



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224

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Dear \_\_\_\_\_ :

This letter responds to your request for additional information on the tax consequences of supplemental benefits that may be provided to Medicare Advantage ("MA") enrollees by MA organizations that participate in the Value Based Insurance Design ("VBID") Model during the 2022 calendar year. Specifically, you have asked about the tax consequences of certain supplemental benefits to individuals who are dually enrolled in MA and Medicaid (that is, "dually enrolled beneficiaries").

Based on the information provided by your office, we understand that the VBID Model is a payment and service delivery model operated under 42 USC § 1315A by the Centers for Medicare & Medicaid Services ("CMS") to test flexibility in how supplemental benefits are offered by MA organizations in addition to the required coverage of most Medicare Part A and Part B benefits under 42 USC § 1395w-22. We understand that in the VBID Model, MA organizations are permitted to provide supplemental benefits, including, for example, cash or monetary rebates to Medicare beneficiaries enrolled in specific MA plans, pursuant to waivers of the following statutes and their implementing regulations: (1) specific limitations in 42 USC § 1395w-22(a)(3) that supplemental benefits be healthcare, (2) prohibitions in 42 USC §§ 1395w-21(h)(4) and 1395w-24(d)(1) on furnishing cash or other monetary rebates to beneficiaries, and (3) requirements in 42 USC § 1395w-54(b) for use of the beneficiary rebate. These supplemental benefits are authorized solely under the VBID Model pursuant to 42 USC § 1315A authority and these waivers.

According to the VBID Fact Sheet for CY 2022<sup>1</sup>, the amount and type of supplemental benefits vary depending on the specific contract. For the 2022 coverage year, supplemental benefits available under the VBID Model include cash or monetary rebates delivered via reloadable debit card, check, or otherwise. We understand that the cash or monetary rebates are funded by CMS out of the Medicare Trust Funds.

Section 61 of the Internal Revenue Code generally provides that gross income means all income from whatever source derived. Despite this broad rule of income inclusion, the Internal Revenue Service generally has held that payments made to or on behalf of individuals by governmental units under legislatively provided social benefit programs for the promotion of general welfare are not includible in a recipient's gross income (the "general welfare exclusion"). To qualify under the general welfare exclusion, payments must (i) be for the promotion of the general welfare (that is, based on individual or family need), (ii) be made from a governmental fund, and (iii) not represent compensation for services. See Bailey v. Commissioner, 88 T.C. 1293, 300 (1987); Rev. Rul. 2005-46, 2005-2 C.B. 120.

Because the cash or monetary rebate supplemental benefits under the VBID Model are provided to dually enrolled beneficiaries, with their enrollment in Medicaid demonstrating their individual or family need, and are funded by Medicare, these supplemental benefits are excluded from the gross income of the dually enrolled beneficiaries as general welfare benefits.

I hope this information is helpful. If you have additional questions, please contact  
at or me at .

Sincerely,

Lisa Mojiri-Azad  
Senior Technician Reviewer, Branch 4  
Office of Associate Chief Counsel  
(Income Tax and Accounting)

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<sup>1</sup> <https://innovation.cms.gov/media/document/vbid-cy2022-model-overview-fact-sheet>