

For private fee-for-service plans (as defined by § 422.4(a)(3) of this chapter) offering qualified prescription drug coverage, CMS determines the amount of reinsurance payments as provided under § 423.329(c)(3).

(2) *Exemption from risk corridor provisions.* The provisions of § 423.336 regarding risk sharing do not apply.

§ 423.322 Requirement for disclosure of information.

(a) *Payment conditional upon provision of information.* Payments to a Part D sponsor are conditioned upon provision of information to CMS that is necessary to carry out this subpart, or as required by law.

(b) *Restriction on use of information.* Officers, employees and contractors of the Department of Health and Human Services may use the information disclosed or obtained in accordance with the provisions of this subpart only for the purposes of, and to the extent necessary in, carrying out this subpart including, but not limited to, determination of payments and payment-related oversight and program integrity activities. This restriction does not limit OIG's authority to fulfill the Inspector General's responsibilities in accordance with applicable Federal law.

§ 423.329 Determination of payments.

(a) *Subsidy payments—(1) Direct subsidy.* CMS makes a direct subsidy payment for each Part D eligible beneficiary enrolled in a Part D plan for a month equal to the amount of the plan's approved standardized bid, adjusted for health status (as determined under § 423.329(b)(1)), and reduced by the base beneficiary premium for the plan (as determined under § 423.286(c) and adjusted in § 423.286(d)(1)). The direct subsidy payment may be increased by the excess amount of a negative premium as described in § 423.286(d)(1), if applicable.

(2) *Subsidy through reinsurance.* CMS makes reinsurance subsidy payments as provided under paragraph (c) of this section.

(3) *Low-income cost-sharing subsidy.* CMS makes low-income cost-sharing subsidy payments as provided under paragraph (d) of this section.

(b) *Health status risk adjustment—(1) Establishment of risk factors.* CMS establishes an appropriate methodology for adjusting the standardized bid amount to take into account variation in costs for basic prescription drug coverage among Part D plans based on the differences in actuarial risk of different enrollees being served. Any risk adjustment is designed in a manner so as to be budget neutral in the aggregate to the risk of the Part D eligible individuals who enroll in Part D plans.

(2) *Considerations.* In establishing the methodology under paragraph (b)(1) of this section, CMS takes into account the similar methodologies used under § 422.308(c) of this chapter to adjust payments to MA organizations for benefits under the original Medicare fee-for-service program option.

(3) *Data collection.* In order to carry out this paragraph, CMS requires—

(i) PDP sponsors to submit data regarding drug claims that can be linked at the individual level to Part A and Part B data in a form and manner similar to the process provided under § 422.310 of this chapter and other information as CMS determines necessary; and

(ii) MA organizations that offer MA-PD plans to submit data regarding drug claims that can be linked at the individual level to other data that the organizations are required to submit to CMS in a form and manner similar to the process provided under § 422.310 of this chapter and other information as CMS determines necessary.

(4) *Publication.* At the time of publication of risk adjustment factors under § 422.312(a)(1)(ii) of this chapter, CMS publishes the risk adjusters established under this paragraph of this section for the upcoming calendar year.

(c) *Reinsurance payment amount—(1) General rule.* The reinsurance payment amount for a Part D eligible individual enrolled in a Part D plan for a coverage year is an amount equal to 80 percent of the allowable reinsurance costs attributable to that portion of gross covered prescription drug costs incurred in the coverage year after the individual has incurred true out-of-pocket costs that exceed the annual out-of-pocket threshold specified in § 423.104(d)(5)(iii).

(2) *Payment method.* Payments under this section are based on a method that CMS determines.

(i) Payments during the coverage year. CMS establishes a payment method by which payments of amounts

under this section are made on a monthly basis during a year based on either estimated or incurred allowable reinsurance costs.

(ii) *Final payments.* CMS reconciles the payments made during the coverage year to final actual allowable reinsurance costs as provided in § 423.343(c).

(3) *Special rules for private fee-for-service Plans offering prescription drug coverage.* CMS determines the amount of reinsurance payments for private fee-for-service plans as defined by § 422.4(a)(3) of this chapter offering qualified prescription drug coverage using a methodology that—

(i) Bases the amount on CMS' estimate of the amount of the payments that are payable if the plan were an MA-PD plan described in section 1851(a)(2)(A)(i) of the Act; and

(ii) Takes into account the average reinsurance payments made under § 423.329(c) for populations of similar risk under MA-PD plans described in section 1851(a)(2)(A)(i) of the Act.

(d) *Low-income cost sharing subsidy payment amount—*(1) *General rule.* The low-income cost-sharing subsidy payment amount on behalf of a low-income subsidy eligible individual enrolled in a Part D plan for a coverage year is the amount described in § 423.782.

(2) *Payment method.* Payments under this section are based on a method that CMS determines.

(i) *Interim payments.* CMS establishes a payment method by which interim payments of amounts under this section are made during a year based on the low-income cost-sharing assumptions submitted with plan bids under § 423.265(d)(2)(iv) and negotiated and approved under § 423.272.

(ii) *Final payments.* CMS reconciles the interim payments to actual incurred low-income cost-sharing costs as provided in § 423.343(d).

§ 423.336 Risk-sharing arrangements.

(a) *Portion of total payments to a Part D sponsor subject to risk—*(1) *Adjusted al-*

lowable risk corridor costs. For purposes of this paragraph, the term adjusted allowable risk corridor costs means—

(i) The allowable risk corridor costs for the Part D plan for the coverage year, reduced by—

(ii) The sum of—

(A) The total reinsurance payments made under § 423.329(c) to the Part D sponsor of the Part D plan for the year; and

(B) The total non-premium subsidy payments made under § 423.782 to the Part D sponsor of the Part D plan for the coverage year.

(2) *Establishment of risk corridors.* (i) *Risk corridors.* For each year, CMS establishes a risk corridor for each Part D plan. The risk corridor for a plan for a coverage year is equal to a range as follows:

(A) *First threshold lower limit.* The first threshold lower limit of the corridor is equal to—

(1) The target amount for the plan; minus

(2) An amount equal to the first threshold risk percentage for the plan (as determined under paragraph (a)(2)(ii)(A) of this section) of the target amount.

(B) *Second threshold lower limit.* The second threshold lower limit of the corridor is equal to—

(1) The target amount for the plan; minus

(2) An amount equal to the second threshold risk percentage for the plan (as determined under paragraph (a)(2)(ii)(B) of this section) of the target amount.

(C) *First threshold upper limit.* The first threshold upper limit of the corridor is equal to the sum of—

(1) The target amount; and

(2) An amount equal to the first threshold risk percentage for the plan (as determined under paragraph (a)(2)(ii)(A) of this section) of the target amount.

(D) *Second threshold upper limit.* The second threshold upper limit of the corridor is equal to the sum of—

(1) The target amount; and

(2) An amount equal to the second threshold risk percentage for the plan (as determined under paragraph (a)(2)(ii)(B) of this section) of the target amount.