

# CMS Enforcement Actions



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# Enforcement Topics

## Topics that will be covered:

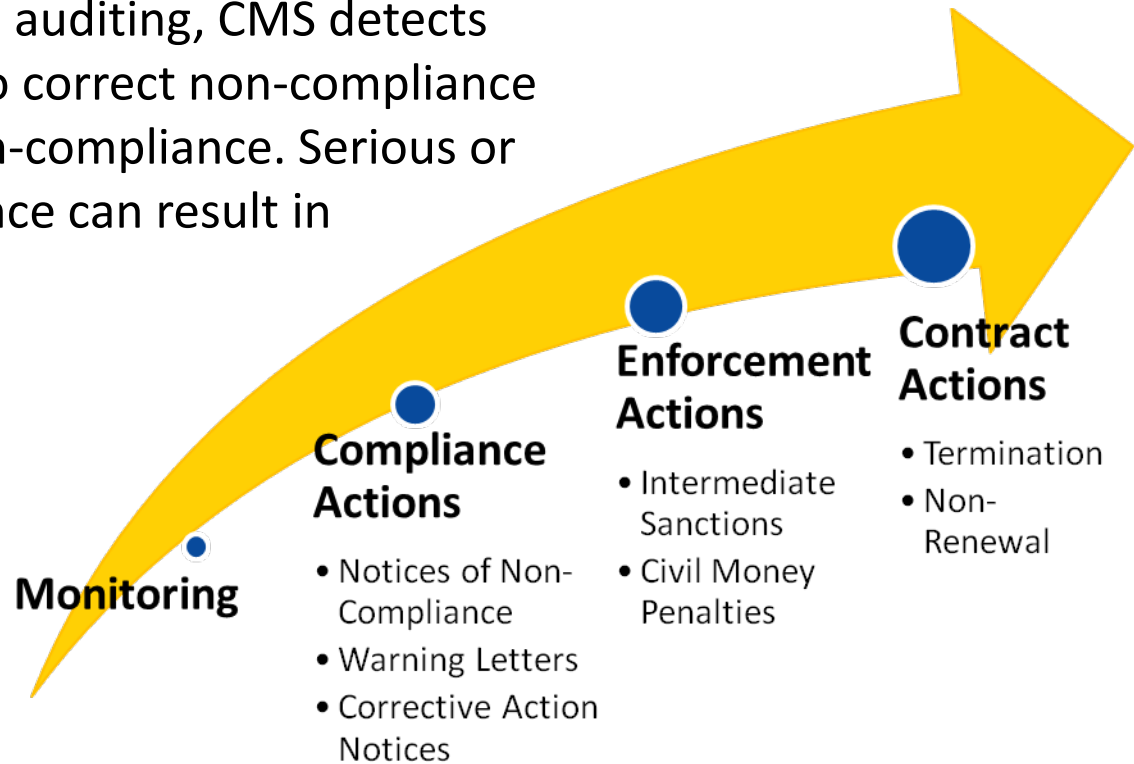
- What is an enforcement action?
- What types of violations warrant enforcement actions?
- First-hand account of CMS intermediate sanctions (suspension of marketing/enrollment) - Todd Meek, SilverScript Insurance Company
- Enforcement Website

# What is an Enforcement Action?

- It is an action taken by CMS as a result of a sponsor's substantial and/or repeated non-compliance with the terms of its contract with CMS.
- Actions may be in the following forms:
  - Civil Money Penalty
  - Intermediate Sanction
  - Termination (technically a contract action)
- Imposed at the contract level.
- All of these actions come with appeal rights.

# CMS Compliance Continuum

Through monitoring and auditing, CMS detects and requires sponsors to correct non-compliance by issuing notices of non-compliance. Serious or sustained non-compliance can result in enforcement actions.

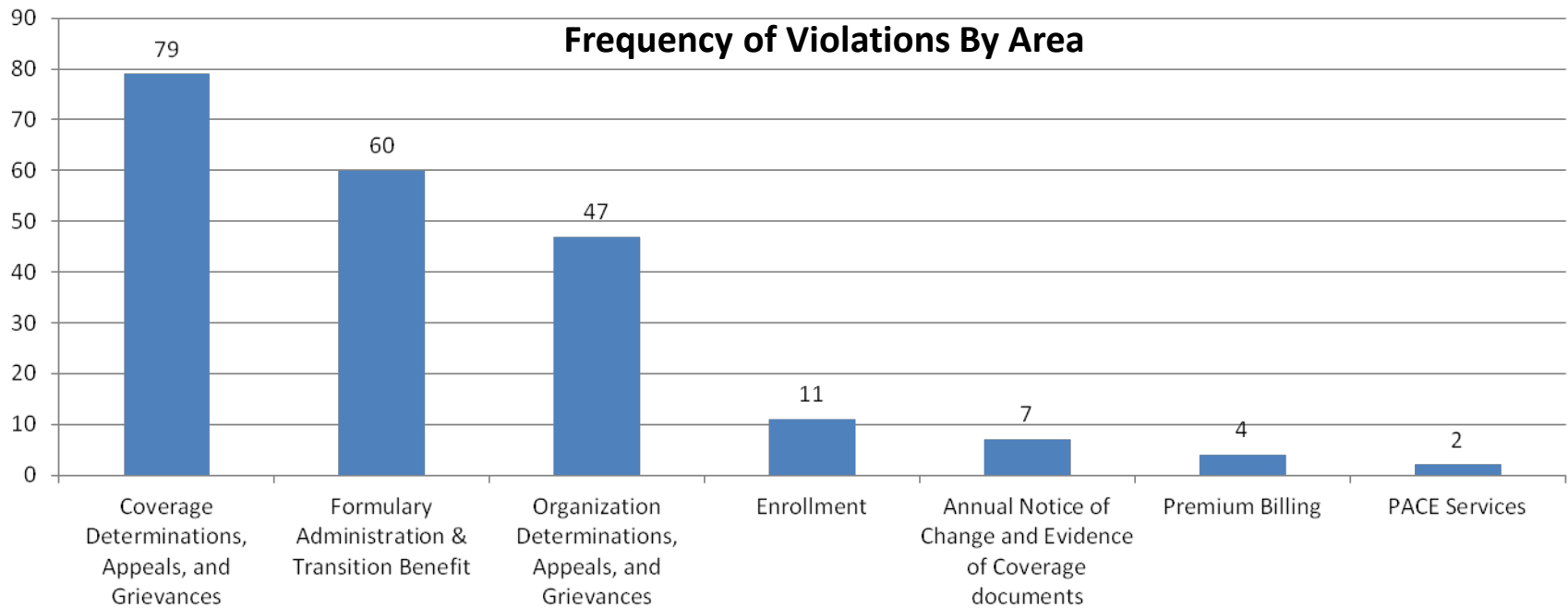


# What Types of Violations Warrant Enforcement Actions?

- Those that result in the following beneficiary outcomes:
  - Inappropriate delay or denial of access to health services or medications.
  - Incorrect premiums charged or unnecessary costs incurred.
  - Inaccurate or untimely information provided about health and drug benefits.

# Enforcement Actions (Sanctions and CMPs)

## January 2012 – May 2014



# Civil Money Penalties (CMPs)

- CMP amounts:
  - Up to \$25,000 per determination
  - Up to \$25,000 per enrollee adversely affected (or with the substantial likelihood of being adversely affected)
  - Up to \$10,000 for each week that a deficiency remains uncorrected after the week in which CMS issues a CMP

# CMPs (cont.)

In determining the amount of the penalty, CMS considers:

- The nature of the conduct;
- The degree of culpability of the sponsoring organization;
- The harm which resulted or could have resulted from the conduct of the sponsoring organization;
- The financial condition of the sponsoring organization; and
- The history of prior offenses by the sponsoring organization or principals of the organization.



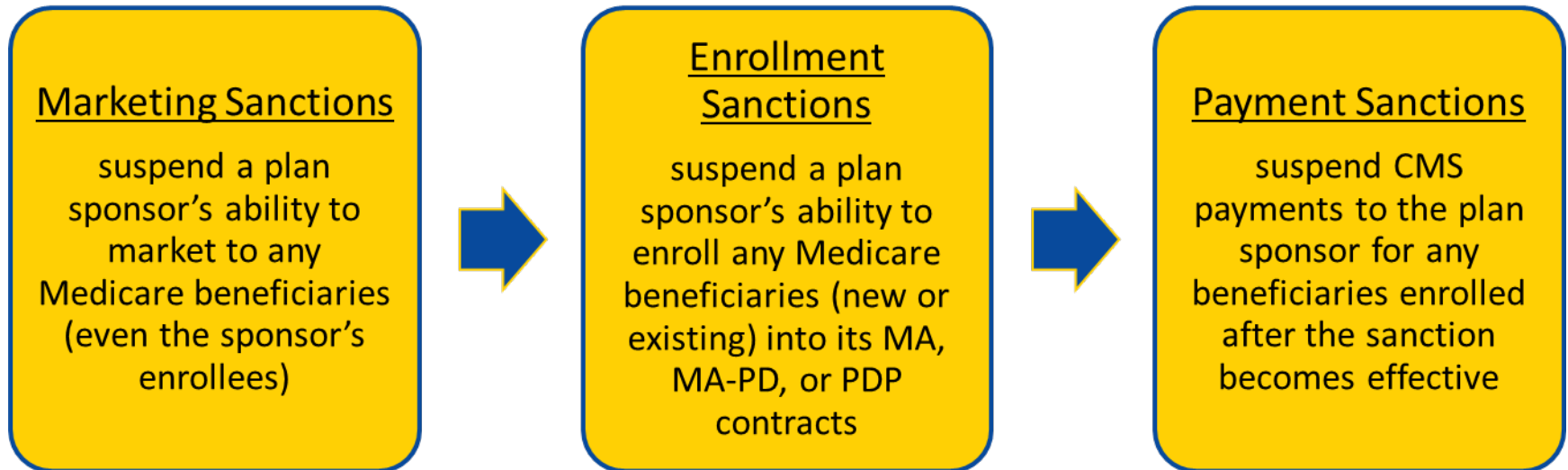
# **CMPs Imposed**

## **January 2012 – May 2014**

- CMS has imposed 32 CMPs for various contract violations, totaling \$6,126,995.
- These CMPs ranged from \$23,410 to \$2,175,000.

# Intermediate Sanctions

Intermediate sanctions are designed to be corrective in nature. Sanctions require a sponsor to take a “time-out” and fix its deficiencies. There are three forms of intermediate sanctions.



# **Sanctions (cont.)**

## **Special Election Period**

- Beneficiaries in plans that are under CMS sanctions are eligible for a Special Election Period (SEP).
- CMS may require that the sponsor send a notice to all beneficiaries, informing them of the sponsor's sanction and their eligibility for the SEP.
- Beneficiaries may elect another MA plan or Original Medicare.

# How Long Does a Sanction Last?

- As long as it takes for the sponsor to demonstrate to CMS that the deficiencies have been corrected and are not likely to recur.
- Sanctions over the past 5 years:
  - 8 sanctions imposed and released: lasting from 215 - 637 days, with an average of 325 days
  - 5 sanctions ended in termination or mutual termination
  - 3 sanctions currently in effect

# First Hand Account of CMS Intermediate Sanctions

## SilverScript Insurance Company

- Sanctioned January 15, 2013 (suspension of marketing/enrollment)
- Released from sanctions effective January 1, 2014
- Todd Meek – President, SilverScript Insurance Company
  - First hand account from a peer on what to expect while under sanctions

# SilverScript Insurance Company Panel Discussion



*Todd Meek, President*

*SilverScript Insurance  
Company*

June 24, 2014

SILVERSCRIPT<sup>®</sup>  
**CVS/caremark<sup>™</sup>**

# Agenda Topics

- SilverScript Insurance Company (SSIC) Overview
- Issues unique to SSIC in 2013
- Protection of Beneficiaries and Mitigation of Impact
- Working with CMS During Sanction
- Lessons Learned

# Overview of SilverScript

- SilverScript Insurance Company (SSIC) is a subsidiary of CVS Caremark, an integrated pharmacy health care provider, which includes retail pharmacies, retail clinics and a PBM division.
- SSIC has grown organically and through acquisition.
- SSIC currently operates in all 50 states, including District of Columbia and Puerto Rico.
- Today, SSIC provides Medicare Part D coverage to more than 4.1 million beneficiaries.



# Issues Unique to SSIC 2013

- Multiple factors created unprecedented demands on systems and processes
  - Plan consolidation
  - System consolidation
  - Successful individual AEP selling season
  - Successful EGWP selling season

# **Actions Taken to Protect Beneficiaries**

- Beneficiaries are the first priority
- Mobilize forces
- Ensure beneficiary access
- Suspend certain actions to minimize confusion

# Working With CMS During Sanction

- SSIC was placed on intermediate sanction on January 16, 2013
- SSIC corrective action plan
- SSIC and CMS relationship during sanction
- SSIC cleared sanction December 20, 2013

# Lessons Learned During the Sanction Process

- Engage your CMS Regulators
- View CMS as a partner
- Engage your leadership
- Work swiftly but smartly
- Test rigorously
- Strategic use of external consulting

# Enforcement Actions Effects on Organizations

- Potential to Reduce Star Rating
- Increased Past Performance Points
- Tarnished reputation/branding impact
- Loss in profits
- Decreased enrollment
- Employee turnover
- Demand on time of senior leadership

# Enforcement Website

- Please see the Part C and Part D Compliance and Audits webpage where all of the enforcement actions are posted at the following link on the CMS website:

<http://www.cms.gov/Medicare/Compliance-and-Audits/Part-C-and-Part-D-Compliance-and-Audits/Part-C-and-Part-D-Enforcement-Actions-.html>

# Questions?

For inquiries related to Enforcement or  
Compliance Programs, email:

[Parts C and D CP Guidelines@cms.hhs.gov](mailto:Parts_C_and_D_CP_Guidelines@cms.hhs.gov)

(Parts\_C\_and\_D\_CP\_Guidelines@cms.hhs.gov)