Medicare & Medi-Cal Prescription Drugs Fact Sheet #4

Medicare Fact Sheet

Medicare Part D: Exceptions and Appeals

What should I do if my drug plan won't cover the drugs I need or if I want to make a complaint against my drug plan?

Coverage Determinations

What is a coverage determination?

If the pharmacist tells you that your drug plan will not give you a drug that your doctor says you need or will only give you the drug at a higher cost than you think you are supposed to pay, you have a right to ask the plan to provide your drugs or to allow you to pay less. You must ask the drug plan for a decision about what you want. This is called a *coverage determination*.

When do I ask for a coverage determination?

You can ask your plan for a coverage determination if:

- You need the drug plan to provide a drug that isn't on the drug plan's drug list (called a *formulary)*;
- Your plan requires you to try another drug first;
- The plan says you cannot get as much of the drug as your doctor prescribed or a different form of the drug; or
- You need be able to get the drug with lower co-payments.

How do I ask for a coverage determination?

You should call or write to your plan to ask them how to start the process. You should also ask the plan to send you the form that you need. You can also use the form at the end of this fact sheet, called "*Request for Medicare Prescription Drug Coverage Determination."* If the pharmacist tells you that the plan will not cover your drug that is not a coverage determination. You must contact your plan directly to start the process. You can also have your doctor or a person that you choose call or write to the plan for you.

Do I need my doctor to help me?

Yes. If you ask your drug plan to provide a drug that is not on the plan's drug list or to cover your drugs at a lower co-payment amount, then you

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must get your doctor's help. This kind of coverage determination is called an *exception*. The drug plan will require this information from your doctor before it will decide to give you an exception. Tell the doctor why you are asking for an exception. Then ask the doctor to give the plan a letter telling the plan why you need an exception, or ask the doctor to fill out the form included with this fact sheet. You may also want to ask your doctor if there are other drugs that you could take instead of the one that your drug plan does not want to provide. You should ask for your doctor's help even if the drug plan does not require it.

How long can it take for my drug plan to make a decision about a coverage determination?

Your plan cannot take more than 72 hours from the time that it received your request for a coverage determination to decide if it will provide the drug you need.

What if I can't wait 72 hours for my drugs?

If you think your health will be harmed if you have to wait for the plan to make a decision, ask your doctor to tell your plan that your life or health will be harmed and that you cannot wait and need a decision right away. This is called *expedited review*. If your review is expedited, the plan will have to give you a decision within 24 hours.

What else can I do if my drug plan still says "no?"

If your plan decides against you on the coverage determination, you can request that the decision be reviewed. This is called an a*ppeal*. There are <u>five</u> steps to follow if you want to appeal the drug plan's decision (described below). You also may have information about the appeal process in your benefits handbook. If you need help with an appeal, please call us at the phone number at the end of this fact sheet.

<u>Appeals</u>

STEP 1: Redetermination by the Plan

The first step of an *appeal* is to ask for another review by your drug plan. This is called a *redetermination.* You, or your doctor or anyone else you chose must ask for this in writing within 60 days from the date of the plan's coverage determination. The plan has seven days from the date it receives your request to tell you of its decision. If you think your health will be harmed by having to wait 7 days for the plan to tell you of its

decision, ask your doctor to tell your plan that your life or health will be harmed and that you cannot wait and need a decision right away. (This is called a request for an *expedited review*). If your review is expedited, the plan will have to notify you of its decision within 72 hours.

STEP 2: Reconsideration by an Independent Review Entity

If the plan still does not agree with you at the redetermination, you can request a review by an independent entity or IRE. This is called a *reconsideration*. You or your doctor or anyone else you chose must ask for this in writing within 60 days from the date of the *redetermination*. The request must be made in writing. The plan has seven days from the date it receives your request to tell you of its decision. If you think your health will be harmed by having to wait 7 days for the plan to tell you of its decision, ask your doctor to request an *expedited review*. If your review is expedited, the plan will have to notify you of its decision within 72 hours.

STEP 3: Hearing with an Administrative Law Judge (ALJ).

If the IRE agrees with your plan's decision, you or your doctor or anyone else you chose can request a hearing with an ALJ. You must ask for one in writing within 60 days from the date of the IRE decision. The ALJ generally has 90 days from the date it receives your request to tell you of its decision. In order to get an ALJ hearing, the total amount of your drug costs or the value of the drugs must be at least $100. This amount will increase each year.

STEP 4: Review by the Medicare Appeals Counsel (MAC).

If the ALJ agrees with your plan's decision, you or your doctor or anyone else you chose must ask for a review by the MAC in writing within 60 days from the date of the decision to request an *ALJ hearing*. The request must be made in writing to the entity specified on the IRE decision notice. The MAC generally has 90 days from the date it receives your request to tell you of its decision.

STEP 5: Review by a Federal Court.

If the MAC agrees with your plan's decision, you or your *appointed representative* have 60 days from the date of the notice of the MAC's decision to request a review by a Federal Court. The request must be made in writing to the entity specified on the MAC decision notice. In order to get a review by the Federal Court, the amount of your drug costs or value of the denied coverage must be at least $1050. You should get help from an attorney before you use this step.

Other Complaints

What if I have another kind of complaint about my plan?

If you have a complaint about your drug plan, but your complaint is not about getting your drugs or the cost of your drugs, you can file a complaint with the plan. This is called a "*grievance.*" Here are some examples of the things you may file a grievance about:

- Your plan's customer service makes you wait too long for assistance, or they are rude or do not speak your language.
- Your plan does not give you information that they should give you.
- Your plan makes you wait too long to get your prescriptions.

To start a grievance, call the customer service number for your drug plan and ask to file a grievance.

Can I change drug plans at any time if I do not like my plan or do not agree with its decisions?

Yes. If you have Medi-Cal and Medicare you can change to a different plan if you want to at any time. Before you change plans, be sure to check and see if the new drug plan you want to join covers the drugs that you need. But keep in mind that if you change to another drug plan, the new drug plan will not start to pay for your drugs until the next month.

You may also want to read our other Medicare Part D fact sheets:

- Fact Sheet #1: Medicare Part D Basics
- Fact Sheet #2: Medicare Part D and Medi-Cal with a Share of Cost
- Fact Sheet #3: Medicare Part D: Get Extra Help Paying for Prescription Drugs

We are here to help you!

If you need help asking for a coverage determination, an appeal or to get more information about your rights, contact the Health Consumer Center listed below.

Health Consumer Center of Imperial Valley
449 Broadway St., El Centro, CA 92243
1-800-935-9288
www.healthconsumer.org

Plan Name _____
Phone # _____
Fax # _____

Medicare Part D Coverage Determination Request Form

This form cannot be used to request:

- Medicare non-covered drugs, including barbiturates, benzodiazepines, fertility drugs, drugs prescribed for weight loss, weight gain or hair growth, over-the-counter drugs, or prescription vitamins (except prenatal vitamins and fluoride preparations).
- **Biotech or other specialty drugs for which drug-specific forms are required. [See <Part D plan website.>] OR [See links to plan websites at http://www.cms.hhs.gov/PrescriptionDrugCovGenIn/04_Formulary.asp]**

Patient Information		Prescriber Information		
Patient Name:		Prescriber Name:		
Member ID#:		NPI# (if available):		
Address:		Address:		
City:	State:	City:		State:
Home Phone:	Zip:	Office Phone #:	Office Fax #:	Zip:
Sex (circle): M F	DOB:	Contact Person:		

Diagnosis and Medical Information			
Medication:	Strength and Route of Administration:		Frequency:
☐ New Prescription OR Date Therapy Initiated:	Expected Length of Therapy:		Qty:
Height/Weight:	Drug Allergies:	Diagnosis:	
Prescriber's Signature:			Date:

Rationale for Exception Request or Prior Authorization
FORM CANNOT BE PROCESSED WITHOUT REQUIRED EXPLANATION

☐ Alternate drug(s) contraindicated or previously tried, but with adverse outcome (eg, toxicity, allergy, or therapeutic failure)

➔ Specify below: (1) Drug(s) contraindicated or tried; (2) adverse outcome for each; (3) if therapeutic failure, length of therapy on each drug(s);

☐ Complex patient with one or more chronic conditions (including, for example, psychiatric condition, diabetes) is stable on current drug(s); high risk of significant adverse clinical outcome with medication change

➔ Specify below: Anticipated significant adverse clinical outcome

☐ Medical need for different dosage form and/or higher dosage

➔ Specify below: (1) Dosage form(s) and/or dosage(s) tried; (2) explain medical reason

☐ Request for formulary tier exception

➔ Specify below: (1) Formulary or preferred drugs contraindicated or tried and failed, or tried and not as effective as requested drug; (2) if therapeutic failure, length of therapy on each drug and adverse outcome; (3) if not as effective, length of therapy on each drug and outcome

☐ Other:_____ ➔ Explain below

REQUIRED EXPLANATION:_____
_____
_____

Request for Expedited Review

☐ REQUEST FOR EXPEDITED REVIEW [24 HOURS]

➔ BY CHECKING THIS BOX AND SIGNING ABOVE, I CERTIFY THAT APPLYING THE 72 HOUR STANDARD REVIEW TIME FRAME MAY SERIOUSLY JEOPARDIZE THE LIFE OR HEALTH OF THE MEMBER OR THE MEMBER'S ABILITY TO REGAIN MAXIMUM FUNCTION