

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

February 24, 2016

Mr. Tom Davis
Interim CEO
Trinity Health
6150 E. Broad St, EE320
Columbus, OH 43213

Re: Notice of Imposition of Civil Money Penalty for Medicare Advantage-Prescription Drug
Contract Numbers: H1846 and H3668

Dear Mr. Davis:

Pursuant to 42 C.F.R. § 422.752(c)(1), § 422.760(b), § 423.752(c)(1), and § 423.760(b), the Centers for Medicare & Medicaid Services (CMS) is providing notice to Mount Carmel Health Insurance Company (H1846) and Mount Carmel Health Plan, Inc. (H3668) (MCH) that CMS has made a determination to impose a civil money penalty (CMP) in the total amount of **\$30,000** for Medicare Advantage-Prescription Drug (MA-PD) Contract Numbers: H1846 and H3668.

CMS has determined that MCH failed to provide its enrollees with Medicare benefits in accordance with CMS requirements. An MA-PD organization's central mission is to provide Medicare enrollees with medical services and prescription drug benefits within a framework of Medicare requirements that provide enrollees with a number of protections.

Summary of Noncompliance

CMS conducted an audit of MCH's Medicare operations from September 8, 2015 through September 22, 2015. In a program audit report issued on November 24, 2015, CMS auditors reported that MCH failed to comply with Medicare requirements related to Part C access to facilities and records in violation of 42 C.F.R. Part 422, Subpart K and Part C organization determinations, appeals and grievances in violation of 42 C.F.R. Part 422, Subpart M. MCH's failures in this area were systemic and resulted in (or had the substantial likelihood of) enrollees experiencing inappropriate delays or denials in receiving covered benefits and increased out-of-pocket costs.

Part C Record Maintenance, Access to Facilities and Records, and Disclosure of Information Relevant Requirements

(42 C.F.R §§ 422.504(d)(1)(ii), 422.504(e)(1)(i), 422.504(f)(2)(v) and 422.504(f)(2)(vii))

Part C Sponsors must adhere to certain record maintenance, facility access, and disclosure requirements in order to participate in the Medicare Advantage Program. These requirements are necessary for CMS to effectively evaluate Sponsors' compliance with applicable statutes, regulations, and program instructions. For instance, Part C Sponsors must maintain records of organization determinations, appeals, and grievances for at least 10 years that are sufficiently detailed and complete in order to enable CMS auditors to evaluate the quality, appropriateness, and timeliness of services performed under the contract. In furtherance of that objective, Sponsors are also required to provide CMS with access to their facilities and records.

Finally, Sponsors are required to disclose to CMS all information that may be necessary for CMS to administer and evaluate the program, including but not limited to, information about enrollee appeals and their dispositions. Failure to produce accurate and timely universes related to Part C organization determinations, appeals, and grievances constitutes a violation of these requirements, as CMS is unable to evaluate the quality, appropriateness, and timeliness of services performed under the contract. Additionally, the failure to produce accurate and timely universes demonstrates that Sponsors are not adequately monitoring their operations to ensure compliance with CMS requirements. As a result, Sponsors are not able to readily identify and remediate issues of program non-compliance that have adversely affected (or have the substantial likelihood of adversely affecting) enrollees.

Violations Related to Part C Record Maintenance, Access to Facilities and Records, and Disclosure of Information

CMS identified a violation of Part C record maintenance, access to facilities and records, and disclosure of information requirements that resulted in substantial likelihood of MCH's enrollees being delayed or denied access to medical services. MCH failed to produce sufficient records for CMS to evaluate the quality, appropriateness, and timeliness of services furnished to Medicare enrollees. As a result, auditors were unable to test (1) the timeliness of decisions for standard pre-service and reimbursement organization determinations and (2) the timeliness of enrollee notification of the plan's decision for standard pre-service and reimbursement organization determinations. This is in violation of 42 C.F.R. § 422.504(e)(1)(i).

Basis for Civil Money Penalty

Pursuant to 42 C.F.R. § 422.752(c)(1) and § 422.760(b), CMS has determined that MCH's violations of Part C requirements directly adversely affected (or had the substantial likelihood of adversely affecting) enrollees and warrants the imposition of a CMP. MCH failed substantially:

- To carry out the terms of its contract with CMS (42 C.F.R. § 422.510(a)(1)); and
- To comply with the requirements in Subpart M relating to grievances and appeals (42 C.F.R. § 422.510(a)(4)(ii)).

Right to Request a Hearing

MCH 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. MCH 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 April 25, 2016. The request for hearing must identify the specific issues and the findings of fact and conclusions of law with which MCH disagrees. MCH 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:

Vikki Ahern
Director, Division of Compliance Enforcement
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244
Mail Stop: C1-22-06
Email: Vikki.Ahern@cms.hhs.gov

If MCH 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 April 26, 2016. MCH may choose to have the penalty deducted from its monthly payment, transfer the funds electronically, or mail a check to CMS. To notify CMS of your intent to make payment and for instructions on how to make payment, please call or email the enforcement contact provided in the email notification.

Please note that further failures by MCH may result in additional applicable remedies available under law, up to and including contract termination, 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 MCH 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: Vikki Ahern, CMS/CM/MOEG/DCE
Kevin Stansbury, CMS/CM/MOEG/DCE
Heather Lang, CMS/ CMHPO/Region V
Dolores Perteet, CMS/ CMHPO/Region V
Monica Brown, CMS/ CMHPO/Region V