



Date: September 2, 2015

From: Center for Consumer Information & Insurance Oversight (CCIIO),
Centers for Medicare & Medicaid Services (CMS)

Subject: Adjustment of Risk Adjustment Transfers Due to Submission of
Incorrect Data

On June 30, 2015, the Centers for Medicare & Medicaid Services (CMS) provided to issuers of risk adjustment covered plans in all markets in all states (other than Massachusetts, which operates its own risk adjustment program) and the District of Columbia reports stating their expected payments and charges under the Affordable Care Act's reinsurance and risk adjustment programs.¹ Simultaneously, we released a summary report to the public.²

This guidance sets forth CMS's process for addressing instances of materially incorrect EDGE server data submissions for the 2014 benefit year calculations. We intend to propose and seek comment on this and other operational processes in the proposed HHS Notice of Benefit and Payment Parameters for 2017.

In general, risk adjustment transfers within a risk pool in a market in a state (or the District of Columbia) are based on the relative risk scores of issuers in the market, with the transfers calibrated based on the average premium in the market. An overstatement or understatement of diagnoses or other factors driving an issuer's risk score will have a uniform effect on the risk adjustment transfers for the other issuers in the market (that is, it will result in either a lower or higher risk adjustment charge, or higher or lower risk adjustment payment, for all issuers). However, an overstatement or understatement of premium data may affect some issuers differently than others, because it will lead to an increase or decrease in the absolute value of the magnitude of the transfers (and will affect the calculation of the geographic rating area factors).

Where CMS has been made aware that an issuer has submitted incorrect EDGE server claims or diagnosis data that will have the effect of understating an issuer's plan average risk score, and thus negatively affecting the issuer without having a negative effect on other issuers within the market, we have not permitted the issuer to submit supplementary data after the data submission

¹ 45 CFR 153.310(e) and 45 CFR 153.240(b)(1)(ii).

² *Permanent Risk Adjustment Transfers for the 2014 Benefit Year*, June 30, 2015, available at: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/RI-RA-Report-Draft-6-30-15.pdf>

deadline.³ Our EDGE server deadlines have been clear, and we believe it is critical to the efficient operation of the risk adjustment program for the issuers of risk adjustment covered plans in a market in a state to adhere to those deadlines. Unlike a misstatement of premiums, which affects the statewide average premium upon which all transfers in the risk pool are derived, the inability of an issuer to submit all claims or diagnosis data results in a lower risk score than the issuer would have received, thereby only negatively impacting the issuer that did not submit all claims. We have required issuers to adhere to the initial data submission, and to accept the consequences of the data submission, even where the monetary impact of the inaccuracy on the issuer submitting incorrect data may be substantial.⁴

However, if an issuer has submitted incorrect EDGE server premium data, that action will increase or decrease the magnitude of risk adjustment transfers to issuers in the market, depending on the direction of the premium error, holding constant the other elements of the payment transfer formula. We will similarly require an issuer that has submitted incorrect EDGE server premium data to adhere to its initial data submission, and to accept the consequences of the submission, even where the monetary impact of the inaccuracy on the issuer may be substantial. However, in cases where there is a material impact on risk adjustment transfers for that particular market as a result of incorrect EDGE server premium data, we intend to calculate the dollar value of differences in risk adjustment transfers where the difference is detrimental to another issuer in the market, adjust that other issuer's risk adjustment transfer amount by that calculation, and increase the risk adjustment charge (or decrease the risk adjustment payment) to the issuer making the data error, in order to balance the market.⁵

We believe this operational approach best serves to balance the need to operate the risk adjustment program efficiently, while ensuring that issuers do not profit from their data submission errors or harm their competitors in the relevant market.⁶

³ The original deadline to upload data to be considered in the final report for the 2014 benefit year was April 30, 2015. Issuers were responsible for complying with this deadline in order to ensure their accurate and complete data was available to CMS for use in reinsurance and risk adjustment calculations. CMS provided intensive outreach, support and technical assistance to enable issuers to reach this data submission deadline. Issuers received interim reports to facilitate the early identification and correction of problems uploading data. In addition, CMS provided a grace period for issuers to submit and update EDGE server data for the 2014 benefit year financial transfers through Friday, May 15, 2015, 4:00 PM ET. During this grace period, CMS provided additional outreach to issuers. All data submitted by the end of this grace period should be reflected in the final dedicated distributed data environment report. As noted in the grace period guidance, no data would be accepted on EDGE servers from any issuer for the 2014 benefit year after the May 15, 2015 deadline.

⁴ An exception would be if CMS were made aware of claims or diagnosis data that would have the effect of overstating an issuer's plan average risk score, we would calculate the excess amount received by the issuer, and redistribute that amount to the other issuers in the market, avoiding the need to have all issuers in a market reactivate their EDGE servers and to recalculate all transfers within a market, while ensuring that the issuer with the overstated data does not profit by its error.

⁵ Calculation of the dollar value will include adjustment to the statewide premium average and, to the extent possible, adjustment to the geographic cost factor.

⁶ We also note that if an issuer of a risk adjustment covered plan fails to provide us with access to the required risk adjustment data through an EDGE server in accordance with our regulations, such that we cannot apply the applicable Federally certified risk adjustment methodology to calculate the risk adjustment payment transfer amount for the risk adjustment covered plan in a timely fashion, we will assess a default risk adjustment charge pursuant to 45 CFR 153.740(b).

We encourage issuers with any questions or concerns to email RARIPAYMENTOPERATIONS@cms.hhs.gov. We thank you for your continued cooperation in implementing an effective risk adjustment program.