

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

April 7, 2014

VIA E-MAIL: (bmaster@commonwealthcare.com)

Robert Master
Commonwealth Care Alliance, Inc.
Chief Executive Officer
30 Winter Street
Boston, MA 02108
Phone: 617-426-0600 x 1225

Re: Notice of Imposition of Civil Money Penalty for Medicare Advantage - Prescription Drug Plan Contract Number: H2225

Dear Mr. Master:

Pursuant to 42 C.F.R. §422.752(c)(1), §422.756(e), §422.760(b), §423.752(c)(1), §423.756(e), and §423.760(b), the Centers for Medicare & Medicaid Services (CMS) is providing notice to Commonwealth Care Alliance, Inc. (Commonwealth), that CMS has made a determination to impose a civil money penalty (CMP) in the amount of **\$49,510** for violations in Medicare Advantage - Prescription Drug Plan (MA-PD) contract number H2225.

Basis for Civil Money Penalty

This action is based on your organization's failure to ensure receipt of the combined Contract Year 2014 Annual Notice of Change (ANOC) and Evidence of Coverage (EOC) documents to your 2013 enrollees for receipt no later than September 30, 2013, 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. On May 8, 2013, CMS released the standardized Annual Notice of Change (ANOC) and Evidence of Coverage (EOC) model letters.

On November 20, 2013, CMS issued a notice reminding all organizations that it conducts an annual analysis of the timeliness of the ANOC/EOC documents. To conduct this analysis, organizations were required to report the actual mail dates of their 2014 ANOC/EOC documents

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in the Health Plan Management System (HPMS). On March 11, 2014, CMS asked Commonwealth to clarify the information it submitted to HPMS regarding the number of beneficiaries who received the ANOC/EOC after September 30, 2013.

Based on the information provided by your organization, CMS concluded that 4,951 members in Commonwealth's contract H2225 were not provided the 2014 combined ANOC/EOC by September 30, 2013. According to your responses to CMS, this information was not mailed to these members until December 26 and December 27, 2013. This was more than 12 weeks after the applicable deadline of September 30, 2013 and more than two weeks after the close of the 2014 Medicare Annual Open Enrollment Period.

CMS has determined that the failure by your organization to mail the combined ANOC/EOC documents in a timely manner to Medicare enrollees is a deficiency which directly adversely affected or had the substantial likelihood of adversely affecting these enrollees. Commonwealth failed to provide Medicare enrollees with vital information about changes to the 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 2014 Medicare Annual Open Enrollment Period.

Right to Request a Hearing

Commonwealth 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. Commonwealth 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 June 9, 2014. 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 Commonwealth disagrees. Commonwealth 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
Director, Division of Compliance Enforcement
Centers for Medicare & Medicaid Services
7500 Security Boulevard
MAIL STOP: C1-22-06
Baltimore, MD 21244
Email: Michael.Dibella@cms.hhs.gov

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If Commonwealth 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 June 10, 2014. Commonwealth 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 Commonwealth 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 Commonwealth 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: Patricia Farris, CMS/CMHPO/Region I

Adele Pietrantonio, CMS/CMHPO/Region I

Douglas Edwards, CMS/CMHPO/Region I