

**CMS review of Multiple Part D Bid Submissions for  
Medicare Advantage and Prescription Drug Plans  
July 7, 2005**

CMS is pleased by the response from health care organizations for bids to provide Part D plan offerings. We are particularly pleased that the robust response ensures that beneficiaries will generally have a choice of plans that are competing aggressively on price and on a variety of benefit designs, so that they can choose a plan that best meets their own needs and preferences. While continuing to encourage competitive choices that enable beneficiaries to get the coverage they prefer at the lowest possible cost, we will review multiple Part D bids submitted by the same organization to ensure that the benefit designs are truly meaningful and distinct to help make sure that they add real value for beneficiaries. This document explains how we plan to implement existing guidance on the CMS review process for multiple bids submitted by an organization in a single region.

On May 4 and again on June 1, 2005, we issued guidance indicating that multiple bids have to be supported by legitimate and meaningful variations. In this implementation document, we provide information on how CMS may enter into further discussions with sponsors about the bids if a sponsor has submitted multiple bids and underlying plan benefit packages that may not represent meaningful variations. We also set forth next steps for Part D organizations in light of this guidance.

Determination of Meaningful Differences

To ensure meaningful variation exists among an organization’s plans in a given region, CMS will contact organizations that have submitted multiple bids in a region, with the characteristics described in the table below. If we determine, after these discussions, that these bids do not include meaningful differences in benefit design, we have the authority to deny such bids.

| Problem                         | Example   | Potential action if, after further discussions, CMS determines multiple bids are without meaningful differences |
|---------------------------------|---|---|
| Duplicates                      | Sponsor submitted two or more identical bids  | Withdraw duplicates   |
| Co-branding                     | Sponsor submitted identical bids with only difference in Plan Name, based on co-branding arrangement                                  | Withdraw duplicate bids, as multiple co-branding arrangements are accommodated within one PBP                   |
| Joint Enterprise Administration | Joint Enterprise submitted separate and identical bids that may relate to each participating organization for administrative purposes | Withdraw duplicate bids   |
| Joint Enterprise Competition    | Joint Enterprise and participating organizations operating as independent PDPs submit identical bids under different contract numbers | Withdraw duplicate bids   |
| Limited Cost-share Differences  | Sponsor submitted multiple bids with identical formularies and insignificant differences in   | Sponsor must justify that differences in formularies are meaningful or withdraw                                 |

| Problem               | Example   | Potential action if, after further discussions, CMS determines multiple bids are without meaningful differences |
|-----------------------|---|---|
|                       | cost-sharing requirements <ul style="list-style-type: none"> <li>• Same tier structure but minimal difference (&lt;\$5 or &lt;10%) between the tiers in one bid vs. another</li> <li>• Deductible variation of \$50 or less without additional meaningful differences between bids</li> </ul> | near-duplicate bids   |
| Different Formularies | Sponsor submitted bids with different formularies, but no meaningful differences in benefit design and bid amounts  | Sponsor must justify that differences in formularies are meaningful or withdraw near-duplicate bids             |

Organizations that have submitted multiple bids in a region that vary in the ways listed in this table may support their plan offerings with an explanation of why the benefit packages in question provide meaningful differences, or may indicate their intention to voluntarily withdraw some bids within a week of CMS contacting the organization. We expect that some of these bids may be justified as meaningful benefit options, and we would not expect such bids to be withdrawn. Absent sufficient justification, however, we have the authority to require organizations to withdraw some of their bids to ensure that all of their plans in a service area include meaningful benefit variation. Withdrawal of these bids is not expected to have a material impact on the remaining bids, since the withdrawn bids would not be meaningfully different.

Legal Authority

Section 1860D-11(d)(2)(A) of the Social Security Act authorizes CMS, through delegation of authority from the Secretary of the Department of Health and Human Services, to negotiate the terms and conditions of a proposed bid, and other terms and conditions of a proposed plan. As part of this negotiating authority, CMS will enter into further discussions with a sponsor that has submitted multiple bids associated with benefit structures that do not seem to represent meaningful differences, relative to other plans by the same organization. In addition, if CMS and the sponsor cannot come to agreement on the benefit packages to be offered, we have the authority to deny multiple bids without meaningful variation in order to guard against market failure caused by confusion over an oversupply of similar plans. We also have authority under section 1860D-11(e)(2)(D) of the Social Security Act to ensure that plan designs are not discriminatory.