TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 7 - SOCIAL SECURITY
SUBCHAPTER XVIII - HEALTH INSURANCE FOR AGED AND DISABLED
Part D - Voluntary Prescription Drug Benefit Program
subpart 1 - part d eligible individuals and prescription drug benefits

§ 1395w–103. Access to a choice of qualified prescription drug coverage

(a) Assuring access to a choice of coverage

(1) Choice of at least two plans in each area

The Secretary shall ensure that each part D eligible individual has available, consistent with paragraph (2), a choice of enrollment in at least 2 qualifying plans (as defined in paragraph (3)) in the area in which the individual resides, at least one of which is a prescription drug plan. In any such case in which such plans are not available, the part D eligible individual shall be given the opportunity to enroll in a fallback prescription drug plan.

(2) Requirement for different plan sponsors

The requirement in paragraph (1) is not satisfied with respect to an area if only one entity offers all the qualifying plans in the area.

(3) Qualifying plan defined

For purposes of this section, the term “qualifying plan” means—

(A) a prescription drug plan; or

(B) an MA–PD plan described in section 1395w–21 (a)(2)(A)(i) of this title that provides—

(i) basic prescription drug coverage; or

(ii) qualified prescription drug coverage that provides supplemental prescription drug coverage so long as there is no MA monthly supplemental beneficiary premium applied under the plan, due to the application of a credit against such premium of a rebate under section 1395w–24 (b)(1)(C) of this title.

(b) Flexibility in risk assumed and application of fallback plan

In order to ensure access pursuant to subsection (a) of this section in an area—

(1) the Secretary may approve limited risk plans under section 1395w–111 (f) of this title for the area; and

(2) only if such access is still not provided in the area after applying paragraph (1), the Secretary shall provide for the offering of a fallback prescription drug plan for that area under section 1395w–111 (g) of this title.