

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850



MEDICARE PARTS C & D OVERSIGHT AND ENFORCEMENT GROUP

March 12, 2015

Ms. Nancy Jenkins
President and Chief Executive Officer
HealthPlus of Michigan
2050 S. Linden Road
Flint, MI 48532

Re: Notice of Immediate Imposition of Intermediate Sanction (Suspension of Enrollment) for Medicare Advantage-Prescription Drug Plan Contract Numbers: H1595 and H2354.

Dear Ms. Jenkins,

Pursuant to 42 C.F.R. § 422.756 and § 423.756, the Centers for Medicare & Medicaid Services (CMS) hereby informs HealthPlus of Michigan and HealthPlus Insurance Company (collectively, "HealthPlus") of its determination to immediately impose an intermediate sanction on the following Medicare Advantage-Prescription Drug Plan (MA-PD) Contracts: H1595 and H2354.

This intermediate sanction will consist of the suspension of HealthPlus' enrollment of Medicare beneficiaries (42 C.F.R. § 422.750(a)(1) and § 423.750(a)(1)). CMS is imposing the intermediate sanction immediately, effective at 11:59 p.m. EDT, March 12, 2015, pursuant to 42 C.F.R. § 422.756(c)(2) and § 423.756(c)(2).

Summary of Noncompliance

On March 9, 2015, the Michigan Department of Insurance and Financial Services filed the Notice and Order of Supervision, which states in part that, "HealthPlus of Michigan, Inc. and HealthPlus Insurance Company are each in a condition that makes its respective continued operation hazardous to the public or its policyholders." The Order states further that "the companies' capital and surplus are insufficient based on the companies' size and risk profiles as determined by the National Association of Insurance Commissioners risk-based capital requirements." As a result, the State of Michigan Department of Insurance and Financial Services suspended HealthPlus of Michigan, Inc. and HealthPlus Insurance Company's ability to write new business (enroll new members) as of close of business on March 09, 2015. Pursuant to 42 C.F.R. § 422.504(a)(1) and 423.505(b)(2), organizations that contract with CMS to offer MA-PD contracts must accept new enrollments. Therefore, HealthPlus is non-compliant with CMS' contract requirements.

Legal Basis for the Immediate Imposition of Intermediate Sanction

CMS has determined that HealthPlus' non-compliance provides a sufficient basis for the immediate imposition of an intermediate sanction (42 C.F.R. § 422.752(b) and § 423.752(b)). CMS has determined that HealthPlus no longer substantially meets the applicable conditions to carry out its contract with CMS (42 C.F.R. § 422.510(a)(3) and § 423.509(a)(3)).

Corrective Action Steps

Pursuant to 42 C.F.R. § 422.756(c)(3) and § 423.756(c)(3), the sanction will remain in effect until CMS receives notification from the State of Michigan that HealthPlus of Michigan and HealthPlus Insurance Company can successfully operate under good standing and that the Notice and Order of Supervision has been removed, thereby, allowing HealthPlus to write new business (enroll).

Opportunity to Respond to Notice

Pursuant to 42 C.F.R. § 422.756(a)(2) and § 423.756(a)(2), HealthPlus has ten (10) calendar days from the date of receipt of this notice to provide a written rebuttal, or by March 23, 2015. Please note that CMS considers receipt as the day after the notice is sent by fax, e-mail, or overnight mail, or in this case, March 12, 2015. If you choose to submit a rebuttal, please send it to the attention of Michael DiBella at the address noted below.

Right to Request a Hearing

HealthPlus may also request a hearing before a CMS hearing officer in accordance with the procedures outlined in 42 C.F.R. § 422.660-684 and § 423.650-662. Pursuant to 42 C.F.R. § 422.756(b) and § 423.756(b), a written request for a hearing must be received by CMS within fifteen (15) calendar days of receipt of this notice, or by March 27, 2015.¹ Please note, however, a request for a hearing will not delay the date specified by CMS when the sanction becomes effective. Your hearing request will be considered officially filed on the date that it is mailed; accordingly, we recommend using an overnight traceable mail carrier. Note that the sanctions imposed pursuant to this letter are not stayed pending a rebuttal submission or a request for a hearing.

The request for a hearing must be sent to the CMS Hearing Office at the following address:

Benjamin Cohen
CMS Hearing Officer
Office of Hearings
ATTN: HEARING REQUEST
Centers for Medicare & Medicaid Services
2520 Lord Baltimore Drive

¹ If the 15th day falls on a weekend or federal holiday, you have until the next regular business day to submit your request.

Suite L
Mail Stop: LB-01-22
Baltimore, MD 21244-2670
Phone: 410-786-3169
Email: Benjamin.Cohen@cms.hhs.gov

A copy of the hearing request should also be sent to CMS at the following address:

Michael DiBella
Director, Division of Compliance Enforcement
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244
Mail Stop: C1-22-06
Email: Michael.Dibella@cms.hhs.gov

CMS will consider the date the Office of Hearings receives the email or the date it receives the fax or traceable mail document, whichever is earlier, as the date of receipt of the request. The request for a hearing must include the name, fax number, and e-mail address of the contact within HealthPlus (or an attorney who has a letter of authorization to represent the organization) with whom CMS should communicate regarding the hearing request.

Please note that we are closely monitoring your organization and HealthPlus may also be subject to other applicable remedies available under law, including the imposition of additional sanctions, penalties, or other enforcement actions as described in 42 C.F.R. Parts 422 and 423, Subparts K and O.

If you have any questions about this notice, please call or email the enforcement contact provided in your email notification.

Sincerely,

/s/

Gerard J. Mulcahy
Director
Medicare Parts C & D Oversight and Enforcement Group

cc: Heather Lang, CMS/CMHPO/Region V
Raymond Swisher, CMS/CMHPO/Region V
Judy Weaver, State of Michigan Department of Insurance and Financial Services
Jim Gerber, State of Michigan Department of Insurance and Financial Services
David Paxton, HealthPlus of Michigan, Medicare Compliance Officer