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

MEDICARE PARTS C AND D OVERSIGHT AND ENFORCEMENT GROUP

October 24, 2013

VIA:
EMAIL (jim.odrobinak@medicalcardsystem.com)

Mr Jim O'Drobinak
Chief Executive Officer
Medical Card System, Inc.
MCS Plaza
255 Ponce de Leon Avenue, Second Floor
San Juan, PR 00918
Phone: 787-758-2500 Ext 2201

Re: Notice of Imposition of Civil Money Penalty for Medicare Advantage - Prescription Drug Plan/Medicare Advantage Plan Contract: MCS Advantage, Inc. (H4006)

Dear Mr. O'Drobinak:

Pursuant to 42 C.F.R. §422.752(c)(1), §422.756(f), §422.760(b), §423.752(c)(1), §423.756(f), and §423.760(b), the Centers for Medicare & Medicaid Services (CMS) is providing notice to Medical Card System, Inc. (MCS), that CMS has made a determination to impose a civil money penalty (CMP) in the amount of $23,410 for Medicare Advantage - Prescription Drug Plan (MA-PD) contract number H4006.

Basis for Civil Money Penalty

This action is based on your organization's failure to provide accurate benefit and coverage information to enrollees in the combined Contract Year 2013 Annual Notice of Change (ANOC) and Evidence of Coverage (EOC) documents, in violation of 42 C.F.R. §422.64, §422.111, §423.48, and §423.128. As a result, CMS has determined that your organization is carrying out its contract in a manner "inconsistent with the effective and efficient implementation of this part." *See* 42 C.F.R. §422.510(a)(2) and §423.509(a)(2).

The ANOC and EOC provide vital information to Medicare beneficiaries about their plan and permit beneficiaries to make informed choices concerning Medicare health care and prescription drug options. Since 2009, CMS has clearly informed plans about the importance of accuracy in these documents and noted that plans would be subject to penalties for lateness and inaccuracy. Fifteen (15) sponsors have been assessed civil money penalties for inaccurate documents since 2010. On May 31, 2012, CMS released the standardized Annual Notice of Change (ANOC) and

Evidence of Coverage (EOC) model letters, including the standardized Annual Notice of Change (ANOC) and Evidence of Coverage (EOC) templates.

On January 08, 2013, CMS issued a notice reminding organizations that CMS conducts an annual analysis of the accuracy of ANOC/EOC documents. Organizations are required to ensure their ANOC/EOCs are accurate and mail errata sheets if inaccuracies are identified. Based on the information provided by your organization, CMS concluded that 2,341 members in MCS's contract number H4006 were not provided accurate ANOC/EOC materials.

Based on the information provided by your organization, CMS determined that the following incorrect statements were made in the ANOC/EOC documents:

- MCS failed to include the cost sharing amounts for prescription drugs
- MCS failed to include 2013 deductible amount of $147
- MCS failed to include 20% cost sharing for doctor office visits.

CMS has determined that the failure by your organization to mail accurate ANOC/EOC documents to Medicare enrollees is a deficiency which directly adversely affected or had the substantial likelihood of adversely affecting these enrollees. MCS failed to provide Medicare enrollees with vital information about their benefits and cost-sharing that would have allowed them to make fully informed choices concerning their Medicare health care and prescription drug options during the 2013 Medicare Annual Open Enrollment Period.

Right to Request a Hearing

MCS may request a hearing to appeal CMS's determination in accordance with the procedures outlined in 42 C.F.R. Parts 422 and 423, Subpart T. MCS must send a written request for a hearing to the Departmental Appeals Board office listed below within 60 calendar days from receipt of this notice, or by December 24, 2013. 42 C.F.R. §§ 422.1006, 423.1006, 422.1020, and 423.1020. The request for a hearing must identify the specific issues and the findings of fact and conclusions of law with which MCS disagrees. MCS must also specify the basis for each contention that the finding or conclusion of law is incorrect.

The request should be sent to:

Civil Remedies Division
Department of Health and Human Services
Departmental Appeals Board
Medicare Appeals Council, MS 6132
330 Independence Ave., S.W.
Cohen Building Room G-644
Washington, D.C. 20201

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

Michael Dibella, Acting Director, Division of Compliance Enforcement
Centers for Medicare & Medicaid Services
7500 Security Boulevard
MAIL STOP: C1-22-06
Baltimore, MD 21244
Email: mike.dibella@cms.hhs.gov
FAX: 410-786-6301

If MCS does not request an appeal in the manner and timeframe described above, the initial determination by CMS to impose a CMP will become final and due on December 26, 2013. MCS may choose to have the penalty deducted from its monthly payment, transfer the funds electronically, or mail a check to CMS.

Please note that any further failures by MCS to comply with these or any other CMS requirements may subject your organization to other applicable remedies available under law, including the imposition of intermediate sanctions, penalties, or other enforcement actions as described in 42 C.F.R. Parts 422 and 423, Subparts K and O.

If MCS has any questions about this notice, please call or email the enforcement contact provided in the email notification.

Sincerely,

/s/

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

cc: Edgardo Reyes, CMS/CMHPO/Region II
Rachel Walker, CMS/CMHPO/Region II
Reginald Slaten, CMS/CMHPO/Region II