Section 402 Demonstration Application Template
Reimbursement of State Costs for Provision of Part D Drugs

The Secretary of Health and Human Services recognizes that States which provided access to urgently needed medications in good faith to beneficiaries in the transition to the Part D program should be supported and should be able to be reimbursed for their efforts.

The State of _____, Department of _____ proposes to participate in a Centers for Medicare & Medicaid Services (CMS) demonstration, entitled "Reimbursement of State Costs for Provision of Part D Drugs." This demonstration, authorized under section 402 of the Social Security Amendments of 1967, as amended, will assess the efficiency of reimbursing States for costs not directly reimbursed under Part D plans.

I. GENERAL DESCRIPTION OF PROGRAM

In recognition of initial problems with the implementation of the Part D programs, States have provided drug coverage and/or administrative support for their dual eligibles, as well as for Part D enrollees who have been determined to be entitled to a low-income subsidy, when they have had difficulty receiving drugs from Part D plans.

Under the demonstration, the State will submit beneficiary identification information to CMS (or its designated contractor) for all beneficiaries for whom the State incurred eligible demonstration costs. States that have paid for Part D drugs will also submit to CMS (or its designated contractor) information, in a specified format(s), on costs that the State incurred related to the provision of Part D drugs to dual eligible and low-income subsidy entitled beneficiaries for prescription drugs provided between January 1, 2006, and February 15, 2006. This information will include claim-level data on payments to pharmacies, as well as information detailing administrative costs eligible for reimbursement under the demonstration.

CMS will compute the total initial amount owed to the State, based on certain edit checks of the submitted claims data to verify that the beneficiary is a dual eligible beneficiary or a low-income subsidy entitled beneficiary as defined in this demonstration and that the prescription drug is a Part D drug and will remit this amount to the State. CMS will then use information submitted by States to recover from each Part D plan the portion of CMS payments to the State that is the responsibility of the respective Part D plan, that is, the plan's contractual payment for the drugs. CMS will also reimburse the State for additional costs determined by CMS to be eligible under the demonstration, including costs due to the State for drug payments that exceed plan payments, as well as allowed administrative costs specified in this demonstration template. Some States may have only incurred administrative costs, i.e., a State may not have made payments to pharmacies for Part D drugs, but has conducted specific activities to support payment through Part D plans for beneficiaries who have had difficulty using their Part D coverage and would

otherwise require State payment. These States may participate in the demonstration and receive reimbursement for qualified administrative costs.

Reimbursement for other State costs is not available through this demonstration. The State may not use Medicare funding under this demonstration as State Medicaid matching funds.

State information is required to be provided to allow CMS to contact the State should there be a need to discuss demonstration proposals.

State Medicaid Contact Information:
State Name: _____
State Medicaid Director Name: _____
Telephone Number: _____
E-mail Address: _____
Other Key Contacts: _____

State Pharmacy Assistance Program (SPAP) Contact Information:

State Name: _____
SPAP Director Name: _____
Telephone Number: _____
E-mail Address: _____
Other Key Contacts: _____

State information is required to be provided in order to facilitate remittance of demonstration payments:

Medicaid Contact Information:

Medicaid Payee Name: _____
Remittance Address: _____
Tax I.D. Number: _____
Specific Remittance Instructions (if any):_____

State Pharmacy Assistance Program (SPAP) Contact Information:

SPAP Payee Name: _____
Remittance Address: _____
Tax I.D. Number: _____
Specific Remittance Instructions (if any):_____
_____

II. DEFINITIONS AND CONDITIONS

Part D Drug: A Part D Drug is a drug as defined at 42 CFR section 423.100.

Dual Eligible: Refers to an individual who is eligible for both Medicare and full Medicaid benefits and who can receive the full Part D benefit under both programs on or after January 1, 2006, as defined at 42 CFR section 423.772.

Low-Income Subsidy Entitled Beneficiary: Refers to any other low-income subsidy eligible individual as defined in 42 CFR section 423.772 who has made an election to enroll in a Part D plan, and who has been determined eligible for the Part D low-income subsidy, because the individual applied for the subsidy and was found eligible, or was deemed to be eligible based on statutory criteria.

Differential Drug Costs: Costs incurred by a State for its payment of a dual eligible beneficiary's or low-income subsidy-entitled beneficiary's Part D drugs that are not otherwise recoverable from a Part D plan. This does not include Medicare-required cost sharing amounts.

Administrative Costs: Costs directly related to the facilitation of correct enrollment and the development and processing of claims associated with the provision of Part D drugs, as dual eligible beneficiaries make the transition from Medicaid coverage to Medicare Part D coverage, or the provision of, or facilitation of access to, Part D drugs for low-income subsidy entitled beneficiaries.

Supporting Documentation: Financial, statistical, program, or other records necessary to support the claims submitted for reimbursement under the demonstration which are maintained in readily reviewable form and made available for review and/or submission as required.

Duration of the Demonstration Program: The demonstration will reimburse the State for Part D drugs dispensed to dual eligible and low-income subsidy entitled beneficiaries between January 1, 2006, through February 15, 2006, and for associated administrative costs; i.e., States will be reimbursed for claims for Part D drugs dispensed to dual eligible beneficiaries and associated administrative costs that indicate a date of service between the time period of January 1, 2006, and February 15, 2006.

DHHS Assurances: In entering into this demonstration, the Secretary assures that, if the State meets the conditions of the demonstration, the State will have its costs associated with the provision of Part D drugs reimbursed through: (1) CMS payment reconciliation with the prescription drug plans; (2) CMS payment of any net drug cost differential after drug plan reconciliation (this does not include Medicare-required cost-sharing amounts); and (3) specified administrative costs. This demonstration is applicable only under current law, in the absence of Federal legislation that affects the purpose or parameters of this demonstration.

III. DEMONSTRATION AUTHORITY

Under section 402(a)(1)(A) of the Social Security Amendments of 1967, 42 U.S.C. section 1395b-1(a)(1)(A) (expressly made applicable to Part D in section 1860D-42(b)), the Secretary may carry out demonstration projects to determine whether "changes in methods of payment or reimbursement" under Medicare "would have the effect of increasing the efficiency and economy of health services" covered under Medicare through the "creation of additional incentives to these ends."

The Secretary has agreed, under the above authority, to make a temporary "change in methods of payment" under Part D, under which Medicare payment can be made to States for amounts they have paid for a dual eligible's, or low-income subsidy entitled beneficiary's Part D drugs, to the extent that these costs are not otherwise recoverable from a Part D plan. In addition, payment would be made to States under the demonstration to cover specific administrative costs related to making such payments for Part D drugs and for specific activities to support payment through Part D plans for dual eligibles in a Part D plan, or access to Part D drugs by a low-income subsidy entitled individual who has enrolled in a Part D plan and who has had difficulty using their Part D coverage and would otherwise require State payment.

Under section 402(b), the Part D payment provisions in section 1860D-15 would be waived to the extent necessary to implement this demonstration, and under section 402(a)(2), as amended by section 1860D-42(b), the costs of the payments provided for under this demonstration would be covered through the Medicare Prescription Drug Account within the Federal Supplementary Medical Insurance Trust Fund.

IV. ELIGIBILITY CATEGORIES

_/ Full Benefit Dual Eligible beneficiaries.

_/ Low-Income Subsidy Entitled beneficiaries (includes partial benefit dual eligible beneficiaries).

V. STATE PHARMACY EXPENDITURES

States may have incurred pharmacy expenditures for dual eligibles since:

A. Beneficiaries

_/ Dual eligible individuals were not enrolled in a Medicare Prescription Drug Plan, or were enrolled but were unable to use coverage, or enrollment process was initiated but was not completed.

_/ Low-income subsidy entitled individuals enrolled in a Part D plan, but were unable to use coverage, or enrollment process was initiated but was not completed.

B. Non-formulary Drugs

_/ Non-formulary drugs eligible for coverage in Medicare Part D were provided.

C. Pharmacies

_/ Pharmacy was unable to reach the Medicare Prescription Drug Plan and was unable to use available tools to bill the Medicare Prescription Drug Plan.

_/ Pharmacy could not determine if beneficiary was enrolled in a Medicare Prescription Drug Plan.

_/ Pharmacy could not determine if beneficiary was enrolled in the correct Medicare Prescription Drug Plan.

_/ Pharmacy could not obtain enough details to bill the Medicare Prescription Drug Plan.

_/ WellPoint point-of-service billing was unavailable or could not be used to resolve the problem.

VI. STATE ADMINISTRATIVE COSTS

_/ Administrative costs including those directly related to technical support to providers or directly related to ensuring the correct enrollment of individuals into a Part D plan when those individuals' previous plan enrollment was not completed or did not accurately reflect their status as dual eligibles or low-income subsidy beneficiaries during the period January 1, 2006, through February 15, 2006.

_/ Administrative costs directly related to claims processing/reconciliation activities for Part D drugs for the dates of services covered under the demonstration.

_/ The State agrees to submit such administrative costs documentation within a reasonable time following the expiration of the demonstration.

VII. STATE REQUIREMENTS

The State agrees to take appropriate steps to ensure that it is the payor of last resort during the demonstration period. All terms and conditions must be met for the State to participate in the demonstration. The State agrees to:

_/ Require pharmacists to primarily bill the Medicare Part D plan or use the Medicare point-of-sale billing, before relying on State payment. The State will provide input to CMS and the plans on ways to enhance plan and program performance for particular dual eligible and low-income subsidy entitled beneficiaries who are having difficulty using

their Part D coverage and for particular pharmacists who are having difficulty in order to reduce State billing.

_/ Provide information on Part D drug claims and administrative costs incurred within the date of services covered by the demonstration in a specified format, as well as beneficiary identification information, to facilitate reconciliation and beneficiary transition to Part D plans. The State will also work with CMS to provide valid data on any beneficiaries who may not have been included properly in the State's previous dual eligible files.

_/ Separate claims for the duration of the demonstration from claims the State would have otherwise paid through a separate State program. In some States, the State has elected to pay all cost sharing, for example, on behalf of some beneficiaries who would otherwise have paid a copayment.

_/ Submit claims only for drug costs and administrative costs incurred during the effective dates of the demonstration.

_/ Report to CMS on the number of claims, beneficiaries, and expenditures on a timely basis.

_/ Submit enrollment requests to Medicare drug plans within 10 business days, if the State intends to enroll its members as their authorized representative in 2006. State must confirm with the plans in advance of submitting any mass enrollments that the plan is able to process the enrollments in the format provided. This action will allow plans sufficient time to process enrollment files and minimize confusion on the part of the beneficiary such that he/she may not know his/her plan enrollment at months end.

_/ Participate in requests from the Federal Government to resolve errors in data on a timely basis and to direct providers to utilize business processes that fully implement transition to Part D.

_/ Provide any additional information that is determined by CMS to be necessary for the evaluation of this demonstration.

_/ Ensure that Medicare funding under this demonstration is not used as State Medicaid matching funds.

_/ States may be subject to audit by other Federal agencies including the Office of the Inspector General.

VIII. SIGNATURE

Date: _____ Authorizing Official (Typed): _____

Authorizing Official (Signature): _____