January 1, 2006, enrollment is effective with the first day of the month when the individuals become eligible for both Medicaid and Part D.

(g) Effective date of enrollment for non-full-benefit dual-eligible individuals who are low-income subsidy-eligible individuals. The effective date for non-full-benefit dual-eligible individuals who are low-income subsidy-eligible individuals is no later than the first day of the second month after CMS determines that they meet the criteria for enrollment under this section.

[75 FR 19815, Apr. 15, 2010, as amended at 76 FR 21570, Apr. 15, 2011]

§ 423.36 Disenrollment process.

(a) General rule. An individual may disenroll from a PDP during the periods specified in §423.38 by enrolling in a different PDP plan, submitting a disenrollment request to the PDP in the form and manner prescribed by CMS, or filing the appropriate disenrollment request through other mechanisms as determined by CMS.

(b) Responsibilities of the PDP sponsor. The PDP sponsor must—

(1) Submit a disenrollment notice to CMS within timeframes CMS specifies;

(2) Provide the enrollee with a notice of disenrollment as CMS determines and approves; and

(3) File and retain disenrollment requests for the period specified in CMS instructions.

(c) Retroactive disenrollment. CMS may grant retroactive disenrollment in the following cases:

(1) There never was a legally valid enrollment; or

(2) A valid request for disenrollment was properly made but not processed or acted upon.

§ 423.38 Enrollment periods.

(a) Initial enrollment period for Part D—Basic rule. The initial enrollment period is the period during which an individual is first eligible to enroll in a Part D plan.

(1) In 2005. An individual who is first eligible to enroll in a Part D plan on or prior to January 31, 2006, has an initial enrollment period from November 15, 2005 through May 31, 2006.

(2) February 2006. An individual who is first eligible to enroll in a Part D plan in February 2006 has an initial enrollment period from November 15, 2005 through May 31, 2006.

(3) March 2006 and subsequent months. (i) Except as provided in paragraph (a)(3)(ii) and (a)(3)(iii) of this section, the initial enrollment period for an individual who is first eligible to enroll in a Part D plan on or after March 2006 is the same as the initial enrollment period for Medicare Part B under §407.14 of this chapter.

(ii) Exception. For those individuals who are not eligible to enroll in a Part D plan at any time during their initial enrollment period for Medicare Part B, their initial enrollment period under this Part is the 3 months before becoming eligible for Part D, the month of eligibility, and the three months following eligibility to Part D.

(iii) An individual who becomes entitled to Medicare Part A or enrolled in Part B for a retroactive effective date has an initial enrollment period under this Part beginning with the month in which notification of the Medicare determination is received and ending on the last day of the third month following the month in which the notification was received.

(b) Annual coordinated election period—(1) For 2006. This period begins on November 15, 2005 and ends on May 15, 2006.

(2) For 2007 through 2010. The annual coordinated election period for the following calendar year is November 15 through December 31.

(3) For 2011 and subsequent years. Beginning with 2011, the annual coordinated election period for the following calendar year is October 15 through December 7.

(c) Special enrollment periods. A Part D eligible individual may enroll in a PDP or disenroll from a PDP and enroll in another PDP or MA-PD plan (as provided at §422.62(b) of this chapter), as applicable, at any time under any of the following circumstances:

(1) The individual involuntarily loses creditable prescription drug coverage or such coverage is involuntarily reduced so that it is no longer creditable coverage as defined under §423.56(a).
Loss of credible prescription drug coverage due to failure to pay any required premium is not considered involuntary loss of the coverage.

(2) The individual was not adequately informed, as required by standards established by CMS under §423.56, that he or she has lost his or her credible prescription drug coverage, that he or she never had credible prescription drug coverage, or the coverage is involuntarily reduced so that it is no longer credible prescription drug coverage.

(3) The individual’s enrollment or non-enrollment in a Part D plan is unintentional, inadvertent, or erroneous because of the error, misrepresentation, or inaction of a Federal employee, or any person authorized by the Federal government to act on its behalf.

(4) The individual is a full-subsidy eligible individual or other subsidy-eligible individual as defined in §423.772 of this part.

(5) The individual elects to disenroll from a MA-PD plan and elects coverage under Medicare Part A and Part B in accordance with §422.62(c) of this chapter.

(6) The PDP sponsor’s contract is terminated by the PDP sponsor or by CMS, as provided under §423.507 through §423.510, or the PDP plan is no longer offered in the area where the individual resides.

(7) The individual is no longer eligible for the PDP because of a change in his or her place of residence to a location outside of the PDP region(s) in which the PDP is offered.

(8) The individual demonstrates to CMS, in accordance with guidelines issued by CMS, that—

(1) The PDP sponsor offering the PDP substantially violated a material provision of its contract under this part in relation to the individual, including, but not limited to the following—

(A) Failure to provide the individual on a timely basis benefits available under the plan;

(B) Failure to provide benefits in accordance with applicable quality standards;

(C) The PDP (or its agent, representative, or plan provider) materially misrepresented the plan’s provisions in marketing the plan to the individual.

(ii) The individual meets other exceptional circumstances as CMS may provide.

(d) Enrollment period to coordinate with MA annual 45-day disenrollment period. Beginning in 2011, an individual enrolled in an MA plan who elects Original Medicare from January 1 through February 14, as described in §422.62(a)(7), may also elect a PDP during this time.

§423.40 Effective dates.

(a) Initial enrollment period. (1) An enrollment made prior to the month of entitlement to Part A or enrollment in Part B is effective the first day of the month in which the individual is entitled to or enrolled in Part A or enrolled in Part B.

(2) Except as otherwise provided under §423.34(f), an enrollment made during or after the month of entitlement to Part A or enrollment in Part B is effective the first day of the calendar month following the month in which the enrollment in Part D is made.

(3) If the individual is not eligible to enroll in Part D on the first day of the calendar month following the month in which the election to enroll in Part D is made, the enrollment in Part D is effective the first day of the month the individual is eligible for Part D.

(4) In no case is an enrollment in Part D effective before January 1, 2006 or before entitlement to Part A or enrollment Part B.

(b) Annual coordinated election periods—(1) General rule. Except as provided under paragraph (b)(2) of this section, for an enrollment or change of enrollment in Part D made during an annual coordinated election period as described in §423.38(b), the coverage or change in coverage is effective as of the first day of the following calendar year.

(2) Exception for January 1, 2006 through May 15, 2006. Enrollment elections made during the annual coordinated election period between January 1, 2006 and May 15, 2006 are effective the first day of the calendar month following the month in which the enrollment in Part D is made.