

Southwestern CT Agency on Aging

Late Enrollment Penalty (LEP): **FAQ and Guide**

- **What is the Late Enrollment Penalty or “LEP”?**

- A 1% penalty on the national average monthly Part D premium for every full month an individual was eligible to enroll in a PDP but did not do so
- The penalty calculation start date is either May 16, 2006; three months after the individual is first eligible for Medicare; or 64 days after creditable coverage has ended if it is not yet replaced
- The LEP is a “lifetime” penalty for as long as a person is enrolled in a Part D plan (PDP)

- **Who is exempt from the LEP?**

- Any individual who enrolled in a PDP at the time they first became eligible for Medicare
- Individuals who enrolled in a PDP within 63 days of losing creditable (as good or better than Medicare) prescription drug coverage
- Any individual that qualifies for Extra Help/Low Income Subsidy (LIS) through Social Security

- **Who determines whether or not a person should have a LEP?**

- The PDP is responsible for determining if the person was previously enrolled in another Part D plan, had other creditable coverage prior to enrolling in their plan or if there was any lapse in creditable coverage greater than 63 days
Typically done with a survey sent to the beneficiary

- **How will they know whether or not a LEP is warranted?**

- Depending on the date a beneficiary enrolls, the PDP can use one of several methods to obtain the above information based on
 - The member’s enrollment form
 - A query submitted to CMS
 - An “Attestation Form” sent to the beneficiary that must be returned within 30 calendar days telling the plan whether he/she had creditable coverage and the source of such coverage

- **How is the LEP calculated?**

- The LEP is 1% of the national average monthly premium for every full month an individual was eligible to enroll but did not do so. If a person was eligible to enroll in a PDP by May 15, 2006, but did not enroll until January 2007 (7 full months later), he/she will be subject to a 7% LEP on each year’s national average monthly premium.
- The penalty calculation formula is adjusted each year to reflect the new national average monthly premium, but the percentage remains the same.

- **Who determines how much the LEP will be?**

- CMS is the only entity authorized to calculate and impose a LEP! The plan may not estimate or inform a beneficiary of the penalty amount until it receives formal notification of the penalty amount from CMS. Within 10 calendar days of receiving this formal notification from CMS, the plan must write to the member and advise him or her of the penalty amount.

- **What will the notification of LEP look like?**

- CMS specifies the information that must be included in this letter:

- The monthly premium for the current year and the portion of that amount that is the LEP,

- The effective date of the penalty and the number of uncovered months which the LEP is based,

- The beneficiary's right to ask for reconsideration (review) of the penalty, as well as the reconsideration filing deadline

- The plan will continue to bill the beneficiary for the penalty even if the beneficiary has asked for reconsideration. The beneficiary is required to pay the LEP, and if reconsideration is granted the beneficiary will be reimbursed

- Plans are required to be flexible in collecting the penalty, offering beneficiaries a choice of payment cycles (annual, quarterly or monthly). The plan does not need to bill a beneficiary whose premium is being collected through Social Security deduction as the SSA will collect the LEP amounts from people who have selected this option

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