DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850

CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR MEDICARE

CENTER FOR MEDICARE

TO: All Part D Plan Sponsors

FROM: Cynthia G. Tudor, Ph.D., Director
Medicare Drug Benefit and C & D Data Group

Mark Majestic, Director
Medicare Program Integrity Group

SUBJECT: Clarification of Recovery of Part D Payment for Pain Medications for Beneficiaries Enrolled in Hospice

DATE: October 30, 2013

Earlier this year the Center for Program Integrity (CPI) completed analyses of 2011 and 2012 prescription drug event (PDE) records submitted to report Part D payment for pain control medications where the date filled is within the dates of the beneficiary's Medicare hospice election. Based on these analyses, CPI issued memoranda (dated June 24, 2013, August 5, 2013 and August 8, 2013) instructing Part D sponsors to delete questionable PDE records identified as duplicate payments. We have received questions from the industry concerning compliance with our instructions. In this memorandum, we provide additional guidance for Part D sponsors on the recovery of payment for these drugs; this guidance augments the prior CPI guidance by outlining a consistent approach to financial reimbursement requests by Part D sponsors to hospice providers.

New Clarified Guidance

CPI's analyses focused exclusively on PDEs for prescription analgesics. Thus, for the purposes of this recovery effort only, we presume that all the drugs were used for the palliation and management of the terminal illness and/or related conditions. They are, therefore, considered to be related to hospice care and thus a case-by-case analysis to determine relatedness is not required. Since the drugs were the payment responsibility of the Medicare hospice, the PDE reflects an overpayment that should be recovered from the hospice. The specific hospices that need to be contacted for payment recoupment were identified by CPI in earlier guidance.

CMS expects Part D sponsors to delete the PDE and implement processes to handle payment resolution directly with hospices without involving the pharmacy, that is, without recouping funds from the pharmacy or requiring the pharmacy to reverse the original claim. This is consistent with our payer-to-payer reconciliation policy addressed in Chapter 14 of the Medicare Prescription Drug Benefit Manual section 50.14.4 titled, "Resolution Directly with Other Payers." Although Chapter 14 describes situations in which Part D sponsors must work with other payers who either pay when they should not have paid at all, or pay more than they should have, because they paid out of the correct payer order, we believe the inverse of this guidance

also applies. That is, in situations in which Part D sponsors pay for prescription drugs that were the responsibility of other Medicare payers, the respective Medicare payers should be expected to work together to reconcile the payment issues. This includes situations involving drugs for hospice beneficiaries. In such situations, the other payer is the hospice provider, and sponsors should work directly with the hospice provider to resolve payment responsibility and seek recovery of amounts paid.

If your organization has already deleted the PDE record and either recouped the payment from the pharmacy or required the pharmacy to reverse the original claim and the pharmacy has secured payment from the hospice, no further action is necessary. However, if the pharmacy is still holding a receivable for the drugs, we recommend that the Part D sponsor undo the pharmacy recoupment and recover the payment from the hospice.

At this time, we expect that sponsors will limit any hospice-related recovery efforts to claims for the analgesics identified in the CPI communications. Any further action on any other classes of drugs should await the release of further guidance from CMS.