.

(a) *General rule.* CMS must ensure the enrollment into Part D plans full-benefit dual eligible individuals who fail to enroll in a Part D plan.

(b) *Definition of full-benefit dual eligible individual.* For purposes of this section, a full-benefit dual eligible individual means an individual who is:

(1) Determined eligible by the State for—

(i) Medical assistance for full-benefits under title XIX of the Act for the month under any eligibility category covered under the State plan or comprehensive benefits under a demonstration under section 1115 of the Act. ; or

(ii) Medical assistance under section 1902(a)(10)(C) of the Act (medically needy) or section 1902(f) of the Act (States that use more restrictive eligibility criteria than are used by the SSI program) for any month if the individual was eligible for medical assistance in any part of the month.

(2) Eligible for Part D in accordance with § 423.30(a).

(c) *Enrolling a full-benefit dual eligible individual.* Notwithstanding § 423.32(e), during the annual coordinated election period, CMS may enroll a full-benefit dual eligible individual in another PDP if CMS determines that the further enrollment is warranted.

(d) *Automatic enrollment rules—*(1) *General rule.* CMS must automatically enroll full-benefit dual eligible individuals who fail to enroll in a Part D plan into a PDP offering basic prescription drug coverage in the area where the individual resides that has a monthly beneficiary premium that does not exceed the low-income premium subsidy amount (as defined in § 423.780(b)). In the event that there is more than one PDP in an area with a monthly beneficiary premium at or below the low-income premium subsidy amount, individuals must be enrolled in such PDPs on a random basis.

(2) Individuals enrolled in an MSA plan or one of the following that does not offer a Part D benefit. Full-benefit dual eligible individuals enrolled in an MA Private Fee For Service (PFFS) plan or cost-based HMO or CMP that does not offer qualified prescription drug coverage or an MSA plan and who fail to enroll in a Part D plan must be automatically enrolled into a PDP plan as described in paragraph (d)(1) of this section.

(e) *Declining enrollment and disenrollment.* Nothing in this section prevents a full-benefit dual eligible individual from—

(1) Affirmatively declining enrollment in Part D; or

(2) Disenrolling from the Part D plan in which the individual is enrolled and electing to enroll in another Part D plan during the special enrollment period provided under § 423.38.

(f) *Effective date of enrollment.* Enrollment of full-benefit dual eligible individuals under this section must be effective as follows:

(1) January 1, 2006 for individuals who are full-benefit dual eligible individuals as of December 31, 2005;

(2) The first day of the month the individual is eligible for Part D under § 423.30(a)(1) for individuals who are Medicaid eligible and subsequently become newly eligible for Part D under § 423.30(a)(1) on or after January 1, 2006; and

(3) For individuals who are eligible for Part D under § 423.30(a)(1) and subsequently become newly eligible for Medicaid on or after January 1, 2006, enrollment is effective as soon as practicable after being identified as a newly full-benefit dual eligible individual, in a process to be determined by CMS.

§ 423.36 Disenrollment process.

(a) *General rule.* An individual may disenroll from a PDP during the periods specified in § 423.38 by enrolling in a different PDP plan, submitting a disenrollment request to the PDP in the form and manner prescribed by CMS, or filing the appropriate disenrollment request through other mechanisms as determined by CMS.

(b) *Responsibilities of the PDP sponsor.* The PDP sponsor must—