

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



PROGRAM COMPLIANCE AND OVERSIGHT GROUP

December 22, 2009

VIA FEDERAL EXPRESS DELIVERY
EMAIL (vramoslaw@prtc.net)
AND FACSIMILE (787) 754-8529

Virgilio Ramos
Ramos Gonzalez Law Offices C.S.P.
Isabel Andreu Aguilar 124
Hato Rey, Puerto Rico 00918-3305

Re: Notice of Expedited Termination of Medicare Advantage – Prescription Drug
Contract Numbers H0046, H2291, and H4382

Dear Mr. Ramos:

By this letter, the Centers for Medicare & Medicaid Services ("CMS") notifies you of its decision to immediately terminate (effective 11:59:59 P.M. EDT December 22, 2009) ProSalud's Medicare Advantage-Prescription Drug ("MA-PD") contracts H0046, H2291, and H4382 pursuant to 42 U.S.C. 1395w-27 (h)(2), 42 C.F.R. §422.510(a)(3), (a)(5), and (b)(2), 42 C.F.R. §423.509(a)(3), (a)(5), and (b)(2), and Art. VIII.B.1.(v) of contract H5729 between CMS and ProSalud.

CMS' determination to immediately terminate ProSalud's contracts is based upon the following:

The Commissioner of Insurance of Puerto Rico issued an order placing ProSalud into liquidation effective on December 21, 2009. The Commissioner's decision to liquidate ProSalud demonstrates the degree and severity of ProSalud's financial difficulties, and the liquidation order eliminates any possibility that ProSalud could provide access to services after 11:59 pm on December 21, 2009. The liquidation order also terminates ProSalud's license to operate in the Commonwealth of Puerto Rico.

CMS is therefore terminating its contract with ProSalud based on our expedited termination authorities at 42 C.F.R. §422.510(a)(3), (a)(5), and (b)(2) and 42 C.F.R. §423.509(a)(3), (a)(5), and (b)(2). The authorities at 42 C.F.R. §422.510(a)(3) and 42

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C.F.R. §423.509(a)(3) authorize CMS to terminate a contract when an organization no longer meets the requirements to be a contracting organization. The authorities at 42 C.F.R. §422.510(a)(5) and 42 C.F.R. §423.509(a)(5) authorize CMS to terminate a contract when an organization experiences financial difficulties so severe that its ability to make necessary health services available is impaired to the point of posing an imminent and serious risk to the health of ProSalud's Medicare enrollees.

Right to Request a Hearing

This contract determination is effective at 11:59:59 P.M. EDT on December 22, 2009. However, ProSalud may request a hearing before a CMS hearing officer in accordance with the procedures outlined in 42 C.F.R. §422.660 through 42 C.F.R. §422.696 and 42 C.F.R. §423.650 through 42 C.F.R. §423.668. Pursuant to 42 C.F.R. §422.662 and 42 C.F.R. §423.651, your written request for a hearing must be received by CMS within 15 calendar days from the date CMS notified you of this determination. CMS considers receipt of notice as the day after notice is sent by fax, e-mail, or overnight mail or in this case, January 6, 2010. Your hearing request will be considered officially filed on the date that it is mailed; accordingly, we recommend using an overnight traceable mail carrier. Please note that in accordance with 42 C.F.R. §422.664(b)(2) and 42 C.F.R. §423.665(b)(2) the contract between CMS and ProSalud will be terminated effective 11:59:59 P.M. EDT December 22, 2009 and will not be postponed if a hearing is requested.

ProSalud may submit a request for hearing to the following CMS official:

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

A courtesy copy of your request should also be sent by e-mail to the CMS Hearing Officer on the date you mail your request. CMS will consider the date the Office of Hearings receives your e-mail or the date it receives the fax or traceable mail document, whichever is earlier, as the date of receipt of your request. Your request for a hearing must include the name, fax number and e-mail address of the contact within your organization (or the attorney who has a letter of authorization to represent your organization) with whom you wish us to communicate regarding the hearing request. The request for a hearing must be sent to the CMS Hearing Office at the following address:

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Benjamin Cohen
CMS Hearing Officer
Office of Hearings
ATTN: HEARING REQUEST
Centers for Medicare and Medicaid Services
2520 Lord Baltimore Drive
Suite L
Mail Stop LB-01-22
Baltimore, MD 20244-2670
Phone: (410) 786-3169
E-Mail: Benjamin.Cohen@cms.hhs.gov

If you have any questions about this determination, please contact Jennifer Smith at (410) 786-1404 or by email at jennifer.smith2@cms.hhs.gov.

Sincerely,

Michelle G. Turano

Michelle G. Turano
Deputy Director
Program Compliance and Oversight Group

cc:

Mr. Joaquin Rodriguez, CEO, ProSalud HMO, Corp.
Mr. Jonathan Blum, CMS/CPC
Mr. Timothy Hill, CMS/CPC
Ms. Brenda Tranchida, CMS/CPC/PCOG
Ms. Danielle Moon, CMS/CPC/MCAG
Mr. Jeremy Willard, CMS/CPC/MCAG
Ms. Cynthia Tudor, CMS/CPC/MDBG
Ms. Jennifer Shapiro, CMS/CPC/MDBG
Mr. Thomas Hutchinson, CMS/CPC/MPPG
Mr. Randy Brauer, CMS/CPC/MPPG
Mr. Anthony Culotta, CMS/CPC/MEAG
Ms. Teresa DeCaro, CMS/CPC
Ms. Mary A. Laurenno, CMS/OBIS
Mr. Peter Ashkenaz, CMS/OEA
Ms. Laurie McWright, CMS/OL
Mr. Greg Jones, CMS/OL
Ms. Kimberly Brandt, CMS/OFM/PI
Mr. James Kerr, CMS/OA/CMHPO

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Ms. Rachel Walker, CMS/CMHPO/Region II
Mr. Reggie Slaten, CMS/CMHPO/Region II
Ms. Teresita Caban, CMS/CMHPO/Region II
Ms. Carol Bennett, DHHS/OGC
Ms. Leslie Stafford, DHHS/OGC
Ms. Jill Abrams, DHHS/OGC
Ms. Nancy Brown, DHHS/OIG/OCIG
Mr. Paul Collura, CMS/CMHPO
Ms. Iris Bermudez, CMS/CMHPO