DEPARTMENT OF HEALTH & HUMAN SERVICES
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Center for Drug and Health Plan Choice
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MEDICARE DRUG & HEALTH PLAN CONTRACT ADMINISTRATION GROUP

DATE: May 26, 2011

TO: Medicare Advantage Organizations and Employer/Union-Sponsored Group Health Plans

FROM: Danielle R. Moon, J.D., M.P.A.
Director

SUBJECT: Issuance of Update to Chapter 4 of the Medicare Managed Care Manual

Included with this memorandum is an updated version of Chapter 4 of the Medicare Managed Care Manual, "Benefits and Beneficiary Protections." The chapter, which is part of Publication 100-16, may also be accessed online at http://www.cms.hhs.gov/Manuals/IOM. The draft update was issued for public comment on February 10, 2011. We received approximately 120 comments from approximately three dozen external entities and considered those comments carefully as we finalized Chapter 4. We also incorporated into this version of Chapter 4 guidance from the Contract Year 2012 Rate Announcement and Final Call Letter, as well as the Contract Year Parts C and D final rule (76 FR 21432-21577) issued on April 4th and April 5th, 2011, respectively.

Below, we summarize the major differences between the draft and final versions of the updated Chapter 4.

- **Access to Durable Medical Equipment (DME) and Part B drugs (Section 10.2)**. In the draft manual chapter, we proposed to clarify that, while MA plans must pay for all Part B drug or DME items covered under Original Medicare, they may restrict access – for each covered Part B drug or DME item – to certain manufacturers' drugs and/or DME items, provided these drugs and/or DME items are accessible to plan enrollees through all contracted network providers. We received a large number of comments opposing this clarification for a number of reasons, including concerns about our authority, provider overrides, CMS oversight of such restrictions, and access to exceptions. We are not finalizing our proposed clarification and are considering clarifying our rules regarding access to DME and Part B drugs through notice-and-comment rulemaking in the future.

- **Payments to non-contracted providers (Section 10.2).** We provide web-based resources for information about payments to non-contracted providers. We also clarify that non-contracted providers may negotiate payment rates with plans, consistent with our recently issued CY 2012 Parts C and D final rule.

- **Hospice stays (Section 10.2)**. We include several alternative methods of payment and provision of services by MA plans to enrollees in hospice status who need services unrelated to their hospice condition.

- **Denial of enrollment based on medical status (Section 10.6).** We clarify that only MSA plans may deny enrollment based on hospice status.

- **Preventive services (Section 10.24)**: We have updated this section, consistent with our recently issued CY 2012 Parts C and D final rule, to reflect that MA plans must offer at zero cost sharing preventive services that are offered at zero cost sharing under Original Medicare.

- **Limit on enrollee charges for emergency services (Section 20.5):** We have updated this section, consistent with our recently issued CY 2012 Parts C and D final rule, to reflect that the monetary limit on enrollee charges for emergency services may be updated by CMS annually.

- **Regional preferred provider organization (RPPO) maximum out-of-pocket (MOOP) (MOOP) and catastrophic limits (Sections 50.1 and 50.3):** We have updated this section, consistent with our recently issued CY 2012 Parts C and D final rule, to reflect that RPPOs must establish MOOP and catastrophic limits consistent with annual guidance issued by CMS.

- **Total Beneficiary Cost (TBC) metric (Section 50.2):** We have added general guidance on the Total Beneficiary Cost (TBC) metric, which will be used to evaluate whether plans are significantly increasing cost-sharing or decreasing benefits from one contract year to the next, consistent with our recently issued CY 2012 Parts C and D final rule.

- **Renewal and non-renewal guidance (Section 140):** We have updated this section to reflect updates to the renewal and non-renewal options guidance articulated in our CY 2012 Final Call Letter.

We thank the various stakeholders who submitted comments for their feedback, which we believe has significantly improved the clarity and comprehensiveness of Chapter 4. If you have any questions about the policies articulated in Chapter 4, please contact your Regional Office account manager.