TESTIMONY BEFORE THE

HEALTH SUBCOMMITTEE

OF THE

HOUSE WAYS AND MEANS COMMITTEE

ON

MEDICARE PROGRAMS FOR LOW-INCOME BENEFICIARIES

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Chairman Stark, Ranking Member Camp, distinguished Subcommittee members, I am Dr. Joyce Payne, a member of AARP's Board of Directors. On behalf of AARP's more than 38 million members, I thank you for inviting us to testify on the need to improve the Part D low-income subsidy (LIS) and other Medicare programs for people with limited incomes.

The extra help the LIS provides to those least able to afford their drug costs is one of Part D's most important features and a key factor in AARP's continuing support for the Medicare Modernization Act. LIS provides greatly reduced costs and no gap in coverage (no "doughnut hole") for beneficiaries with incomes below 150 percent of the federal poverty level ($15,315 for individuals, $20,535 for couples).

We are pleased that the LIS is providing essential help with premiums and copays to millions who otherwise might go without lifesaving medicines because of cost. We commend the Center for Medicare and Medicaid Services (CMS) for providing auto- and facilitated enrollment in LIS for people enrolled in Medicaid, a Medicare Savings Program (MSP), or receiving Supplemental Security Income and deemed eligible for LIS. We also applaud CMS for waiving the late enrollment penalty for anyone found eligible for LIS. We similarly appreciate steps the Social Security Administration (SSA) has taken to minimize the burden of annual LIS eligibility redeterminations.

We have worked diligently with CMS, SSA, the Access to Benefits Coalition, State Health Insurance Assistance Programs, and many other partners on the daunting task of finding and enrolling low-income beneficiaries who are not deemed eligible. Reaching beneficiaries with limited incomes has always been a challenge, but LIS outreach and enrollment is especially difficult because the LIS program has a serious flaw – an asset test.

Penalizing People who Save for Retirement

Millions of people who need the extra help LIS provides are not getting it, largely because of the asset test. To be eligible for LIS, beneficiaries can have no more than $11,710 in savings, or $23,410 for a couple, no matter how low their income or how high their other living expenses. These amounts are hardly enough to get people through retirement, and AARP has consistently opposed the asset test. However, the LIS is currently denied to anyone who has saved even one dollar over these limits.

The asset test directly contradicts efforts to encourage people to save by penalizing even those with modest savings. We should encourage people to save for retirement, not penalize those who do.

The Kaiser Family Foundation has estimated that more than 2.3 million beneficiaries who meet LIS income criteria do not meet the asset test. Almost half exceed the asset limit by $25,000 or less. In fact, the asset test is the leading reason why people who apply for the subsidy are rejected.

Daunting Application Imposes Barrier

The asset test is also proving to be a serious barrier to enrollment even for those who meet its unreasonable limits. CMS projected in its final regulation on Part D that 14.4 million beneficiaries would be eligible for the LIS[1] However, to date, only slightly more than 9 million are enrolled. That means up to 5 million eligible individuals are not getting the Medicare help they need. CMS has estimated that as many as 3 million of these people have no drug coverage at all.

[1] CMS-4068-P, Medicare Program: Medicare Prescription Drug Benefit, 69 Fed. Reg. 46632: August 3, 2004

Because of the asset test, the LIS application form is eight pages of daunting and invasive questions that are difficult for many people to answer. For example, it:

- requires people to report not just savings but such obscure details as the current cash value of any life insurance policies – information people simply do not have on hand;

- asks people whether they expect to use savings for funeral or burial expenses, but does not explain that individuals can have up to $1,500 ($3,000 for couples) in savings above the asset limits for such expenses;

- asks invasive questions, such as whether applicants get help with meals or other household expenses from family members or charities which can be difficult to estimate and embarrassing to some; and

- threatens applicants with prison terms if information they provide is incorrect.

Applying for the LIS thus can seem overwhelming and require many hours, extra help from family members or insurance counselors, and often repeated efforts to find all of the required information.

This asset test and the paperwork barrier it creates is a key reason why between 3 and 5 million people who should qualify for the LIS are not getting it.

Inadequate Coordination with Medicare Savings Programs

Similar problems plague the Medicare Savings Programs (MSPs) that help pay other Medicare cost sharing requirements. As with LIS, millions of Medicare beneficiaries living on very limited incomes are not getting the help they need from these vital programs. In addition, there is only limited coordination between LIS and MSP, even though they serve primarily the same populations.
MSPs are state-administered programs and include:

- the Qualified Medicare Beneficiary (QMB) program which pays Medicare Part B premiums and cost sharing for those living at or below the poverty line,

- the Specified Low-Income Medicare Beneficiary (SLMB) program which pays Part B Premiums for those between 100 and 120 percent of poverty, and

- the Qualified Individual (QI) program which gives states capped allotments – subject to periodic reauthorization by Congress – to pay Part B premiums for those between 120 and 135 percent of poverty.

Beneficiaries enrolled in MSP programs are automatically eligible for and enrolled in the LIS. However, SSA does not screen LIS applicants to see if they are also eligible for MSP. This is a serious missed opportunity, as MSP eligibility criteria in several states is less restrictive than LIS criteria, and some states have effectively eliminated the asset test altogether. Thus, many individuals who are eligible for the LIS under their state's MSP rules are being improperly rejected because SSA only reviews applicants against LIS criteria.

The same kind of barrier to enrollment seen with the LIS exists in the majority of states that still impose an asset test on their MSP programs.

The result, not surprisingly, is that the vast majority of MSP-eligible individuals are not enrolled. Urban Institute researchers estimate that two thirds of beneficiaries eligible for QMB, and fully 87 percent who are eligible for SLMB, are not enrolled.[2]

AARP believes there should be no asset tests for Medicare programs – including both the LIS and MSP. As a matter of public policy, we should encourage people to save for retirement, not penalize those who do with an asset test.

AARP also believes that there should be full coordination between the LIS and MSP programs. Applicants for either the LIS or MSP should be screened for both programs. Eligibility criteria should be simplified, standardized and harmonized to reduce confusion and unnecessary barriers created by varying state rules.

In addition, the QI program should be made permanent by folding it into the SLMB program so it is no longer subject to annual allotment caps and all eligible individuals can be assured of needed assistance.

First Steps

AARP is firmly committed to eliminating the asset test. Until the asset test is fully eliminated, AARP believes there are interim steps Congress can and should take that can significantly reduce the barrier it creates to the LIS and MSP.

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[2] Dorn, S. and Kenny, G.M., *Automatically Enrolling Eligible Children and Families into Medicaid and SCHIP: Opportunities, Obstacles, and Options for Federal Policymakers* (New York, NY: The Commonwealth Fund, June 2006).

AARP is proud to support the Prescription Coverage Now Act of 2007 (H.R. 1536), introduced by Representative Lloyd Doggett of Texas. This legislation takes solid first steps toward our goals of eliminating the asset test, increasing enrollment, and improving coordination between the LIS and MSP. We have worked closely with Rep. Doggett's office on this legislation, and greatly appreciate his strong leadership.

Raising the Limits: Most importantly, this legislation would increase the asset test limits to $27,500 for individuals and $55,000 for couples. This will provide relief to millions of beneficiaries who truly need the help the LIS can provide. Even those who did not oppose an asset test in Medicare's drug plan agree that current limits – $11,710 for individuals, $23,410 for couples – are far too low.

Streamlining the Application: In addition to raising the asset limits, Rep. Doggett's legislation would streamline the LIS application in two very important ways. First, it would eliminate the question about the cash value of life insurance. Asking for the cash value of life insurance makes the application process unduly difficult – this is information that people – regardless of income – simply do not have on hand. Asking for this data needlessly lengthens the application form and requires individuals to calculate the cash value figure. This unnecessary and harmful red-tape barrier to the LIS application needs to be removed.

The legislation would further streamline the LIS application by deleting the confusing and embarrassing question about whether someone gets occasional help from family or charities with living expenses like groceries. Many low income people get assistance from family, churches, and food banks on a highly irregular, as-needed basis and in very limited amounts. This question, however, requires applicants to enter a specific average monthly amount.

Given the often irregular nature of such assistance, this is a figure that many people are unlikely to know with any degree of accuracy. And those who rely on such assistance are the same individuals who are most in need of the LIS.

Efficiently Targeting Outreach: The Prescription Coverage Now Act would also help SSA target its LIS outreach efforts to beneficiaries who meet the LIS income criteria. The bill would allow Social Security officials to use IRS data -- data they already have to determine income-related Part B premiums -- to also determine who meets LIS income criteria. SSA could then much more efficiently and effectively target LIS outreach efforts to just these individuals.

Currently, the IRS verifies income data submitted by people who apply for the LIS, but SSA does not have authority to use the IRS data it already has to determine which Medicare beneficiaries have incomes that meet LIS eligibility criteria for outreach purposes. The HHS Inspector General has said that legislation authorizing this limited use of income data would help to more effectively and efficiently target LIS outreach efforts.[3]

Coordinating the LIS and MSP: Rep. Doggett's legislation takes an additional important step of requiring SSA to screen LIS applicants for MSP eligibility. Full coordination between the LIS and MSP would mean that many more low-income beneficiaries would get needed help with both Part D and traditional Medicare premiums and cost-sharing obligations. Additional important provisions in the Prescription Coverage Now Act would:

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[3] Identifying Beneficiaries Eligible for the Medicare Part D Low-Income Subsidy, Daniel R. Levinson, Inspector General, November 17, 2006, http://oig.hhs.gov/oei/reports/oei-03-06-00120.pdf

- keep the LIS cost sharing affordable by indexing it to the general inflation rate, rather then the increase in overall Part D costs as under current law;

- exclude the value of LIS benefits from counting against eligibility for other low-income assistance programs; and

- permanently waive the late enrollment penalty for people enrolled in the LIS.

AARP is committed to working diligently to ensure this important legislation is enacted into law this year.

Additional Steps

While the Prescription Coverage Now Act is a critical first step, there are additional legislative steps that can and should be taken to help low-income Medicare beneficiaries.

For example, people who are not eligible for the LIS or MSP may be eligible for a state pharmacy assistance program (SPAP). These state-funded programs often help people with income and asset levels above the LIS and MSP eligibility cut-offs. A system to coordinate enrollment applications between LIS/MSP and these programs also could prove to be very useful.

Action also is needed to make MSP eligibility criteria consistent across the states and make the QI program a permanent and reliable source of assistance. We know that members of this Committee are working to develop legislation to address this concern and we look forward to working with you.

In addition, AARP supports legislative efforts to improve the Part D benefit by:

- eliminating co-pays for Medicaid beneficiaries who get long term care services in Home and Community Based Service (HCBS) programs, as is done now for beneficiaries receiving these services in nursing homes;

- counting payments by federally qualified health clinics, AIDS drug assistance programs, the Indian Health Service and drug company Patient Assistance Programs (PAP) toward the Part D “doughnut hole” coverage gap; and

- increasing funding for State Health Insurance Programs, which provide the one-on-one counseling that is most helpful to beneficiaries applying for the LIS.

Conclusion

The Medicare prescription drug benefit represents the most significant change to Medicare since the program began in 1965. The extra financial help provided to people who most need it through the LIS is a key component of this achievement, but its success is far from complete.

It is critical that we eliminate the asset test that is penalizing people who save for retirement and imposing a barrier to enrollment in the LIS. The Prescription Coverage Now Act is an important first step to eliminating the asset test and ensuring that more people who need the assistance the LIS provides can get it. We are committed to seeing its enactment this year, and we look forward to working with members of Congress from both sides of the aisle to improve the new Medicare prescription drug benefit and to ensure that all older Americans have access to affordable prescription drugs.