

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
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MEDICARE PARTS C AND D OVERSIGHT AND ENFORCEMENT GROUP

Date: March 1, 2017

To: All Medicare Advantage Organizations, Medicare Advantage – Prescription Drug Plans and Prescription Drug Plans

From: Vikki Ahern, Director
Medicare Parts C and D Oversight and Enforcement Group

Subject: Civil Money Penalty Enforcement Actions for 2016 Program Audits

The Centers for Medicare & Medicaid Services (CMS) has released the Civil Money Penalties (CMPs) imposed on Part C and Part D Sponsors for violations of Medicare Parts C and D requirements found during the sponsors' 2016 Program Audit. These violations were related to failure to comply with one or more of the following Medicare requirements: Part D formulary benefit administration, or Part C or Part D organization/coverage determinations, appeals, and grievances. The circumstances that led to the failure and the impact (or the substantial likelihood of impact) on beneficiary access to medical services and prescription drugs were considered when determining if a CMP was warranted. A total of 17 Sponsors were issued a CMP between October 2016 and February 2017 based on findings from their 2016 program audit. These notices are posted on the Part C and Part D Enforcement Actions webpage at: <https://www.cms.gov/Medicare/Compliance-and-Audits/Part-C-and-Part-D-Compliance-and-Audits/PartCandPartDEnforcementActions-.html>.

The release of these actions furthers the goal of improving industry standards and providing continued transparency in CMS oversight activities. All audit related CMP notices will continue to be posted simultaneously to the CMS website within the first quarter of the next program audit year. This allows the public and sponsors to more easily compare all of the CMP audit violations imposed within the same program audit year. CMPs as a result of marketing violations or other ad hoc enforcement actions, sanctions, or terminations will continue to be posted to the CMS website within the normal timeframe after notification to the sponsor.

When reviewing the published CMP data for actions imposed within the same program audit year, there are two important points to consider. First, a sponsor's audit score does not necessarily correlate with the amount of the CMP or the determination to impose a CMP. A sponsor's audit score is a reflection of the number of conditions of non-compliance discovered during the course of an audit (audit scores for 2016 Program Audits are listed in the attached Appendix). Conversely, CMPs are imposed when the conditions of non-compliance adversely affected enrollees or there was a substantial likelihood that enrollees were adversely affected.

Even if a sponsor receives an above average audit score because they had fewer conditions of non-compliance, the scope of the issues and the types of violations may still result in a CMP. Second, the amount of the CMP does not automatically reflect the overall performance of sponsors. The majority of CMPs are assessed on the number of enrollees impacted by certain violations. In most instances, the amount of the CMP will be higher for larger sponsors with more enrollees or where a violation impacted a larger number of enrollees.

Appendix: 2016 Program Audit Scores by Sponsor and CMP Indicator

	Sponsor	# of Program Areas Audited	Audit Score	CMP Issued (Yes/No)
1	AvMed, Inc.	4	1.59	Yes
2	Banner Health	5	1.35	No
3	BCBS MN, MT, NE, ND, WY, Wellmark IA and SD	3	0.31	No
4	Blue Cross & Blue Shield of Rhode Island	4	0.65	No
5	Caidan Enterprises, Inc.	5	0.90	Yes
6	Centene Corporation	5	1.60	Yes
7	CommunityCare Managed Healthcare Plans of OK, Inc.	4	1.06	Yes
8	Essence Group Holdings Corporation	4	0.76	No
9	Fallon Community Health Plan	5	1.35	Yes
10	FirstHealth of the Carolinas, Inc.	3	1.11	Yes
11	Gateway Health Plan, LP	5	0.65	No
12	Golden State Medicare Health Plan	3	1.20	No
13	Hawaii Medical Service Association	5	1.35	No
14	Health Care Service Corporation	5	1.15	Yes
15	Health Partners Plans, Inc.	5	1.55	Yes
16	Health Plan of San Mateo	5	1.80	Yes
17	Healthfirst, Inc.	5	1.50	Yes
18	HealthNow New York Inc.	4	1.24	No
19	Independent Care Health Plan Inc.	3	2.10	Yes
20	InterValley Health Plan	4	0.71	No
21	Kinderhook Capital Fund III, L.P.	3	1.70	No
22	Medstar Health, Inc.	3	2.00	No
23	Ministry Health Care, Inc.	5	1.10	No
24	Molina Healthcare, Inc.,	5	1.65	No
25	MVP Health Care, Inc.	4	0.88	Yes
26	PH Holdings, LLC	5	0.85	Yes
27	Premera	4	0.76	No
28	Premier Health Partners	3	2.70	No
29	Presbyterian Healthcare Services	4	1.29	Yes
30	Samaritan Health Services	5	1.55	No
31	SCAN Health Plan	5	1.30	Yes
32	Spectrum Health System	4	0.47	No
33	The New York State Catholic Health Plan, Inc.	5	1.05	No
34	UnitedHealth Group, Inc.	5	1.20	Yes
35	UPMC Health System	5	1.05	No
36	WellCare Health Plans, Inc.	5	1.45	Yes
37	Wisconsin Physicians Service Ins Corporation.	3	0.23	No