

# New York State Consumer Coalition on Part D

## Memorandum of Support – A884 (Gottfried)/S3835 (Duane)

The New York State Consumer Coalition on Part D is a statewide coalition of legal services organizations, community based organizations and health care providers advocating on behalf of low-income Medicare beneficiaries. We strongly support the passage of A884/S3835, which would allow Medicare Part D co-pays to count toward the annual Medicaid co-pay limit of \$200.

This bill, if enacted, would end the second class treatment of dual eligibles at the pharmacy counter, restoring them to a cost protection now provided only to Medicaid beneficiaries who lack Medicare. A884/S3835 would protect dual eligibles, like *all other* Medicaid recipients with a \$200 annual ceiling on all co-payments, resulting in fewer elderly and disabled New Yorkers leaving the pharmacy without their medicine.

Since the enactment of Medicare Part D, dual eligibles have been forced to make higher co-payments than Medicaid-only beneficiaries for several reasons:

- (1) Part D co-payments for duals are as high as \$6 per prescription, as opposed to \$3 for people with Medicaid only.
- (2) Dual eligibles can't turn to Medicaid for help with their Part D costs. Medicaid does not pick up the cost of Part D co-pays, since Part D drugs are excluded as a Medicaid-covered service.
- (3) Under Part D rules, a dual eligible *can* be turned away at the pharmacy and *denied prescription drugs* if s/he cannot afford the co-pay. This is not true for people with Medicaid only.
- (4) While Social Services Law 367-a(6)(a)(ii) gives some relief to Medicaid recipients by capping co-payments to \$200 per year, *co-pays under Part D do not count toward the annual cap for duals*. Dual eligibles are unlikely to meet the \$200 cap solely through services other than prescription drugs, such as hospital stays (\$25), clinic visits (\$3) and other services. Further, even if a dual reaches the \$200 cap, *s/he must continue to pay Part D-related payments*.

The only protection for dual eligibles occurs if they hit the Part D catastrophic cap – when Part D payments made by the plan, the federal low income subsidy and the beneficiary reach approximately \$6,153– at which point there are no further co-payments for the year. Part D catastrophic coverage is a far weaker protection than Medicaid's \$200 co-pay cap.

Bill A884/S3835 would afford dual eligibles the same protection of the annual cap granted to other Medicaid recipients by specifically allowing Part D co-payments to count toward the cap. While New York often leads other states in providing more expansive Medicaid coverage, on this issue we lag behind our neighbors. New Jersey and Connecticut cover *all* Part D co-payments for dual eligibles. We are not asking New York to go that far, but to ease the co-payment burden for part of the year, and treat dual eligibles on a more equal basis with Medicaid-only recipients.

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For more information, contact:

Valerie Bogart, Esq., *Selfhelp Community Services*  
Chair, NYS Consumer Coalition on Part D  
(212) 971-7693 or [vbogart@selfhelp.net](mailto:vbogart@selfhelp.net)