

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
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MEDICARE ENROLLMENT & APPEALS GROUP

DATE: August 30, 2013

TO: Prescription Drug Plan Sponsors, Medicare Advantage Organizations, Cost Plans and Demonstration Organizations

FROM: Arrah Tabe-Bedward
Director, Medicare Enrollment & Appeals Group

SUBJECT: Revisions to Medicare Advantage (Chapter 2), Prescription Drug Plan (Chapter 3), and Medicare Cost Plan (Chapter 17D) Enrollment Guidance for Contract Year 2014

The Centers for Medicare & Medicaid Services (CMS) is issuing Medicare Advantage (MA), Prescription Drug Plan (PDP), and §1876 Cost Plan Enrollment and Disenrollment Guidance revisions for contract year 2014. This revision does not include new requirements, but some minor clarifications, corrections and updates to model notices.

The guidance revisions in this memorandum apply as described below to MA organizations, Part D plan sponsors, and/or §1876 cost plans. All enrollments with an effective date on or after January 1, 2014, must be processed in accordance with the revised guidance requirements, including new model notices. Organizations may, at their option, implement any aspect of this guidance prior to the required implementation date.

A summary of changes and clarifications is included as an attachment. The revised chapters, in their entirety, will be posted at the links below within 10 business days of this memorandum, and will be identified as applicable to Contract Year 2014.

- MA and Cost Plan enrollment guidance: <http://www.cms.gov/Medicare/Eligibility-and-Enrollment/MedicareMangCareEligEnrol/index.html>
- PDP enrollment guidance: <http://www.cms.gov/Medicare/Eligibility-and-Enrollment/MedicarePresDrugEligEnrol/index.html>

Please direct questions regarding the submission and/or review of member materials to your CMS Account Manager. For enrollment policy questions, please submit your inquiry to PDPENROLLMENT@cms.hhs.gov.

SUMMARY OF CHANGES TO CHAPTERS 2, 3, AND 17-D

The adjustments to the enrollment chapters are listed below. Some of the entries show updated text as it would appear in the revised chapter. When this occurs, both additions and deletions are marked in red italics. Deletions are also marked with a strikethrough. When an adjustment is being made to Chapters 2, 3, and 17-D and the language in the chapters is identical, it will be listed below only once and will reflect the language for Chapter 2. Minor revisions, such as replacing *MA organization* with *PDP sponsor* or *cost plan*, are shown in brackets and, when posted to the enrollment webpage, updated enrollment guidance chapters will reflect the appropriate terminology.

Chapters 2, 3 and 17-D, § 10

The definition of “application date” is revised to reflect other types of electronic enrollment mechanisms, as follows:

For *internet electronic* enrollment requests ~~*made directly to the [organization’s/sponsor’s] website*~~, the application date is the date the *applicant completes the* request ~~*is completed*~~ through the organization’s [sponsor’s, cost plan’s] ~~*website-electronic enrollment*~~ process. This is true regardless of when an organization [sponsor, cost plan] ultimately retrieves or downloads the request.

Chapters 2 and 3, § 40

Organizations have asked for clarification of the Special Rule for the AEP, specifically the meaning of “unsolicited AEP enrollment request” as used in guidance. The clarification was added to the second paragraph under the heading “Special Rule for the Annual Election Period (AEP).” The text reads as follows:

Despite these efforts, CMS recognizes that MA organizations [PDP sponsors] may receive unsolicited paper enrollment forms prior to the start of the AEP, given that marketing activities may begin prior to this date. *To be considered unsolicited, the MA organization [PDP sponsor] must have received the paper AEP enrollment request directly from the applicant and not through a sales agent or broker. Other enrollment request mechanisms may not be accepted prior to the actual start of the AEP. Paper AEP enrollment requests received prior to the start of the AEP for which there is indication of sales agent or broker involvement in the submission of the request (i.e., the name or contact information of a sales agent or broker) must be investigated by the organization for compliance with the requirements in the Medicare Marketing Guidelines.* If an MA organization [PDP sponsor] receives unsolicited paper enrollment forms on or after October 1st but prior to the start of the AEP, it must retain and process them as follows:

Chapters 2 and 3, § 40.1.2

We clarified our internet enrollment policy for MA organizations and PDP sponsors to include other forms of electronic enrollment mechanisms. This section is replaced in its entirety with the following:

40.1.2 – Electronic Enrollment

MA organizations [PDP sponsors] may develop and offer electronic enrollment mechanisms made available via a plan owned electronic device or secure internet website.

The following guidelines, in addition to all other program requirements, apply to electronic enrollment mechanisms:

- *Submit all materials, web pages, and images (e.g. screen shots) related to the electronic enrollment process for CMS approval following the established process for the review and approval of marketing materials and other enrollment request mechanisms.*
- *Provide beneficiaries with all the information required by CMS' marketing guidelines for the MA [Part D] program.*
- *At a minimum, comply with CMS' data security policies (found at: <https://www.cms.gov/Research-Statistics-Data-and-Systems/CMS-Information-Technology/InformationSecurity/Information-Security-Library.html> on the web). The MA organization [PDP sponsor] may also include additional security provisions to ensure the appropriate handling of protected health information (PHI).*
- *Advise each individual at the beginning of the electronic enrollment process that he/she is completing an actual enrollment request to the MA organization [PDP sponsor].*
- *Capture the same data as required on the model enrollment form (see Exhibit 1 and Appendix 2 [see Exhibit 1, 1b and Appendix 2]). For enrollment requests from one plan to another plan within the same parent organization, the data required on the model short enrollment form are sufficient, provided the plan can verify that the individual is currently enrolled in the parent organization at the time the individual submits the enrollment request.*
- *As part of any electronic enrollment process, include a clear and distinct step that requires the applicant to activate an "Enroll Now," or "I Agree," type of button or tool. By taking this affirmative step, the individual indicates his/her intent to enroll. It must also be made clear to the applicant that, by taking this action, he or she agrees to the release and authorization language as provided on the model enrollment form (see Exhibit 1) [Exhibit 1 and 1b], and attests to the truthfulness of the data provided. The process must also remind the individual of the penalty for providing false information.*
- *The mechanism must capture an accurate time/date stamp at the time the applicant activates the step in the previous bullet (i.e. "Enroll Now/I Agree" button or tool). The organization [PDP sponsor] will use this data to establish the application date for the enrollment request. **This time stamp also marks the start of the seven day timeframe for processing the enrollment request, as it is at this time that the***

enrollment request is considered by CMS to be received by the MA organization [PDP sponsor].

- *If a legal representative is completing this enrollment request, s/he must attest that s/he has such authority to make the enrollment request and that proof of this authority is available upon request by the MA organization [PDP sponsor] or CMS.*
- *Inform the individual of the effects of completing the electronic enrollment, including that s/he will be enrolled (if approved by CMS), and that s/he will receive notice (of acceptance or denial) following submission of the enrollment to CMS.*
- *Include a tracking mechanism (e.g., a confirmation number) to provide the individual with evidence that the MA organization [PDP sponsor] has received the electronic enrollment request.*
- *Optionally, may request or collect premium payment or other payment information, such as a bank account number or credit card numbers.*
- *Maintain electronic records that are securely stored and readily reproducible for the period required in §60.9 [60.8] of this chapter. The MA organization's [PDP sponsor's] record of the enrollment request must exist in a format that can be easily, accurately and quickly reproduced for later reference by each individual member and/or CMS. A data extract file alone is not acceptable.*
- *The option of electronic enrollment, other than the CMS Online Enrollment Center described below, is limited to requests submitted via an electronic device or software (including web pages) owned by the MA organization [PDP sponsor]. For example, electronic enrollment via the MA organization's [PDP sponsor's] website is permissible, but electronic enrollment via other means, such as a broker website or non-plan owned electronic mechanism, is not permitted.*

Medicare Online Enrollment Center

In addition to the process described above, CMS offers an online enrollment center (OEC) through the www.medicare.gov website and the 1-800-MEDICARE Call Center for enrollment into Medicare Advantage plans (except for MSA) and Medicare prescription drug plans. The date and time "stamped" by the Medicare Online Enrollment Center will serve as the application date for purposes of determining the election period and enrollment effective date. MA organizations [PDP sponsors] must promptly retrieve enrollment requests from the OEC and should check for requests at least daily.

Chapter 17-D, § 40.1.3

Similar to the revisions to Chapters 2 and 3 above, we clarified our internet enrollment policy for cost plans to include other forms of electronic enrollment mechanisms. This section is replaced in its entirety with the following:

40.1.3 – Electronic Enrollment

Organizations may develop and offer electronic enrollment mechanisms made available via a plan owned electronic device or secure internet website. Online enrollment via other means, such as a broker's website or non-plan owned electronic mechanism, is

prohibited. Organizations that choose to offer an electronic enrollment mechanism must follow the requirements below, in addition to all other applicable program requirements:

- *At a minimum, the organization’s electronic enrollment mechanism must comply with CMS’ data security policies (found at: <https://www.cms.gov/Research-Statistics-Data-and-Systems/CMS-Information-Technology/InformationSecurity/Information-Security-Library.html> on the web). The cost organization may include additional security provisions to ensure the appropriate handling of protected health information (PHI).*
- *The cost organization must advise each individual at the beginning of the electronic enrollment process that s/he is completing an actual enrollment request to the cost plan.*
- *The cost organization must maintain electronic records that are securely stored and readily reproducible for the period as required in §60.4 of the cost plan enrollment manual. The organization’s record of the enrollment request must exist in a format that can be easily, accurately and quickly reproduced for later reference by each individual member and/or CMS. A data extract file alone is not acceptable.*
- *As part of the electronic enrollment process, the cost plan’s electronic enrollment mechanism must inform the individual that, by clicking on the “Enroll Now” or “I Agree” button, s/he is indicating his/her intent to enroll. It must also be made clear to the applicant that, by taking this action, he or she agrees to the release and authorization language (see the model enrollment form, Exhibit 1, for this language), and attests to the truthfulness of the data provided. The process must also remind the individual of the penalty for providing false information.*
- *The mechanism must capture an accurate time/date stamp at the time the applicant activates the step in the previous bullet (i.e. “Enroll Now/I Agree” button or tool). The organization will use this data to establish the application date for the enrollment request. **This time stamp also marks the start of the timeframe for processing the enrollment request, as it is at this time that the enrollment request is considered by CMS to be received by the organization.***
- *The electronic enrollment mechanism must inform the individual of the consequences of completing the electronic enrollment, including that s/he will be enrolled (if approved by CMS), and that s/he will receive notice (of acceptance or denial) following submission of the enrollment to CMS.*
- *The electronic enrollment mechanism must also indicate that if a legal representative is completing the enrollment request, s/he must attest that s/he has such authority to make the enrollment request and that proof of this authority is available upon request by CMS.*
- *The electronic enrollment mechanism must include a tracking mechanism to provide the individual with evidence that the enrollment request was received (e.g., a confirmation number).*
- *Following the acceptance of an electronic enrollment request, cost plans must provide a summary of the plan for which the individual has requested enrollment or provide a statement that the individual will receive a notice in the mail in response to the enrollment request (e.g., acknowledging receipt of the completed enrollment request or requesting additional information or denial of enrollment).*

- *The cost plan may not collect information on the electronic enrollment mechanism that is also prohibited on the paper enrollment mechanism (e.g., impermissible health screening).*
- *The cost plan may not request or collect financial information (e.g., a credit card or bank account number), market to or enroll beneficiaries in other lines of business/products as part of the electronic enrollment process.*

Chapter 2, § 40.1.5, Item E

The fourth paragraph has an error in its last line and should read as follows:

If it has not, submit just the opt-out indicator on a 7479 transaction.

Chapter 2, § 50.2.1.4 and Chapter 3, § 50.2.1.5

In response to requests asking how often plans should resend returned mail to an individual’s address when the plan believes the individual may no longer reside at that address, we have clarified our expectations in Chapter 2 as follows:

An organization is expected to continue to mail *beneficiary* materials to the *member’s address of record* ~~undeliverable address~~. *If the postal service returns a piece of beneficiary communication to the organization, the plan should document the return and retain the returned material. It should continue to send future correspondence to that same address*, as a forwarding address may become available at a later date, ~~and~~. *Additionally, CMS encourages the MA organization is encouraged* to continue its efforts, as discussed above, to attempt to locate the beneficiary using any available resources, including CMS systems, to identify new address information for the beneficiary. If a forwarding address becomes available, an organization can send materials to that address as in item #1 above.

The text in Chapter 3 now reads as follows:

A sponsor is expected to continue to mail *beneficiary* materials to the *member’s address of record*. ~~undeliverable address~~. *If the postal service returns a piece of beneficiary communication to the organization, the plan should document the return and retain the returned material. It should continue to send future communications to that same address* as a forwarding address may become available at a later date. ~~and~~ *Additionally, CMS encourages the PDP sponsor is encouraged* to continue to research addresses as described in the “Researching and Acting on a Change of Address” above.

Chapter 2, § 60.3.3 and Chapter 3, § 60.2.3

To align the enrollment and retro-processing guidance, we have included clarifying language in the second paragraph of this section as follows:

For effective dates outside these parameters, the organization [sponsor] must *submit process* the request ~~to the [organization’s/sponsor’s] Regional Office Account Manager with~~ *according to the guidance for processing retroactive enrollment and disenrollment requests including full documentation and explanation as required for review*. ~~If approved, the [organization/sponsor] may manually complete appropriate corrections to CMS systems. The Account Manager will provide instructions as to how to complete that activity.~~

Chapters 2 and 3, Appendix 3

With the revision to §40.1.2 from “internet enrollment” to “electronic enrollment,” we are updating Appendix 3 so that the reference to internet enrollment now addresses electronic enrollment mechanisms. We have changed the language in Chapter 2 as follows:

MA organization Web site online-electronic enrollment page-process §40.1.2	The date the <i>enrollee</i> <i>completes the</i> request is completed via the electronic organization’s website enrollment process	<i>The electronic enrollment process must capture the application date as the day that the individual completes the request as part of the process itself.</i>
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We have changed the language in Chapter 3 as follows:

PDP Web site online electronic enrollment page §40.1.2	The date the request is completed via the sponsor’s website-electronic enrollment process	<i>The electronic enrollment process must capture the application date as the day that the individual completes the request as part of the process itself.</i>
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Chapter 2, Exhibits 27a and 28a; Chapter 3, Exhibits 24 and 25; Chapter 17-D, Exhibits 13 and 13a

In Chapters 2 and 3, in the paragraph under “What if I paid for drugs before my new coverage starts?” and in the second paragraph of these exhibits in Chapter 17-D we are updating the TTY number for LI NET to “*711*.”