

Access to LTC Pharmacies for Beneficiaries Residing in IMDs and ICFs/MR

Q: Does CMS’s regulatory definition of the term “long-term care (LTC) pharmacy” encompass intermediate care facilities for the mentally retarded (ICFs/MR) and institutes for mental disease (IMDs)? What does this mean in terms of provision of covered Part D drugs by a LTC pharmacy in a Part D plan’s pharmacy network?

A: Our definition of a LTC pharmacy encompasses not only skilled nursing facilities (SNFs), as defined in section 1819(a) of the Social Security Act, but also any medical institution or nursing facility for which payment is made for institutionalized individuals under Medicaid, as defined in section 1902(q)(1)(B) of the Social Security Act. We have previously advised that this definition generally includes ICFs/MR and inpatient psychiatric hospitals, along with skilled nursing and nursing facilities.

ICFs/MR and IMDs are both “medical institutions” as defined in Medicaid regulations at 42 CFR 435.1009 to the extent that states identify these facilities as institutions. To be considered a medical institution under Medicaid, a facility has to meet certain continuous service and staffing requirements. Thus, group homes or residential housing arrangements are unlikely to be classified as a medical institution by the state and, therefore, residents of such facilities would not be considered institutionalized individuals for purposes of zero cost sharing under the low-income subsidy. To the extent that Part D plans believe that a dual eligible enrollee is institutionalized and should have no cost sharing under the low-income subsidy, they should contact the plan manager.

We also clarify that, to the extent that an ICF/MR or IMD designated by a state as an institution has as an inpatient any institutionalized individuals – which means any full benefit dual eligible individual for whom payment is made under Medicaid throughout a month, as provided in section 1902(q)(1)(B) of the Act – it falls within our regulatory definition of the term “LTC facility.” We are aware that there exists a statutory federal financial participation exclusion under Medicaid affecting residents of IMDs between the ages of 22 and 64. However, the IMD exception to the definition of “medical assistance” under section 1902(q)(1)(B) of the Act does not apply to individuals who are age 65 and older. Thus, all elderly full-benefit dual eligibles who are inpatients in an IMD designated by the state as an institution for a full month are considered institutionalized individuals for that month.

This means that plans must ensure that they provide convenient access to network LTC pharmacies for all of their enrollees residing in an IMD or ICF-MR designated by the state as an institution and in which any institutionalized individuals reside (although living in an institution that does not meet the

definition of a LTC facility does not preclude an individual from enrolling in Part D). We are aware that there has been some question by both institutions and plans as to whether ICFs/MR and IMDs are encompassed by our definition, and we clarify here that plans will not be compliant with our LTC convenient access standard if they do not provide access to covered Part D drugs via a LTC pharmacy in their network for all of their enrollees who reside in LTC facilities. This issue has been further complicated by the fact that many ICFs/MRs and IMDs utilize in-house pharmacies and, in some cases, such pharmacies are state run and operated. In some states, licensing laws preclude facilities from obtaining prescription drugs and LTC services for their residents from anyone but the facility's in-house pharmacy. We also clarify that states may not be able to agree to certain standard clauses in some LTC standard contracts because of constitutional and legal restraints on states. Plans should be prepared to readily negotiate with states to address these issues.

Therefore, in order to facilitate plan compliance with the LTC convenient access standard, we strongly encourage plans to continue their LTC network contracting efforts with institutional and other LTC pharmacies before and after January 1, 2006. CMS will make available a list of plan sponsor contact information in order to provide LTC pharmacies wishing to join networks with the information necessary to initiate contract negotiations with plans. We also note that, to the extent that plan contracting efforts involve communication with state run and operated pharmacies, we encourage plans to coordinate their efforts through a single point of contact at the state level (see attached lists of state contacts for IMDs and ICFs/MR).

State Mental Health Agency (IMD) – Medicare Part D Leads (as of September 28, 2005)

STATE	MH LEAD	EMAIL	PHONE	FAX
AL	Rich Powers	powers@path.uab.edu	205-759-0820	205-759-0894
AK	Stacy Toner	Stacy_Toner@health.state.ak.us	907-465-2817	907-465-2668
AZ	Margaret Russell	RUSSELM@azdhs.gov	602-364-4658	602-364-4762
AR	John Althoff	John.althoff@arkansas.gov	501-686-9166	501-686-9182
CA	Stephen Mayberg	Stephen.mayberg@dmh.ca.gov	916-654-2309	916-654-3198
CO	Debra Kupfer	Debra.kupfer@state.co.us	303-866-7418	303-866-7428
CT	Pat Rehmer	Pat.rehmer@po.state.ct.us	860-418-6676	860-418-6691
DE	Harris Taylor	Harris.taylor@state.de.us	302-255-9413	302-255-4428
DC	J.P. Ellison	Jp.ellison@dc.gov	202-364-8139	202-673-2254
FL	Lonnie Mann	Lonnie_mann@dcf.state.fl.us	850-414-9068	850-487-2239
GA	Gwendolyn Skinner	gbskinner@dhr.ga.gov	404-657-2260	404-657-1137
HI	Helene Jo	hsjo@amhd.health.state.hi.us	808-586-4688	808-586-4745
ID	Anne Bloxham	bloxhama@inhw.state.id.us	208-334-5716	208-334-6699
IL	Lorrie Stone	dhsmhcg@dhs.state.il.us	312-814-4856	312-814-4832
IN	Katy Howard	Katrina.howard@fssa.in.gov	317-233-5005	317-233-3472
IA	Mary Nelson	mnelson@dhs.state.ia.us	515-281-8746	515-281-4980
KS	Kathy Harmon	kxmh@srskansas.org	785-368-6552	785-296-6142
KY	Steve Shannon	Steve.shannon@ky.gov	502-564-4448	502-564-9010
LA	Cheryll Bowers-Stephens	cstephen@dhh.la.gov	225-342-2540	225-342-5066
ME	Kim Johnson	Kimberly.johnson@maine.gov	207-287-6344	207-287-4334
MD	Gayle Jordan	gjordanrandolph@dmh.state.md.us	410-402-8452	410-402-8441
MA	Mary Ellen Foti	Maryellen.foti@dmh.state.ma.us	617-626-8116	317-626-8225
MI	John Jokisch	jokisch@michigan.gov	517-335-0244	517-335-6775
MN	Sharon Autio	Sharon.autio@state.mn.us	651-582-1810	651-582-1831
MS	Tessie Smith	Tessie.smith@dmh.state.ms.us	601-359-1288	601-359-6295
MO	Joseph Parks	Joe.parks@dmh.mo.gov	573-751-2794	573-526-7926
MT	Lou Thompson	lothompson@state.mt.us	406-444-9657	406-444-4435
NE	Ronald Sorensen	Ron.sorensen@hsss.ne.gov	402-479-5117	402-479-5162
NV	Emmanuel Ebo	wepharm@snahs.nv.gov	702-486-6301	702-486-8077
NH	Kelley Capuchino	kcapuchino@dhs.state.nh.us	603-271-5090	603-271-5116
NJ	Lorna Hines-Cunningham	Lorna.hines-cunningham@dhs.state.nj.us	609-777-0757	609-777-0869
NM	Karen Meador	karen.meador@state.nm.us	505-827-2658	505-827-0097
NY	Martha Schaefer Hayes	cofgmsh@omh.state.ny.us	518-474-3631	518-473-4690
NC	Bonnie Morell	Bonnie.morell@ncmail.net	919-715-2774	919-715-3604
ND	JoAnne Hoesel	sohoej@state.nd.us	701-328-8924	701-328-8969
OH	Don Anderson	andersondc@mh.state.oh.us	614-644-5499	614-752-9453
OK	Terry Cline	tcline@odmhas.org	405-522-3878	405-522-0637
OR	David Pollack	David.Pollack@state.or.us	503 945-7816	503-373-7327
PA	Joan Erney	journey@state.pa.us	717-787-6443	717-787-5394
RI	Ron Tremper	rtremper@mhrh.ri.gov	401-462-6008	401-462-0339
SC	Keith Randolph	Dkr82@scdmh.org	803-898-8362	803-898-8347
SD	Shauna Swanson	Shauna.swanson@state.sd.us	605-773-5991	605-773-7076
TN	Virginia Trotter Betts	Virginiatrotter.betts@state.tn.us	615-532-6500	615-532-6514
TX	Sam Shore	Sam.shore@dshs.state.tx.us	512-458-7111	512-458-7477
UT	Mark Payne	mpayne@utah.gov	801-538-8290	801-538-9892
VT	Paul Blake	pblake@vdh.state.vt.us	802-241-2610	802-241-1129
VA	Dr. James L. Evans	James.evans@co.dhmrsas.virginia.gov	804-786-4136	804-786-8623
WA	Paul Bigelow	bigelop@dshs.wa.gov	360-902-0817	360-902-7691
WV	John Bianconi	jbianconi@wvdhhr.org	304-558-0298	304-558-2230
WI	John Easterday	eastejt@dhs.state.wi.us	608-267-9391	608-266-2579
WY	Carol Day	cday@state.wy.us	307-777-7110	307-777-5580

State ICF/MR – Medicare Part D Leads (as of September 28, 2005)¹

STATE	DD Contact	EMAIL	PHONE	FAX
AZ	Louette Coulson	lcolson@az.des.gov	602-238-9028	602-238-9294
AR	Deborah Tenner	deborah.tenner@arkansas.gov	501-682-8707	501-682-8679
CA	Carol J. Risley	crisley@DDS.CA.GOV	916-654-1888	916-651-8210
CO	Karen Floyd	karen.floyd@state.co.us	970-255-5803	970-255-5805
GA	Karen Cobham-Owens	kecowens@dhr.state.ga.us	404-657-2259	404-657-2256
ID	R. Terry Post	postr@idhw.state.id.us	208-442-2812	208-467-3406
IL	Randy Malan	dhs9848@dhs.state.il.us	217-785-8983	217-785-9015
IN	Doug Seidman	Doug.Seidman@fssa.in.gov	317-232-1684	317-234-1962
IA	Larry Allen	lallen@dhs.state.ia.us	515- 281-4778	515-281-4597
KS	Sandy Bonjour	ssb@srskansas.org	785-296-3536	785-296-0557
KY	Dan Luchtefeld	dan.luchtefeld@ky.gov	502-564-4527	502-564-5478
LA	Annie Chapman	achapman@dhh.la.gov	225-342-7912	225-342-8823
MA	Louis Dell'olio	lou.dell'olio@state.ma.us	978-858-2101	978-858-2110
MI	Cynthia Kelly	kellyc@michigan.gov	517-335-0263	517-335-4077
MN	Shirley Patterson York	shirley.york@state.mn.us	651-582-1805	
MS	Tessie Smith	Tessie.smith@dmh.state.ms.us	601-359-1288	601-359-6295
MO	Mary Fangmann	mary.fangmann@dmh.mo.gov	660-831-3032	660-831-3071
NE	Gary Cheloha	Gary.cheloha@hsss.ne.gov	402-471-0800	402-471-9092
NV	David E. Luke	dluke@src.state.nv.us	775-688-1930	775-688-1922
NM	Cynthia Wilson	cynthiao.wilson@state.nm.us	505-827-6202	505-827-3196
NY	Larry Zawisza	larry.zawisza@omr.state.ny.us	518-473-9697	518-473-0054
NC	Jerry McKee	jerry.mckee@ncmail.net	828-433-2509	828-433-2180
ND	Carol Ebertowski	54ebec@state.nd.us	701-352-4564	701-352-4376
OK	Michael Noel	Michael.Noel@okdhs.org	405-521-6263	405-522-3037
OR	Tina Kitchin	Tina.C.Kitchin@state.or.us	503-945-5812	503-373-7823
PA	Jill Morrow-Gorton	jmorrowgor@state.pa.us	717-787-5110	717-783-5141
RI	Ron Tremper	rtremper@mhrh.ri.gov	401-462-6008	401-462-0339
SC	Tom Waring	twaring@ddsn.sc.gov	803-898-9699	803-898-9656
SD	Dan Lusk	Dan.Lusk@state.sd.us	605-773-5990	605-773-5483
TN	Stephen Beaty	stephen.beaty@state.tn.us	615-253-2378	
TX	Ann Richards	ann.richards@dshs.state.tx.us	210-531-7724	210-531-7864
UT	Martin MacNeil	mjm@utah.gov	801-763-4201	801-763-4458
VA	Michele Thomas	michele.thomas@co.dmhmsras.virginia.gov	804 786 9489	804-692-0076
WA	Dave Langenes	langedj@dshs.wa.gov	360-725-3456	360-407-0955
WV	John Bianconi	jbianconi@wvdhhr.org	304-558-0298	304-558-2230
WI	Ted Bunck	buncktj@dhs.wi.us	608 301-9229	608-301-9423

¹ This list includes contacts only those states that have direct responsibility for pharmacies in ICFs/MR.