

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Drug and Health Plan Choice
7500 Security Boulevard, Mail Stop C4-23-07
Baltimore, Maryland 21244-1850



September 14, 2009

VIA:
FEDERAL EXPRESS DELIVERY
FACSIMILE (785-291-8997) AND
EMAIL (andy.corbin@bcbsks.com)

Mr. Andrew C. Corbin
President and CEO
Blue Cross Blue Shield of Kansas
1133 Topeka Boulevard
Topeka, KS 66629
Phone: 785-291-8733

Re: Release of Intermediate Sanctions (Suspension of Enrollment and Marketing) For:
Prescription Drug Plan Contract Number S5726

Dear Mr. Corbin:

On January 15, 2009, the Centers for Medicare & Medicaid Services (CMS) imposed intermediate sanctions on Blue Cross Blue Shield of Kansas (BCBS of Kansas), thereby suspending marketing and enrollment activities for its Prescription Drug Plan contract number S5726. CMS' decision was based on the serious deficiencies of your first tier downstream entity (WellPoint, Inc.) in many operational areas, including, but not limited to: enrollment, administration of the Low Income Subsidy (LIS) benefit, charging of enrollee premiums and cost-sharing, marketing, appeals and grievances, and prompt payment of claims.

CMS has completed its review of your July 20, 2009 response to the imposition of intermediate sanctions and believes that BCBS of Kansas should continue to implement the outlined improvements made to its management controls and oversight processes. At this time, based on consideration of CMS' review of your submission, documentation and information provided by your first tier downstream entity, and CMS' validation activities, CMS has determined that BCBS of Kansas has made sufficient progress in correcting its deficiencies to merit lifting the marketing and enrollment sanctions.

Therefore, effective October 1, 2009, BCBS of Kansas may begin marketing. BCBS of Kansas may begin enrolling beneficiaries on November 15, 2009 for the **2010 contract year**. BCBS of Kansas is not permitted to accept any enrollments with effective dates prior to January 1, 2010. CMS will be closely monitoring and overseeing activities in all of your operational areas. In addition, CMS will periodically ask BCBS of Kansas for specific data to provide assurance that the deficiencies that formed the basis for the intermediate sanctions have not recurred.

LIS Reassignees and Monthly Auto Enrollments

Although we are lifting the sanctions, CMS has remaining concerns about whether BCBS of Kansas, through its first tier downstream entity, has the systems capacity to accept the high volume of enrollments associated with auto-enrollment or reassignment of low-income subsidy (LIS) enrollees. Therefore, in light of its previous serious deficiencies in the area of processing enrollments, CMS has determined that BCBS of Kansas will not be included among the prescription drug plans (PDPs) into which LIS eligible beneficiaries who do not make a 2010 Part D plan choice will be randomly assigned if they would be required to pay a premium in 2010 under their current plan. Additionally, until CMS has the opportunity, as a result of the lifting of these sanctions, to verify that BCBS of Kansas now has sufficient capacity to effectively process a large number of enrollments (i.e., successfully process new enrollees for the 2010 contract year without serious deficiencies), CMS has determined that BCBS of Kansas does not currently qualify as an “available” plan for purposes of the auto-enrollment process for full benefit dual-eligibles required under section 1860D-1(b)(1)(C) of the Social Security Act. As a result, until further notice, BCBS of Kansas will not receive any LIS eligible individuals unless those individuals affirmatively choose to enroll in BCBS of Kansas for 2010.

Although BCBS of Kansas has assured CMS that its widespread systems and operational deficiencies of its first tier downstream entity have been corrected and that it has put into place enhanced compliance and oversight procedures, CMS needs to monitor BCBS of Kansas as it engages in marketing and enrollment for the 2010 plan year before CMS concludes that it is appropriate to entrust the most vulnerable enrollees to BCBS of Kansas. As previously mentioned, CMS is continuing to closely monitor your organization. If BCBS of Kansas continues to demonstrate to CMS that its deficiencies do not recur, CMS will reevaluate your availability for CMS-initiated enrollment of LIS beneficiaries and may change your availability status at a later date. CMS’ evaluation activities may include, but are not limited to, your ability to meet CMS LIS key indicators, such as LIS match rates and successful performance during a CMS audit of enrollments which will include processing changes in LIS levels which are used to determine premium and cost-sharing amounts.

Please feel free to contact me at (410) 786-2001 if you have any questions relating to this matter.

Mr. Andrew Corbin
September 14, 2009
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Sincerely,

A handwritten signature in black ink, appearing to read "B. Tranchida". The signature is fluid and cursive, with the first letter of the first name being a large, stylized 'B'.

Brenda J. Tranchida
Director
Program Compliance and Oversight Group

cc: Mr. Timothy Hill, CMS/CPC
Ms. Carol Bennett, DHHS/OS/OGC
Mr. James Kerr, CMS/OA/CMHPO
Ms. Candace Arnold, CMS/CMHPO/Region V
Ms. Nancy Brown, DHHS/OIG/OCIG
Mr. Peter Ashkenaz, CMS/OEA
Ms. Laura McWright, CMS/OL
Ms. Kimberly Brandt, CMS/OFM/PI
Ms. Cynthia Tudor, CMS/CPC/MDBG
Ms. Teresa DeCaro, CMS/CPC/MCAG
Mr. Anthony Culotta, CMS/CPC/MEAG
Mr. Thomas Hutchinson, CMS/CPC/MPPG