

# 2010 Medicare Part D Resource Guide

## *What you should to know about the Plan*

Prepared exclusively by Moschella & Winston, LLP

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**MOSCHELLA  
& WINSTON LLP**  
*Your Legal Advisor for Life*

440 Broadway, Somerville, MA 02145

Phone 617-776-3300 Fax 617-629-7500

[www.moschellawinston.com](http://www.moschellawinston.com), [info@moschellawinston.com](mailto:info@moschellawinston.com)

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## **The Moschella & Winston 2010 Medicare Part D Resource Guide**

### **was prepared by:**

#### **Alex L. Moschella, Esq.**

With over 30 years of experience representing the elderly and families with disabled children, Attorney Moschella is known throughout the Boston legal community as a leader in the field, with a reputation for bringing legal expertise and compassion to his practice. He has lectured and published extensively on elder and disability law on both a state and national level, and is an adjunct faculty member at Suffolk University Law School in Boston, MA, where he has taught Elder Law for the past 15 years.

#### **Neal A. Winston, Esq.**

With more than three decades of public benefits experience, Attorney Winston is a leading authority on Social Security, SSI, and Supplemental Needs Trusts. He has written many published articles on public benefits, and has been a featured speaker on television and radio stations. He is also a frequent lecturer on elder and disability law to social workers, attorneys, medical providers, and consumers. He is president elect of the Special Needs Alliance (SNA), a national organization of attorneys selected to serve families and persons with special needs.

#### **Michelle M. Mulvena, Esq.**

Attorney Mulvena has nearly 10 years of experience serving families in Somerville and the neighboring communities. She specializes in elder law, special needs planning, estate and tax planning, probate administration, asset protection planning, Medicare and Medicaid issues, and probate litigation. She is an accredited attorney with the Department of Veterans Affairs, as well as a member of the National Academy of Elder Law Attorneys, the Massachusetts Bar Association, the Board of Directors for SCM Transportation and the Board of Directors for the Somerville Chamber of Commerce. Attorney Mulvena is very active in the community. Her work with the SCM Transportation board addresses the complex issues of transportation for seniors. She participates in the Lawyer of the Day program sponsored by the Somerville Counsel on Aging, which provides free legal advice to seniors in the community.

#### **Michael R. Couture, Esq.**

Attorney Couture specializes in Veteran's benefits, Veteran's healthcare, Medicaid, Social Security, special needs law, and estate planning. He is an accredited attorney with the Department of Veterans Affairs, as well as a member of the National Academy of Elder Law Attorneys and the Massachusetts Bar Association. Attorney Couture is on the Advisory Board of Directors for the Elder Service Plan of Cambridge Health Alliance, the Human Rights Committee at the Walnut Street Center in Somerville, and the Lowell Folk Festival. He is a member of the National Multiple Sclerosis Society and an active fundraiser for MS. He is also a member of the Ancient and Honorable Artillery Company of Massachusetts and the 100 Club for fallen police officers and firefighters.

The information presented in these resource guides and articles is for informational purposes only and should not be construed as legal advice on any subject matter. Receipt of this information does not constitute an attorney-client relationship, and recipients should not act upon it without consulting legal counsel as individual situations and facts vary. The information may also be dated, and you should check the publication date.

## **Acknowledgement**

This Resource Guide is the result of our representation of numerous elders in a vast array of government benefit programs. These issues are unfortunately complex and difficult to understand. We remain grateful to our clients who, through their insightful questions, have made us better elder law attorneys. We are also grateful to Annie Fowler, LICSW, Director of Aging Information, Somerville-Cambridge Elder Services, for her thoughtful comments and edits, as well as Suzanne Norton, the SHINE representative and social worker at the Somerville Council of Aging.

Medicare Part D is a confusing and difficult plan, one that most elders will have to struggle with at sometime in the future. This Resource Guide is our attempt to assist our clients in understanding the complexities of Medicare Part D and enlighten them as to how to work their way through the basics so that they may be able to find the best plan to suit their needs. You cannot fully rely on the information set out in this transitional guide. We will be annually updating this guide as soon as the information becomes available.

We are pleased to share this Resource Guide with you, and we hope it will lend some clarity and peace of mind to you during these unsettling times. We hope it will serve as a useful tool for any person, family or professional, who has questions about Medicare Part D. Also, we ask you to help us make this a better Resource Guide in the future. Please feel free to contact us with suggestions or comments on ways to improve our guide.

We, at Moschella & Winston, LLP, have prepared numerous articles and brochures on specific issues affecting the elderly and the disabled. Please feel free to contact us for complimentary copies. The National Academy of Elder Law Attorneys (NAELA) and the Massachusetts Chapter of NAELA also have informational brochures on the topic of elder law. Finally, while this Resource Guide and other materials are helpful, there is no substitute for consultation with an experienced elder law attorney.

Thank you,

Alex L. Moschella, Esq.  
Neal A. Winston, Esq.  
Michelle M. Mulvena, Esq.  
Michael R. Couture, Esq.

# **Medicare Prescription Drug Plan**

## **A. What is Medicare Part D?**

The cost of prescription drugs has been rising steadily and has become one of the greatest financial burdens for many elderly individuals, often eating into their savings and taking up a large percentage of their income. The United States Congress developed Part D in order to attempt to assist Medicare participants with the cost of their prescription drugs by offering those who are eligible for Medicare the opportunity to save on their medication expenses.

Part D plans are open to anyone who is eligible for Medicare in the U.S. and U.S. territories. Generally speaking, individuals who are 65 years of age or older, or who have certain disabilities are eligible. Coverage may not be denied due to health reasons, but participation is completely voluntary. If you currently have Medicare and Medicaid (MassHealth), you will automatically be enrolled in a program in order to prevent any lapse in your Medicaid prescription drug coverage.

Medicare offers insurance coverage for prescription drugs through Medicare drug plans, with open enrollment between November 15<sup>th</sup> and December 31<sup>st</sup>, on an annual basis. During this period of time you may join a plan or switch plans as your needs change, with coverage beginning January 1<sup>st</sup>. You may also join a Medicare drug plan within 3 months before and 3 months after you turn 65, or within 63 days of losing coverage from some other form of insurance which previously provided coverage. If you

are disabled you may enroll within 3 month before or 3 months after your 25<sup>th</sup> month of disability. If you join after you became eligible and were without coverage, you may have to pay a late enrollment penalty in the form of 1% of the premium for each month you did not enroll.

There are two types of Medicare plans that will provide insurance coverage for prescription drugs; a Medicare Prescription Drug Plan or a Medicare Health Plan (like an HMO or PPO) that includes prescription drug coverage as part of the plan. Both types of plans will cover generic and brand-name drugs. Plans have a formulary, which is a list of drugs covered by the plan. Because not all plans cover all drugs, it is best to look at your individual prescription needs before choosing a plan.

Formulary, always meet the minimum Medicare requirements. Your plan must inform you of changes in coverage and costs at least 60 days prior to any drug being removed from the list or any cost adjustments. The drug must be replaced with a comparable drug. You have a right to appeal or ask for an exception, and in some cases Medicare allows for the drug to continue for the rest of the year.

The Part D prescription drug coverage works very differently from Medicare Part A and Part B. In order to get coverage under Part D, you will need to choose a plan offered by a private company and there are numerous plans to choose from. All of Part D plans are private pay insurance plans.

### **B. Choosing a Plan**

Although all plans must meet the government's requirements, there will be differences between the plans, including what drugs are covered and what pharmacies may be used. It is important to check with the pharmacy you use in order to determine

what plans work with that pharmacy. Alternatively, you could determine what plan is best suited for you and see if any pharmacies near you provide that plan.

If you currently have prescription drug coverage, then you will want to compare your current plan with the new plans that are being offered under Part D. If you do not have coverage then it is important to look at the Part D plans and choose the best one. Your costs may vary depending upon the amount of coverage you require. To find the costs of the Medicare drug and health plan in your area, go to [www.medicare.gov](http://www.medicare.gov) and select “Compare Medicare Prescription Drug Plans.”

This will take you through a series of questions, from the state you live in to the medications you take, and it will provide you with a list of the best plans that cover your prescriptions. The most important items to consider are the drugs and dosage you currently take, the names of pharmacies available to you, the costs of your prescriptions under each plan (this will differ depending upon the plan), and determine what is best for your particular situation.

You may join a plan in several ways. You can contact a company of your choice by researching on the Medicaid website and requesting an application. You can enroll through the Medicare website; all plans have enrollment on the web. Or you can apply over the phone by calling the plan you want (you should have your Medicare number available).

### **C. Cost Sharing**

How much you are responsible for paying will be dependent upon how many drugs you use during the year and how much money you spend on them. *Though the*

*details of individual plans may vary, below is an outline of how the cost-sharing will work in a standard Medicare Part D plan.*

### **Premiums**

Premium's in 2010 range from \$10.80 to \$180.00 monthly, which is a large range. The majority of plans are between \$35.00 and \$50.00 a month. See page 15 to 16 for programs where you may receive assistance in paying this monthly premium.

### **Deductible**

Some Part D plans have a deductible that you will need to reach before the benefit kicks in and you will start paying regular co-payments. If a plan has a deductible, this will be listed on the Medicare website or the plan's own website.

### **Co-Payment or Co-Insurance**

Under the Standard Medicare plan, you will be paying 25% of your drug costs and the plan will pay 75% of your drug costs until the total cost reaches \$2,700.00 (including deductible). Plans may either follow this percentage plan, offer more extensive coverage requiring you to pay a lower percentage, or offer flat co-pays for each prescription in place of a percentage method. The Medicare website will display what the co-payments will be for each drug. As with most insurance coverage, generics will always be cheaper than name brand.

### **Coverage Gap**

During the Coverage Gap, the plan will make no contribution to drug costs and you will be responsible for 100% of your prescription expenses. Under the standard Medicare plan this gap will start from the time your total drug costs reach \$2,830.00 until you are out of pocket costs reach \$6,440.00 (this is also known as the donut hole). At this point you are considered to have reached catastrophic costs. During this time you will still be able to benefit from the discounts on drugs that your plan has negotiated.<sup>1</sup> Not all plans will have this “gap” but most will likely have some version of this hole in coverage. You may be able to purchase additional gap coverage or choose a plan with gap coverage included.

### **Catastrophic Coverage**

Once your drug costs become very expensive, they are considered to be catastrophic. Under the standard plan catastrophic coverage begins when you have paid \$6,440.00 in out of pocket expenses for medications in a one year span.<sup>2</sup> You will not have to pay more than \$3,610.00 during the gap, not including the plan’s premiums. Once your expenses have reached this stage of the plan, you will be responsible for only a small portion of your medication costs. This usually ends up being about \$2.40-\$6.00 per prescription. Not all medications are considered a part of your true out of pocket expenses.<sup>3</sup>

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<sup>1</sup> Most drug costs paid under Part D plans are discounted prices negotiated by the private insurance companies with the drug companies. Discounts may be as much as 5-40% off a drugs plain cost. As a member of a plan you will likely pay less than face value for the drugs that you need.

<sup>2</sup> True out of pocket cost – is often referred to as TROOP.

<sup>3</sup> Drugs that are not a part of your plan are not counted as part of your true out of pocket expenses and are thus not factored into the numbers and expenditures. In addition, the following kinds of drugs are not part

#### **D. A Sample Plan a.k.a. “The Standard Plan”**

The standard plan is set up by Congress to set rough guidelines and minimum requirements for all independent insurance companies that become involved in Medicare Part D to meet or surpass. You will move through most if not all of the steps outlined below as the amount of money you spend on prescription drugs grows. Note that even when you are fully responsible for all medications costs you will still be able to receive any drug discounts offered by your plan.

If you do not take a lot of drugs, you may not move beyond the deductible step of the plan. On the other hand, someone who suffers from more serious ailments and requires more medication may easily surpass the required co-pays and fall into the catastrophic range. If you do not take many medications at this time but qualify to sign up for a Medicare D plan then the plan on its face may not seem worth its value. The value in joining now, however, is in knowing that the coverage is there if and when you require many medications. In addition, joining the plan now may protect you from potential penalties for joining late.

#### **Step 1:**

To start you will likely pay about \$28.00 a month for your plans premium, or about \$336.00 per year. In the beginning, you may pay 100% of the costs of your medications (if the plan you choose has a deductible) but be able to take advantage of the plans discounts.

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of Medicare Part D plans and are therefore not covered by any plans: drugs used for anorexia, weight loss/gain, fertility drugs, cosmetic drugs (Rogaine), cold/cough medicine, prescriptive vitamins and mineral (iron supplements) except for prenatal vitamins and fluoride, non-prescriptive drugs (over the counter medicine), inpatient drugs, Barbiturates (sleeping pills such as Ativan), Benzodiazepines (anti-depressants such as Prozac). Also, drugs purchased from other countries, such as Canada, are not counted as out of pocket costs and will not be covered by Part D.

### **Step 2:**

During this step, which is often referred to as paying co-insurance or co-payment, you will be responsible for paying a portion of your drug costs and the insurance company will pay for the difference. This period ends when your total drug costs reach \$2,830.00.

### **Step 3:**

During this step, which is referred to as the Gap, you will be fully responsible for 100% of your medication costs until you are out of pocket expenses reach \$6,440.00. You reach the "Gap" when you and your plan pay a combined cost of \$2,830.00. While in the Gap, you personally pay the next \$3,610.00 of medication costs, during which time the plan will not pay any costs. Once you have spent a total of \$6,440.00 on prescriptions for the year, you have reached the "catastrophic" stage.

### **Step 4:**

During this step, which is referred to as catastrophic coverage, the plan will cover approximately 95% of your medication costs for the remainder of the year, no matter how great those costs become. Depending on your plan, you will either pay 5% of the cost of each drug or a small co-payment (typically between \$2-5.00). Again, the Medicare website will show you what each of your drugs will cost in each of the steps.

## **E. Examples & Explanations**

### **Example 1:**

Lenny is 30 and seriously disabled. He spends about \$1,000 a month on prescription drugs and his expenses are only expected to grow over the years. Lenny's total medication costs for the year are \$12,000. Under the "standard plan," Lenny will be responsible for paying: a \$336 annual premium, a \$295 deductible, a \$601.25

co-insurance payment, a gap of \$3,453.75, and 5% of his catastrophic costs, which comes to \$292.31. Lenny's total out-of-pocket costs for his medications for the year (including premium) will be about \$4,978.31 and Medicare D will pay the remaining \$7,357.69.

#### **Comment on Example 1**

For those individuals like Lenny who take many medications that would cost him up to \$12,000.00 a year, joining a Medicare Part D plan will significantly reduce his medication costs to \$4,978.31 a year. Under this plan Lenny is still facing high medication costs but the plan is intended to decrease the financial burden.

#### **Example 2:**

Martha is 80, has a chronic bronchial condition, and serious circulation problems. Martha spends \$375 a month on various medications. Martha's total medication costs for the year are \$4,500. Under the "standard plan," Martha will be responsible for paying the following: a \$336 annual premium, a \$295 deductible, a \$601.25 co-insurance payment and a gap payment of \$1,800. There is no catastrophic coverage because Martha's prescription costs do not currently reach that level of cost. Martha's total out-of-pocket costs for her medications for the year will be \$3,032.25 (including premium) and Medicare D will pay the remaining \$1,803.75.

**Example 3:**

Julia, age 70, is in general good health for her age and is living at home with her daughter. She spends a total of \$50.00 a month on medications for her arthritis, totaling \$600.00 a year. Under a general plan, Julia will be responsible for paying the following; a \$336.00 premium, a \$295.00 deductible, and a \$76.25 co-insurance payment. There is no catastrophic coverage because Martha's prescription costs do not currently reach that level of cost. Martha's total out of pocket costs for her medications for the year will be \$707.25 and Medicare D will pay \$228.75.

**Example 4:**

Tom is 85 and takes various medications for his heart and high cholesterol, spending \$400.00 a month on medications, with total medication costs of \$4,800.00 per year. Tom is enrolled in a Medicare Advantage plan that automatically includes a Part D prescription drug plan. Under this plan, Tom will be responsible for paying the following: a \$295.00 deductible; a \$601.25 co-insurance payment; and \$2,100 gap coverage. There will be no premium other than what Tom pays for the Advantage plan. Tom's total out of pockets costs for his medications for the year will be \$2,996.25 and his Advantage plan will pay the remaining \$1,803.75.

**Commentary on Examples:**

There can be difficult decisions to make regarding Medicare Part D depending upon your health and the medications that you must take. As you can see from the

examples above, there are many different situations that individuals may be facing regarding their medical health and their monthly cost of medication.

**Comment on Example 2**

For those individuals like Lenny who take many medications that would cost him up to \$12,000.00 a year, joining a Medicare Part D plan will significantly reduce his medication costs to \$4,978.31 a year. Under this plan Lenny is still facing high medication costs but the plan is intended to decrease the financial burden.

**Comment on Example 3**

For individuals like Martha who spend a significant amount of money a year on medications (\$4,500.00), but not in the extreme range that Lenny falls into, joining a Medicare Part D plan will provide at some savings. Martha will be responsible for paying about 60% of her medication costs while the Medicare Part D plan will cover the remaining 40%.

**Comment on Example 4**

For healthier elder individuals, such as Julia, joining a Medicare Part D plan may not be a financially sound decision. Julia's medications themselves would cost \$600.00 a year, and by joining a Medicare Part D plan Julia ends up spending \$707.25 a year. For people like Julia, however, joining a plan provides a safety net of security. If Julia falls ill or simply develops more serious health issues that require more medication, she will be protected from having to fully pay for those medications. Joining a plan now will prevent her from paying a penalty later.

### **Comment on Example 5**

Tom belonged to a Medicare Advantage Plan that already incorporated a Medicare Part D Plan. Tom does not have to decide what plan to join, so long as the plan chosen by his Medicare Advantage Plan covers the medications that Tom currently takes. Tom ends up with significant savings under the plan because he only pays for about 62% of his medication costs.

It is clear from the above outlined examples and discussion that Medicare Part D is not an absolute solution to the problem of the high costs of medications. As you can see, Lenny still has a significant burden and depending upon his income and financial situation he may qualify for assistance in paying for his Medicare Part D plan.

### **F. Extra - HELP**

For those individuals who have low incomes and have little in their savings and assets, they may be eligible to receive assistance in paying for their Part D plan. This program is run through Social Security and is called low income subsidy (LIS) or Extra Help.

Depending upon your level of need there are various methods of assistance that you may be eligible to receive. Eligibility and how much assistance you will receive will depend upon your income (retirement benefits or anything else you would report on your income tax reports) and your assets.<sup>4</sup>

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<sup>4</sup> Assets include any and all property that the government may review when you apply for assistance with Medicare Part D. Cash or any property that can be turned into cash within 20 days may be considered countable. Your home (primary residence only) is not considered countable, nor is burial property and funeral funds. The following are some examples of assets the Government would find countable; checking accounts, savings accounts, certificates of deposit, IRAs, 401(k) s, stocks, bonds, and other items of a similar nature.

In order to apply for assistance you will be required to fill out an application form that you may have received in the mail if Medicare believed that you would be requiring assistance. If you have not previously received such a form then you may call your local Social Security Administrative Office and request that an assistance form be sent to you.<sup>5</sup> You can also apply online: [www.ssa.gov](http://www.ssa.gov), click on Medicare and then “Apply for Help with Medicare Prescription Drug Costs”. If you have both Medicaid with prescription drug coverage and Medicare, Medicare and Supplemental Security Income (SSI), or if your state pays for your Medicare premiums, then you will automatically get extra help.<sup>6</sup>

For single individuals, assistance may be attainable when one’s income is less than \$16,245.00 per year, and for married couples assistance may be attainable when their combined income is less than \$21,855.00 per year. Other factors may allow you to attain eligibility for some assistance even if your annual income is higher than the amounts set out above.<sup>7</sup> Your resources must be limited to \$12,510.00 for an individual and \$25,010.00 for a married couple living together.<sup>8</sup>

Depending upon your needs, premiums may be reduced or eliminated, deductibles may be reduced or eliminated, co-insurance payments may be reduced, and/or gap coverage payments may be eliminated. How much financial assistance one will receive is based on a sliding scale so lower income individuals will receive more assistance.

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<sup>5</sup> Application for Help with Medicare Prescription Drug Plan Costs, known as Form SSA-1020.

<sup>6</sup> Social Security Administration, SSA Publications No. 05-10129. Help Available to Pay Costs of Medicare’s New Prescription Drug Program. April, 2005.

<sup>7</sup> Other factors considered in addition to one’s income level are: Support of other family members, known as dependents, who live in the same household. Have earnings from work. Live in Hawaii, Alaska, or a U.S. Territory.

<sup>8</sup> A house and car are not counted as resources. Stocks, bonds, bank accounts, ECT. are countable assets. These numbers may be increased by \$1,500 a person if the money is intended for burial expenses.

**Below is an example similar to those provided by the Government Medicare site:**

**Example**

James is a single individual who earns \$9,000 in annual income. James' income taxes were below a certain level last year. He automatically receives an application for help in the mail from Medicare, which James fills out and returns to his local Social Security Administration office. His assets will not be considered by the government because James' income falls at such a low level. James is eligible for the maximum amount of assistance. With the assistance provided to James by the Government, James will pay the following: no premium, no deductible, \$1 for each generic drug he takes<sup>9</sup>, and \$3 for each brand-name drug he takes.<sup>10</sup> He will never move on to the gap coverage payments stage but he will continue to pay co-insurance at the set rate of \$1 for generic prescriptions and \$3 for brand-name prescriptions. If James ever reaches the level of catastrophic coverage then he will not pay for his medications after that point for the rest of the calendar year. On this assistance plan, however, it would be seemingly impossible for James to reach such a level.

**G. Prescription Advantage**

State-run program, no asset limit! It can assist people who are either only getting partial assistance from LIS or who are not eligible for LIS because income is too high. Again, it is on a sliding scale so the more you make, the less assistance you will receive.

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<sup>9</sup> Generic drugs are prescription drugs that have the same active ingredients as a brand-name drug, but usually cost less because they are a spin off of the more popularly known original. They are rated by the Food and Drug Administration as being just as safe and effective as their brand name counterparts.

<sup>10</sup> Brand-name drugs are those medications which are sold under a trade-marked brand name. They are usually well known and cost more than their generic counterparts.

For more information, you can call Prescription Advantage at 1800-AGEINFO (800-243-4636).<sup>11</sup>

## **H. Formulary**

A formulary is the list of drug names that are covered by each Medicare Part D plan. Different plans will cover different drugs and this is where Medicare Part D is complicated.<sup>12</sup> Each plan's formulary is based upon federal guidelines but each plan has flexibility in regards to what drugs are included in their plan. The differences in what drugs are covered by each plan is an important factor in determining what plan you will want to sign up for and you will want to find out what plans cover the drugs that you take by comparing different formularies.

Some plans will offer a broader formulary than other plans and cost sharing may also be different depending upon the plan. If you take many different medications then you may want to sign up for a broader plan. If you currently take fewer medications you may want to sign up for a less expensive and narrower plan for your current needs.

Formularies are created from a master list that is set out by the Government that contains 146 different categories or types of drugs that exist for various ailments and illnesses.<sup>13</sup> Each plan is required to have at least 2 drugs offered for each of those 146 categories and there are a few categories in which all the drugs must be covered.<sup>14</sup>

In 2004, the United States Pharmacopoeia (USP) (a non-profit non-governmental organization) was directed by Congress under the Medicare Modernization Act (MMA)

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<sup>11</sup> Included a rate chart for Prescription Advantage, and information on LIS at end of this document.

<sup>12</sup> A formulary is a list of prescriptive drugs that are covered by each plan. Drugs listed on a formulary may also be referred to as eligible drugs, a preferred drug list, or a select drug list.

<sup>13</sup> Information given at NEALA meeting on Medicare and Medicaid issues, October 2005.

<sup>14</sup> As new advances in medications come along the plan may change those drugs that they cover to accommodate for those advances, such changes may only be made after individuals on the plan who use those drugs are given a 60 day notice.

to publish guidelines on drug categories and classes. These guidelines are to be followed by prescriptive drug plans in the development of their formularies.<sup>15</sup> There are various categories of drugs that reflect different therapeutic uses of drugs that are based on the International Classification of Disease (ICD-9) diagnosis codes. Within each category of drugs there are various classes of drugs that differ either in their chemical make-up or in their function on the particular system or disease.<sup>16</sup>

The USP defined 41 therapeutic categories and 32 of those were further divided into pharmacologic classes, and sub-classes, totaling 146 different and unique classes/categories of drugs. Prescription Drug Plans are required under the guidelines set out for them in the Act to include in their formulary at least 2 drugs from each class in a category.<sup>17</sup> For classes that have additional subclasses a plan is required to offer at least 1 drug from each subclass.<sup>18</sup>

### **I. Dual Eligibility and Nursing Homes**

If you are currently receiving Medicaid prescription drug coverage and Medicare, you will be automatically enrolled in a Medicare Part D plan and you will automatically qualify for Extra Help in paying for your Medicare drug plan costs.<sup>19</sup> There is no need to apply and you will receive a letter informing you of your automatic enrollment. If you want to choose a plan on your own, then you may do so and will still receive the Extra

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<sup>15</sup> Center for Medicare Advocacy, Inc.

<sup>16</sup> Id. These classes are often divided up into even more specific levels of identification.

<sup>17</sup> Id. PDPs are encouraged to offer the generic counterparts to brand-names and to offer drugs that have a low history of interaction with other medications.

<sup>18</sup> If you wish to use a drug not on the formulary you may make a request to you plan. Often they will require you to test the effectiveness of the drug on their formulary that fall in the same class as the drug you are requesting before allowing you to substitute the requested drug.

<sup>19</sup> Medicare Interactive – What Happens to Medicaid Drug Coverage.

Help automatically.<sup>20</sup> You can change your plan each month while you are in the nursing home.<sup>21</sup>

If you are currently in a nursing home facility, there are some important facts that you should know regarding your Medicare drug benefits under the new Plan D coverage. Nursing homes generally work with specific pharmacies, so you are going to want to make sure that the plan you choose or the plan you are automatically enrolled in, if you are dual eligible, works with the corresponding pharmacy.<sup>22</sup> If you are on Medicaid and live in a nursing home, then you will have no out-of-pocket costs as long as your plan covers the drugs that you need and your nursing home purchases those drugs at a pharmacy that is within the plan's network.<sup>23</sup> If you are not on Medicaid and live in a nursing home, your costs will be the same as any other individual who joins a Medicare Part D plan.

Do not worry if you determine that your Medicare Part D plan provider is not meeting your needs while you live in a nursing home.<sup>24</sup> In addition to the regular enrollment periods that are available to all Medicare Part D plan members, individuals in nursing homes will be able to change their plans upon either entering a nursing home, once a month while residing in a nursing home, or once during the two months after leaving a nursing home.<sup>25</sup>

If your Medicare drug plan does not cover a drug that you need and you are either in a nursing home or entering one, you will have all the rights as other Medicare drug

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<sup>20</sup> If you are on Medicaid.

<sup>21</sup> Id.

<sup>22</sup> Medicare Interactive – Medicare Part D and Nursing Homes.

<sup>23</sup> Network is the group of doctors, hospitals, and pharmacies that have contracts with the insurance company with which you have purchased your Part D plan.

<sup>24</sup> You say this already so you could delete it from one or the other section.

<sup>25</sup> After completing a new enrollment form your coverage will be changed for the following month.

plan members plus some additional rights. Medicare Part D plans are required to provide a 90-180 day one-time supply of the drug you are requesting when you either join a new plan or enter a new health care setting.<sup>26</sup> During this period, which is referred to as a transitional period, your doctor should be able to assist you in switching your medication to a similar one that is covered by your plan, or to assist you in applying for an exception from your plan if deemed necessary. If you are living in a nursing home and you are waiting to hear on an exception decision then your pharmacy must fulfill an emergency supply of the drug that you need.<sup>27</sup> If you are unable to get the drug covered and there are no acceptable substitutes then your nursing home should provide you with the drugs that you need.<sup>28</sup> Remember that you may always switch plan each month to one that covers the medications you need.

## **J. Penalties**

If you are eligible to apply for Medicare Part D and you do not have other creditable coverage, or you are not automatically enrolled by MassHealth, Medicaid or because you are on Medicare A and B, then you must enroll in a Medicare Part D plan within 3 months before or 3 months after becoming eligible.<sup>29</sup> The best advice for someone who does not take regular medications is to sign up for a plan with a very low premium because you can always change your plan later during open enrollment.<sup>30</sup> Once you are eligible for Medicare Part D and you are not covered by a plan that meets the

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<sup>26</sup> For example transferring from a hospital or assisted care facility into a nursing home.

<sup>27</sup> Medicare Interactive – Medicare Part D and Nursing Homes.

<sup>28</sup> If your nursing home care is being covered by Medicare Skilled Nursing Facility benefits then your prescription drug coverage is being covered by Medicare Part A and not Part D.

<sup>29</sup> Your Guide to Medicare Prescription Drug Coverage.

<sup>30</sup> Francine Chuchanis, Medicare Managed Care.

requirements set out by the MMA, you are penalized 1% of the premium for each month that you delayed and could have been enrolled.<sup>31</sup>

### **Example**

Tony is 65, takes no medication at the current time, is retired, and is not covered by a prescription plan. A year later he gets high blood pressure and decides that he should enroll in a Medicare Part D plan. At that point, he cannot sign up unless it is an open enrollment period to be charged 1% of the average monthly premium. Over the course of 24 months that 1% penalty builds up and there is no guarantee that the average monthly premium will not increase.<sup>32</sup> If Tony joins a plan a year after he becomes eligible when the average monthly premium of \$33 per month, his penalty will come to \$7.92 each month. From then on Tony's premium will be an extra \$7.92 every month.<sup>33</sup>

### **K. Grievances**

If you have a complaint about your Medicare drug plan then you may have the right to file a complaint, or grievance with the plan.<sup>34</sup> You have 60 days from the occurrence of the event that led to your grievance to file a formal complaint with the plan. Some examples of grievances are: the company that provides your plan is sending you unsolicited mail regarding other offers; you are being made to wait a long period to receive your prescriptions; the customer service of your plan is unaccommodating to your

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<sup>31</sup> Id.

<sup>32</sup> Medicare Drug Coverage 101: Everything You Need to Know About Part D.

<sup>33</sup> Medicare D: A Hard Pill to Swallow. A critical article review by IndeOnline Reports. Information reviewed and is correct with Medicare guidelines.

<sup>34</sup> Grievances may not be in regards to coverage or payment for a drug covered by the plan, they must be relating to other issues.

needs; the plan failed to provide the notices that are required; the plan is not following the rules set out by Medicare; and the plan is violating the rules of appeal.<sup>35</sup>

#### **L. Scams and Con-artists**

Sadly, the elderly are often a target for professional scams. One way to help avoid scams is to sign up for the National Do-Not-Call Registry, so that private insurance companies will not be able to call you at home or on your cell phone. Also, to be cautious, do not give out any personal information over the phone to anyone regarding a plan unless you call them.<sup>58</sup> Do not allow anyone into your home that you did not invite because Medicare representatives are prohibited from going to your home without an invitation.

Also, Medicare Part D plans are not allowed to charge an enrollment fee for applying; if they attempt to, you should report them immediately. Though it can be hard, do not be pressured by solicitors to make a decision quickly. If you are unsure of a company soliciting you, call your local Medicare office to see if and they have information on the company and its plan.<sup>59</sup>

#### **M. Conclusion**

Medicare Part D is a complex program that has positive goals. It may be very confusing and difficult for the elderly to comprehend and one should not hesitate to seek assistance in understanding and choosing a plan as it may have a significant impact upon your health benefits and financial costs for prescription drugs in the future. Below are some general numbers that could be helpful to know:

Medicare Helpline: 1-800-633-4227

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<sup>35</sup> Center For Medicare & Medicaid Services: How to File a Complaint, Coverage Determination, or Appeal

Social Security Administration: 1-800-772-1213

The SHINE Program: 1-800-243-4636, press 1: SHINE is a free program for Medicare beneficiaries and is designed to help individuals find the most comprehensive and cost effective health care coverage. SHINE counselors are volunteers who have received extensive training on all plans and benefits in the local area for which they are counseling. Counselors are unbiased and will look at an individual's needs and circumstances before providing an array of options for medical and drug coverage.

Mass Medline: 1-866-633-1617

Prescription Advantage: 1-800-243-4636, press 2