**February 17, 2005 Teleconference Outline**
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**OUTLINE**

I. Significant legal issues in the development of the MMA Titles I and II regulations

- A. What counts as TrOOP?
- B. Low-income subsidy
- C. Auto-enrollment
- D. Employer subsidy
- E. Any willing pharmacy
- F. Long-term care pharmacies
- G. Pre-emption

II. TrOOP

- A. Coverage Gap
- B. Theory of the coverage gap
- C. What spending counts in the coverage gap?
- D. Changes between NPRM and final rule

III. Low-Income subsidy

- A. Explanation of subsidies
- B. Issues
    1. Where to apply for subsidy
    2. Availability of judicial review

IV. Auto-enrollment

- A. General Medicare population
- B. Dual-eligibles

V. Employer subsidy

A. Reasoning
B. To whom available
C. Terms of subsidy

1. Actuarial equivalence
2. Amount
3. Tax consequences

D. CMS Policy concerns

1. Prevent windfalls
2. Minimize employer dropping
3. Limit cost of subsidy and Part D benefit

E. Solution to CMS policy concerns

1. The "two-prong" test

VI. Any willing pharmacy

A. Statutory mandate
B. "Preferred" pharmacies

VII. Long-term care pharmacies

A. Statutory requirement
B. Policy considerations
C. Issue
D. Provisions of final rule

VIII. Medicare Advantage pre-emption

A. M+C Pre-emption rules
B. MA pre-emption rules
C. Concerns and policy issues