

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



CENTER FOR DRUG and HEALTH PLAN CHOICE

TO: All Part D Plan Sponsors

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

SUBJECT: Business Associate Agreement with the TrOOP Facilitation Contractor

DATE: August 6, 2008

The purpose of this memorandum is to remind Part D sponsors of the requirement to execute a business associate agreement (BAA) with the TrOOP Facilitation Contractor covering TrOOP and coordination of benefit (COB) functions. This requirement is specified in our guidance in Chapter 14 of the Medicare prescription Drug Manual and is consistent with the HIPAA Privacy Rule (45 CFR Parts 160 and 164) that the TrOOP Facilitation Contractor is a business partner of Part D sponsors for the purpose of performing TrOOP and COB functions when it receives data directly from the sponsor.

Currently, this may happen if a sponsor reverses an N transaction to the TrOOP Facilitator. However, once the new automated TrOOP balance transfer process is implemented in January 2009, the TrOOP Facilitator will be receiving data from the disenrolling Part D sponsor whenever a beneficiary makes a contract-level enrollment change during the coverage year. Therefore, it is critical that each Part D sponsor have a signed agreement with the TrOOP Facilitator.

To ensure compliance with this BAA requirement, CMS is requiring Part D sponsors to submit an attestation for each contract specifying whether or not a BAA with the TrOOP Facilitator has been executed. If your organization is not in a position to attest "Yes" at this time (see instructions below), you must check "No" and provide an explanation in the dedicated space specifying why you are unable to attest to this requirement. We will be contacting all sponsors about this failure in compliance.

Simultaneous to the release of this memo, CMS is sending an email from PartDBenefitImpl@cms.hhs.gov to each Compliance Officer with the link to the attestation submission tool. Please click on the link in that email to complete and submit the attestation electronically to CMS. See Appendix A for a preview of the attestation. Please note that CMS will only accept electronically submitted attestations. **Attestation submissions are due by close of business on August 29, 2008.**

We are aware that some organizations will not receive the email due to firewall constraints. If your organization's Compliance Officer did not receive the email notification, or if it more convenient for you, paste the following link into your web browser to access and complete the attestation: <https://vovici.com/wsb.dll/s/11dc4g35f96> .

Please note that your organization's Unique ID for accessing the attestation tool is your CMS contract number (e.g., S1234/H1234). Organizations with more than one contract number may submit an attestation once for each contract number, or alternatively, you may send an email to PartDBenefitImpl@cms.hhs.gov stating the contract number for which the attestation was completed, and listing the other contract number(s) to which the attestation applies.

Thank you.

Business Associate Agreement with the TrOOP Facilitation Contractor

On August 6, 2008, CMS released an HPMS memo entitled: "Business Associate Agreement with TrOOP Facilitation Contractor." To ensure compliance with that memo, we are requiring all current Part D sponsors to complete the attestation below for each of their CMS contracts. See the referenced HPMS memo for additional information. Please submit your attestation(s) no later than Friday, August 29, 2008.

1) A Business Associate Agreement has been executed with the TrOOP Facilitation Contractor covering TrOOP and coordination of benefit functions.

- Yes
- No

2) If you are not attesting "Yes," you must explain in the text box below why you are unable to attest to this requirement, the obstacles you face, the date you will be compliant, and what steps you are taking to come into compliance.

If you require further information on this CMS requirement, please contact Deborah Larwood at 410-786-9500 or by email at Deborah.Larwood@cms.hhs.gov. Thank you for your cooperation.