

## §418.3115

## 20 CFR Ch. III (4–1–08 Edition)

### §418.3115 What events will make you ineligible for a subsidy?

Generally, even if you meet the other requirements in §§418.3101 through 418.3125, we will deny your claim or you will lose your subsidy if any of the following apply to you:

(a) You lose entitlement to or are not enrolled in Medicare Part A and are not enrolled in Medicare Part B.

(b) You do not enroll or lose your enrollment in a Medicare Part D plan or Medicare Advantage plan with prescription drug coverage.

(c) You do not give us information we need to determine your eligibility and if eligible, whether you should receive a full or partial subsidy; or you do not give us information we need to determine whether you continue to be eligible for a subsidy and if eligible, whether you should receive a full or partial subsidy.

(d) You knowingly give us false or misleading information.

### §418.3120 What happens if your circumstances change after we determine you are eligible for a subsidy?

(a) After we determine that you are eligible for a subsidy, your subsidy eligibility could change if:

(1) You marry.

(2) You and your spouse, who lives with you, divorce.

(3) Your spouse, who lives with you, dies.

(4) You and your spouse separate (*i.e.*, you or your spouse move out of the household and you are no longer living with your spouse) unless the separation is a temporary absence as described in §404.347 of this chapter.

(5) You and your spouse resume living together after having been separated.

(6) You and your spouse, who lives with you, have your marriage annulled.

(7) You (or your spouse, who lives with you, if applicable) expect your estimated annual income to increase or decrease in the next calendar year.

(8) You (or your spouse, who lives with you, if applicable) expect your resources to increase or decrease in the next calendar year.

(9) Your family size as defined in 42 CFR 423.772 has changed or will change (other than a change resulting from

one of the events in paragraphs (a)(1) through (6) of this section).

(10) You become eligible for one of the programs listed in 42 CFR 423.773(c).

(b)(1) When you report one of the events listed in paragraphs (a)(1) through (a)(6) of this section, or we receive such a report from another source (e.g., a data exchange of reports of death), we will send you a redetermination form upon receipt of the report. You must return the completed form within 90 days of the date of the form.

(2) When you report one of the events listed in paragraphs (a)(7) through (a)(9) of this section or we receive such a report from another source (e.g., a data exchange involving income records), we will send you a redetermination form between August and December to evaluate the change. You must return the completed form to us within 30 days of the date of the form.

(3) If we increase, decrease, or terminate your subsidy as a result of the redetermination, we will send you a notice telling you:

(i) Whether you can receive a full or partial subsidy as described in 42 CFR 423.780 and 423.782.

(ii) How we calculated your income and resources;

(iii) When the change in your subsidy is effective;

(iv) Your appeal rights;

(v) What to do if your situation changes.

(c) If you become eligible for one of the programs listed in 42 CFR 423.773(c), CMS will notify you of any change in your subsidy.

### §418.3123 When is a change in your subsidy effective?

(a) If we redetermine your subsidy as described in §418.3120(b)(1), any change in your subsidy will be effective the month following the month of your report.

(b) If we redetermine your subsidy as described in §418.3120(b)(2), any change in your subsidy will be effective in January of the next year.

(c) If you do not return the redetermination form described in §418.3120(b)(1), we will terminate your

subsidy effective with the month following the expiration of the 90-day period described in § 418.3120(b)(1).

(d) If you do not return the redetermination forms described in § 418.3120(b)(2), we will terminate your subsidy effective in January of the next year.

**§ 418.3125 What are redeterminations?**

(a) *Redeterminations defined.* A redetermination is a periodic review of your eligibility to make sure that you are still eligible for a subsidy and if so, to determine whether you should continue to receive a full or partial subsidy. This review deals with evaluating your income and resources (and those of your spouse, who lives with you) and will not affect past months of eligibility. It will be used to determine your future subsidy eligibility and whether you should receive a full or partial subsidy for future months. We will redetermine your eligibility if we made the initial determination of your eligibility or if you are deemed eligible because you receive SSI benefits. Rules regarding redeterminations of initial eligibility determinations made by a State are described in 42 CFR 423.774.

(b) *When we make redeterminations.* (1) We will redetermine your subsidy eligibility within one year after we determine that you are eligible for the subsidy.

(2) After the first redetermination, we will redetermine your subsidy eligibility at intervals determined by the Commissioner. The length of time between redeterminations varies depending on the likelihood that your situation may change in a way that affects your eligibility and whether you should receive a full or partial subsidy.

(3) We may also redetermine your eligibility and whether you should receive a full or partial subsidy when you tell us of a change in your circumstances described in § 418.3120.

(4) We may redetermine your eligibility when we receive information from you or from data exchanges with Federal and State agencies that may affect whether you should receive a full or partial subsidy or your eligibility for the subsidy.

(5) We will also redetermine eligibility on a random sample of cases for

quality assurance purposes. For each collection of sample cases, all factors affecting eligibility and/or whether you should receive a full or partial subsidy may be verified by contact with primary repositories of information relevant to each individual factor (e.g., we may contact employers to verify wage information). Consequently, we may contact a variety of other sources, in addition to recontacting you, to verify the completeness and accuracy of our information.

FILING OF APPLICATION

**§ 418.3201 Must you file an application to become eligible for a subsidy?**

Unless you are a person covered by § 418.3105, in addition to meeting other requirements, you or your personal representative must file an application to become eligible for a subsidy. If you believe you may be eligible for a subsidy, you should file an application. Filing a subsidy application does not commit you to participate in the Part D program. Filing an application will:

(a) Permit us to make a formal determination on your eligibility for the subsidy and whether you should receive a full or partial subsidy;

(b) Assure that you can receive the subsidy for any months that you are eligible and are enrolled in a Medicare Part D plan or Medicare Advantage plan with prescription drug coverage; and

(c) Give you the right to appeal if you disagree with our determination.

**§ 418.3205 What makes an application a claim for a subsidy?**

We will consider your application a claim for the subsidy if:

(a) You, or someone acting on your behalf as described in § 418.3215, complete an application on a form prescribed by us;

(b) You, or someone acting on your behalf as described in § 418.3215, file the application with us pursuant to § 418.3220; and

(c) You are alive on the first day of the month in which the application is filed.