



Date: July 15, 2016

Re: Netting of Payments and Charges under 45 CFR 156.1215

Under 45 CFR 156.1215, CMS has the authority to net payments owed to issuers and their affiliates operating under the same tax identification number against amounts due to the Federal or State governments from the issuers and their affiliates under the same taxpayer identification number for:

- advance payments of the premium tax credit and cost-sharing reductions;
- reconciliation of cost-sharing reductions;
- Federally-facilitated Exchange user fees and fees for State-based Exchanges utilizing the Federal platform; and
- risk adjustment, reinsurance, and risk corridors payments and charges.

CMS has a policy of netting all of the above payments and charges to efficiently operate these programs and expeditiously support payments under the premium stabilization programs, including risk adjustment. Doing so permits CMS to make timely and complete payments to issuers under the premium stabilization programs, which we believe is important for reducing the incentives for issuers to avoid the sickest enrollees and for increasing issuers' ability to maintain premium stability.

There may, however, be circumstances when refraining from netting a particular payment will have no impact on collections for or operations of the premium stabilization programs. In those cases, CMS may elect not to net the payment. A State department of insurance may reasonably notify CMS that an issuer will be required to end coverage if advance payments are netted, but that if CMS refrains from netting such payments, continued coverage would – in the State's view – be in the best interest of the enrollees or the market. In those cases, CMS will refrain from netting advance payments for the months for which the coverage would otherwise have been terminated.

Advance payments of the premium tax credit and cost-sharing reductions fund current coverage of low-income enrollees; if coverage is ended, CMS does not make those payments to the issuer and therefore these payments would not be available for netting. In such a circumstance, refraining from netting these payments would not result in CMS foregoing timely collection of funds that would otherwise be available. Other payments and charges that are subject to netting do not bear the same relationship to current coverage; it would therefore not be appropriate to apply the same policy to these other payments.