

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
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CENTER FOR MEDICARE

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: November 10, 2011

The purpose of this memorandum is twofold. First, we remind Part D sponsors of the requirement to execute a business associate agreement (BAA) with the Part D Transaction Facilitation Contractor (formerly the TrOOP Facilitator), NDCHealth dba RelayHealth, covering TrOOP and coordination of benefit (COB) functions. This requirement is specified in our guidance in Chapter 14 of the Medicare Prescription Drug Benefit Manual and is consistent with the HIPAA Privacy Rule ((45 CFR Parts 160 and 164) that the Transaction 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, the Facilitator receives data from a sponsor whenever a beneficiary makes a contract-level enrollment change during the coverage year, and the automated TrOOP balance transfer process is triggered. In that process, the Transaction Facilitator receives data from the disenrolling Part D plan as well as from any prior Part D plan in which the beneficiary was enrolled during that coverage year. Note that the BAA requirement is applicable not only to sponsors directly reporting the TrOOP accumulators to the Transaction Facilitator, but also to sponsors using a processor for the automated TrOOP balance transfer process. Therefore, it is critical that each Part D sponsor has a signed agreement with the Transaction Facilitator.

The second purpose of this memorandum is to announce that CMS will ask Part D sponsors to report on the status of their BAA with the Transaction Facilitation Contractor. Specifically, an element will be added to the forthcoming 2012 Readiness Assessment directing each Part D compliance officer to state whether or not a BAA with the Part D Transaction Facilitator has been executed for the contracts within the compliance officer's purview for 2012, and, if so, the date the agreement was executed. Please note, if you previously executed a BAA with the TrOOP Facilitator, this agreement will remain in effect despite the recent change in the contractor's title. If your organization's compliance officer is unable to provide a positive response, he or she must check "No" and provide the projected date for meeting this requirement. Since some BAAs were executed at the contract level and others at the parent organization (or other) level, we are requiring the compliance officer to report whether or not the executed BAA covers all contracts and, if it does not, to specify which contracts are not covered

and the projected date for executing a BAA to include these contracts. Sponsors without an executed BAA in place by January 1, 2012 may be subject to compliance action. Further details on this information collection effort will be included with the readiness assessment instructions.

The CMS-approved standard language BAA, as well as an Implementation Form and instructions for the completion and submission of these documents, are available on the Facilitator's website at: https://medifacd.relayhealth.com/payers/FIR_LegalAgreements.html. Both the BAA and Implementation Form must be completed by sponsors that have not already executed a BAA. For more information about the BAA or the process for completion and submission, please contact the Facilitator's Customer Support Center at 800-867-4333. Assistance is available Monday through Friday, 8 am to 8 pm EST.

Thank you.