

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C1-22-06
Baltimore, Maryland 21244-1850



PROGRAM COMPLIANCE AND OVERSIGHT GROUP

October 8, 2010

VIA FEDERAL EXPRESS DELIVERY
E-MAIL (walvin@hap.org)
AND FACSIMILE (313-664-8114)

Mr. William Alvin
Chief Executive Officer
Alliance Health and Life Insurance Co.
2850 W. Grand Blvd.
Detroit, MI 48202
Phone: 313-664-8360

Re: Notice of Initial Determination to Impose a Civil Money Penalty (CMP) for:
Health Alliance Plan - Medicare Advantage Organization
Contract Number H2322 and Medicare Prescription Drug Plan
Contract Number S3440

Dear Mr. Alvin:

Pursuant to 42 C.F.R. §422.752(c)(1), §422.756(f), §422.760(b), §423.752(c)(1), §423.756(f), and §423.760(b), the Centers for Medicare & Medicaid Services (CMS) is providing notice to Alliance Health and Life Insurance Co. (“Alliance”) that CMS has made a determination to impose a civil money penalty (CMP) in the total amount of \$41,660. CMS is imposing a CMP of \$32,690 for Medicare Advantage Organization (MAO) contract number H2322 and a CMP of \$8,970 for Medicare Prescription Drug Plan Contract Number S3440.

Basis for Civil Money Penalty

This action is based on your organization’s failure to provide accurate beneficiary information in Contract Year 2010 Annual Notice of Change (ANOC) and Evidence of Coverage (EOC) documents, in violation of 42 C.F.R. §422.64, §422.111, §423.48, and §423.128. As a result, CMS has determined that your organization is carrying out its contract in a manner “inconsistent

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with the effective and efficient implementation of this part.” *See* 42 C.F.R. §422.510(a)(2) and §423.509(a)(2).

The ANOC and EOC provide vital information to Medicare beneficiaries about their plan and permit beneficiaries to make informed choices concerning Medicare health care and prescription drug options. On July 31, 2009, CMS released the standardized Annual Notice of Change (ANOC) and Evidence of Coverage (EOC) templates. In a notice dated October 20, 2009, CMS reminded each organization of its obligation to ensure timely and accurate ANOC/EOC documents to current enrollees no later than October 31, 2009. CMS stated that organizations and sponsors should clearly communicate the requirements of timeliness and accuracy to contractors and staff responsible for producing the documents. In addition, CMS reiterated that organizations and sponsors bear the full responsibility of compliance with ANOC/EOC requirements. In addition, the notice clearly stated that the failure to provide accurate documents in a timely manner may result in the imposition of civil money penalties.

On February 3, 2010, CMS issued a notice requesting information from all Medicare Advantage and Prescription Drug Plan Sponsors (except Cost Contracts, PACE organizations, SNP and Employer Plans, and Contracts with Zero Enrollment in 2009) concerning adherence to these deadlines for issuing the ANOC/EOC documents. Based on the information provided by your organization, CMS concluded that 3,269 members in Alliance’s contract number H2322 and 897 members in Alliance’s contract number S3440 were not provided accurate ANOC/EOC materials. Specifically, CMS determined that the following incorrect statements were made in the ANOC/EOC documents:

Alliance provided incorrect cost sharing information for the following services that affected 3,269 members in contract number H2322:

- Mental Health: Partial Hospitalization Services— The EOC indicated a 20% co-insurance rate for out-of-network services. The correct co-insurance rate is 45%. This error affected PBP 001 and PBP 004;
- Diabetes Self-Monitoring – The EOC did not specify a co-insurance rate for out-of-network services. The correct co-insurance is 20%. This error affected PBP 001 and PBP 004;
- Medical Nutrition Therapy – The EOC failed to state that a facility office co-payment may apply. This error affected PBP 001 and PBP 004;
- Health and Wellness Programs – The EOC incorrectly indicated that these services had a 20% co-insurance rate. The correct co-insurance rate is 50%, up to a coverage maximum of \$100. This error affected PBP 001 and PBP 004;
- Inpatient Hospital and SNF Care – The EOC failed to state that inpatient hospital care and SNF care has a \$250 deductible. This error affected PBP 004.

Alliance provided incorrect information to 897 members in contract number S3440:

- Alliance omitted a \$150 annual deductible for the prescription drug benefit from its ANOC document. The EOC included the deductible information. This error affected PBP 001.

CMS has determined that the failure by your organization to mail accurate ANOC/EOC documents to Medicare enrollees is a deficiency which directly adversely affected or had the substantial likelihood of adversely affecting these enrollees. Alliance failed to provide Medicare enrollees with vital information about changes to the benefits and cost-sharing that would have allowed them to make fully informed choices concerning their 2010 Medicare health care and prescription drug options during the Medicare Annual Open Enrollment Period.

Right to Request a Hearing

Your organization may request a hearing to appeal CMS' determination in accordance with the procedures outlined in Subpart T of 42 C.F.R. §422 and 42 C.F.R. §423. In accordance with the requirements of 42 C.F.R. §422.1006, §423.1006, §422.1020, and §423.1020, you must file your written request for a hearing to the Departmental Appeals Board office listed below, with a copy to CMS at the address listed below, within 60 calendar days from receipt of the notice of our initial determination, or by December 8, 2010. The request for hearing must identify the specific issues, the findings of fact and conclusions of law with which you disagree, and specify the basis for each contention that the finding or conclusion of law is incorrect. Your request should be sent to:

Oliver Potts
Chief, 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 your hearing request should also be sent to CMS at the following address:

Brenda J. Tranchida
Director, Program Compliance and Oversight Group
Centers for Medicare & Medicaid Services
7500 Security Boulevard
MAIL STOP: C1-22-06
Baltimore, MD 21244
Email: brenda.tranchida@cms.hhs.gov
FAX: 410-786-6301

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If you do 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 December 9, 2010. CMS may use the Agency's debt collection procedures to collect the amount owed, including offsetting the penalty amount against your monthly Medicare payment.

Please note that any further failures by Alliance Health and Life Insurance Co. to comply with these or any other CMS requirements may subject your organization to other applicable remedies available under law, including the imposition of sanctions, penalties, or other enforcement actions as described in 42 C.F.R. Parts 422 and 423, Subparts K and O.

If you have any questions about this notice, please contact Trish Axt at (410) 786-0095 or by email at trish.axt@cms.hhs.gov.

Sincerely,

/s/

Brenda J. Tranchida

Director

Program Compliance and Oversight Group

cc: Mr. Jonathan Blum, CMS/CM
Mr. Tim Hill, CMS/CM
Ms. Danielle Moon, CMS/CM/MCAG
Ms. Marsha Davenport, CMS/CM/MCAG
Mr. Michael Kavouras, CMS/CM/MCAG
Ms. Cynthia Tudor, CMS/CM/MDBG
Ms. Jennifer Shapiro, CMS/CM/MDBG
Mr. Scott Nelson, CMS/CM/MDBG
Mr. Cheri Rice, CMS/CM/MPPG
Mr. Randy Brauer, CMS/CPC/MPPG
Ms. Marla Kilbourne, CMS/CPC/MPPG
Mr. Mike Crochunis, CMS/CPC/MEAG
Mr. Jon Booth, CMS/OC/WPMG
Ms. Anita Panicker, CMS/OC/WPMG
Mr. Peter Ashkenaz, CMS/OEA
Mr. Greg Jones, CMS/OL
Mr. James T. Kerr, CMS/CMHPO
Mr. Paul Collura, CMS/CMHPO
Ms. Yolanda Burge Clark, CMS/CMHPO/Region V
Ms. Candace Arnold, CMS/CMHPO/Region V
Ms. Carol Bennett, DHHS/OGC
Ms. Jill Abrams, DHHS/OGC
Ms. Trish Axt, CMS/CM/PCOG

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Ms. Oliver Potts, DHHS/DAB

Ms. Nancy Brown, DHHS/OIG/OCIG

Mr. Gerald T. Walters, CMS/OFM