

Income means income as described under section 1905(p)(1) of the Act without use of any more liberal disregards under section 1902(r)(2) of the Act (that is, as defined by section 1612 of the Act). This definition includes the income of the applicant and spouse who is living in the same household, if any, regardless of whether the spouse is also an applicant.

Institutionalized individual means a full-benefit dual eligible individual who is an inpatient in a medical institution or nursing facility for which payment is made under Medicaid throughout a month, as defined under section 1902(q)(1)(B) of the Act.

Other subsidy eligible individuals means those individuals meeting the eligibility requirements under § 423.773(d).

Personal representative for purposes of this subpart means—

- (1) An individual who is authorized to act on behalf of the applicant;
- (2) If the applicant is incapacitated; or incompetent, someone acting responsibly on their behalf, or
- (3) An individual of the applicant's choice who is requested by the applicant to act as his or her representative in the application process.

Resources means liquid resources of the applicant (and, if married, his or her spouse who is living in the same household), such as checking and savings accounts, stocks, bonds, and other resources that can be readily converted to cash within 20 days, that are not excluded from resources in section 1613 of the Act, and real estate that is not the applicant's primary residence or the land on which the primary residence is located.

State means for purposes of this subpart each of the 50 States and the District of Columbia.

§ 423.773 Requirements for eligibility

(a) *Subsidy eligible individual.* A subsidy eligible individual is a Part D eligible individual residing in a State who is enrolled in, or seeking to enroll in a Part D plan and meets the following requirements:

- (1) Has income below 150 percent of the FPL applicable to the individual's family size.

- (2) Has resources at or below the resource thresholds set forth in § 423.773(b)(2) or (d)(2).

(b) *Full subsidy eligible individual.* A full subsidy eligible individual is a subsidy eligible individual who—

- (1) Has income below 135 percent of the FPL applicable to the individual's family size; and
- (2) Has resources that do not exceed—
 - (i) For 2006, 3 times the amount of resources an individual may have and still be eligible for benefits under the Supplemental Security Income (SSI) program under title XVI of the Act (including the assets or resources of the individual's spouse).
 - (ii) For subsequent years, the amount of resources allowable for the previous year under this paragraph (b)(2) increased by the annual percentage increase in the consumer price index (all items, U.S. city average) as of September of that previous year, rounded to the nearest multiple of \$10. The nearest multiple are rounded up if it is equal to or greater than \$5 and down if it is less than \$5.

(c)(1) *Individuals treated as full subsidy eligible.* An individual must be treated as meeting the eligibility requirements for full subsidy eligible individuals under paragraph (b) of this section if the individual is a—

- (i) Full-benefit dual eligible individual;
- (ii) Recipient of SSI benefits under title XVI of the Act; or
- (iii) Eligible for Medicaid as a Qualified Medicare Beneficiary (QMB), Specified Low Income Medicare Beneficiary (SLMB), or a Qualifying Individual (QI) under a State's plan.

(2) CMS notifies an individual treated as a full subsidy eligible under this paragraph (c) of this section that he or she does not need to apply for the subsidies available under this subpart, and is deemed eligible for a full subsidy for a period up to one year.

(d) *Other low-income subsidy individuals.* Other low-income subsidy individuals are subsidy eligible individuals who—

- (1) Have income less than 150 percent of the FPL applicable to the individual's family size; and
- (2) Have resources that do not exceed—

(i) For 2006, \$10,000 if single or \$20,000 if married (including the assets or resources of the individual's spouse).

(ii) For subsequent years, the resource amount

allowable for the previous year under this paragraph (d)(2), increased by the annual percentage increase in the consumer price index (all items, U.S. city average) as of September of the previous year, rounded to the nearest multiple of \$10. The nearest multiple will be rounded up if it is equal to or greater than \$5 and down if it is less than \$5.

§ 423.774 Eligibility determinations, redeterminations, and applications.

(a) *Determinations of whether an individual is a subsidy eligible individual.* Determinations of eligibility for subsidies under this subpart are made by the State under its State plan under title XIX of the Act if the individual applies with the Medicaid agency, or if the individual applies with the Social Security Administration (SSA), the Commissioner of Social Security in accordance with the requirements of section 1860D-14(a)(3) of the Act.

(b) *Effective date of initial eligibility determinations.* Initial eligibility determinations are effective beginning with the first day of the month in which the individual applies, but no earlier than January 1, 2006 and remain in effect for a period not to exceed 1 year.

(c) *Redeterminations and appeals of low-income subsidy eligibility—(1) Redeterminations and appeals of low-income subsidy eligibility determinations—eligibility determinations made by States.* Redeterminations and appeals of low-income subsidy eligibility determinations by States must be made in the same manner and frequency as the redeterminations and appeals are made under the State's plan.

(2) *Redeterminations and appeals of low-income subsidy eligibility—eligibility determinations made by Commissioner of Social Security.* Redeterminations and appeals of eligibility determinations made by the Commissioner will be made in the manner specified by the Commissioner of Social Security.

(d) *Application requirements.* (1) In order for applications for the subsidies under this subpart to be considered complete, applicants or personal rep-

resentatives applying on the individual's behalf, must—

(i) Complete all required elements of the application; (ii) Provide any statements from financial institutions, as requested, to support information in the application; and

(iii) Certify, under penalty of perjury or similar sanction for false statements, as to the accuracy of the information provided on the application form.

(2) *Multiple applications.* If the individual or his or her personal representative has previously filed an application with the State or SSA which seeks subsidy eligibility for any portion of the eligibility period covered by a subsequent application, the later application is void if the individual has received a positive subsidy determination on that earlier application from the State or SSA.

§ 423.780 Premium subsidy.

(a) *Full subsidy eligible individuals.* Full subsidy eligible individuals are entitled to a premium subsidy equal to 100 percent of the premium subsidy amount.

(b) *Premium subsidy amount.* (1) The premium subsidy amount is equal to an amount which is the lesser of:

(i) Under the Part D plan selected by the beneficiary, the monthly beneficiary premium for a Part D plan other than a MA-PD plan that is basic prescription drug coverage, the portion of the monthly beneficiary premium attributable to basic prescription drug coverage for a Part D plan other than a MA-PD plan that is enhanced alternative coverage, or the MA monthly prescription drug beneficiary premium as defined under section 1854(b)(2)(B) of the Act, or

(ii) The greater of the low-income benchmark premium amount for a PDP region as determined under paragraph (b)(2) of this section or the lowest monthly beneficiary premium for a prescription drug plan that offers basic prescription drug coverage in the PDP region.

(2) *Calculation of the low-income benchmark premium amount.* (i) The low-income benchmark premium amount for a PDP region is a weighted average of the premium amounts described in