Florida Health Care Association

Mail To: P. O. Box 1459, Tallahassee, Florida 32302-1459
Telephone: (850) 224-3907 • Fax: (850) 681-2075
www.fhca.org

# Medicare Part D Copayments Unfair for Dual Eligible Assisted Living Residents

**Action for Congress:** *Cosponsor the* Home & Community Services Copayment Equity Act *(H.R. 1407, S. 534) that would eliminate Medicare Part D copayments for dual eligible beneficiaries living in assisted living residences and other home and community-based settings.*

The Medicare Modernization Act of 2003 (MMA) introduced the Medicare Part D prescription drug benefit that has transformed the way seniors and many people with disabilities receive prescription drug medications. Recognizing the vulnerability and special needs of very low-income people living in long term care facilities, the MMA exempted dual eligible beneficiaries – those eligible for both Medicare and Medicaid – from any cost-sharing for Medicare Part D prescription drugs. Under this new benefit, the Centers for Medicare & Medicaid Services defines a long term care facility as a nursing facility, an intermediate care facility serving people with developmental disabilities, or an inpatient psychiatric hospital. However, the waiver of copayments for prescription drugs does not apply to dual eligible residents of assisted living and residential care (AL/RC) facilities, even though these residents are nursing-home eligible and share similar needs and vulnerabilities.

Currently, 12 percent of the one million residents living in AL/RC facilities are dually eligible and have their care financed under home and community-based services (HCBS) programs. Under HCBS waivers, residents placed in AL/RC facilities must be eligible for placement in nursing homes. Like nursing home residents, these 115,000 dual eligible residents of AL/RC facilities need approximately 8 - 10 prescription drugs daily; in 2009, their Part D copayments range from $1.10 to $6, depending on their income level and whether a medication is generic. Because of the large number of medications that these dual eligible residents need, even these copayment amount can present financial hardships. In many instances, their combined Medicare Part D copayments can exceed their monthly Medicaid personal needs allowances, which under federal law can be set by the states as low as $30 a month.

Continuing to require copayments from this vulnerable population will affect some seniors' access to much-needed medications, but may also negatively impact expansion of Medicaid programs designed to offer nursing-home eligible seniors and people with disabilities the option of remaining in community settings. In fact, a study recently published by the U.S. Department of Health & Human Services reports that the number of assisted living residents covered by Medicaid dropped from 121,000 to 115,000 from 2004 – 2007 even as the overall assisted living population continued growing. Failure to address the Part D copays could further contribute to this decline by forcing some dual eligible assisted living residents to move to nursing homes simply to have access to their Part D prescriptions. This is not what Congress intended, nor is it a wise use of public funds.

When Medicare Part D took effect on January 1, 2006, dual eligible beneficiaries who previously received medications under Medicaid programs were switched to Medicare Part D drug plans. Under the Part D prescription drug benefit, pharmacies and plans are not required to dispense medications if a beneficiary does not pay his or her assigned copayment. Unless the law is changed, dual eligible residents of assisted living and residential care facilities who cannot afford these copayments are at risk of not receiving their much-needed prescription drug medications. We ask that Congress pass this important legislation so that we can make sure residents needs are met.

*For more information, please contact for FHCA, Bob Asztalos at (850)224-7946 or bob@baahhealth.us or, for AHCA/NCAL, David Hebert at (202) 842-4444 or dhebert@ahca.org or MaryAnne Sapio at (202) 898-6328 or msapio@ahca.org.*