

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

May 17, 2010

VIA FEDERAL EXPRESS DELIVERY
E-MAIL drnkhan@qualityhealthplans.com
AND FACSIMILE (813) 961-3154

Dr. Nazeer Khan
Chief Executive Officer
Quality Health Plans, Inc.
4010 Gunn Highway, Ste 220
Tampa, FL 33618
Phone Number: 813-574-1640 Ext. 123

Re: Notice of Determination to Impose a Civil Money Penalty (CMP) for: Quality Health Plans Medicare Advantage Organization Contact Number H5402 and Prescription Drug Plan Contact Number S8475

Dear Dr. Khan:

Pursuant to 42 C.F.R. §422.752(c)(1) and §423.752(c)(1), the Centers for Medicare & Medicaid Services (CMS) is providing notice to Quality Health Plans, Inc. (“QHP”) that CMS has made a determination to impose a civil money penalty (CMP) in the amount of \$586,800 for Medicare Advantage Organization Contact number H5402 and Prescription Drug Plan (PDP) contract number S8475.

Summary of Noncompliance

This action is based on QHP’s serious non-compliance in the administration of QHP operations for failure to bill enrollees for monthly premiums, thus causing enrollees to unknowingly incur large balances due for those unpaid premiums, in violation of 42 C.F.R. §422.262 and §423.293. These violations are ones that have directly adversely affected (or have the substantial likelihood of adversely affecting) QHP’s enrollees.

In September 2009 CMS began receiving numerous complaints from QHP enrollees who were concerned about high premium invoices that they received from QHP. After investigating the matter, QHP admitted that it had not sent bills for monthly premiums to a portion of its previous

and current enrollees since January 2008. QHP informed CMS that beginning in August 2009 QHP billed enrollees for the total amount of monthly premiums due since January 2008. QHP sent premium invoices to 5,470 of its previous and current Prescription Drug Plan (PDP) enrollees and 398 of its previous and current Medicare Advantage-Prescription Drug (MA-PD) enrollees and requested that they pay the total amounts within 30 days. The majority of affected enrollees received premium invoices with individual totals of approximately \$330, while there were other enrollees who received invoices for as much as and in excess of \$1,000. At the time these invoices were sent to enrollees, QHP had approximately 5,100 PDP enrollees and 13,500 MA-PD enrollees.

In response to these areas of noncompliance, CMS decided to conduct an on-site audit of QHP to obtain additional information on the extent of the improper premium bills. The site visit was conducted from January 27- 29, 2010, at QHP's headquarters in Tampa, Florida (hereinafter "on-site audit"). CMS also sent an audit team to Envision, QHP's PBM subcontractor, in Twinsburg, Ohio. CMS' audit focused on QHP's billing practices, formulary administration, compliance plan, and appeals and grievances processes. Based on the information obtained by CMS during the site visit, CMS determined that QHP had failed to meet other compliance requirements in addition to the initial failure to bill premium.

According to 42.C.F.R. §422.262 (b)(1) and §423.293 (a)(1), MA-PD and PDP sponsors must charge enrollees a consolidated monthly MA premium or prescription drug (Part D) premium. Pursuant to 42 C.F.R. §422.262 (e) and §423.293(a)(2), MA-PD and PDP sponsors are required to permit payment of monthly premiums on a monthly basis. During the on-site audit, QHP assured CMS that it had corrected its billing errors and was currently billing premiums on a monthly basis. However, after reviewing documentation provided by QHP, CMS determined that QHP continued to fail to meet requirements to correctly issue monthly premium bills. By the end of January 2010, QHP had sent only one additional premium invoice to enrollees and that notice, sent in November 2009, was a bill for three months of premiums. QHP's conduct represents a significant incident of non-compliance. By not billing its enrollees their monthly premiums and then sending a request for immediate repayment of several months of unpaid premium, QHP did not meet the CMS regulatory requirement to permit its enrollees to pay their premiums on a monthly basis.

In addition to its failure to bill premiums, QHP also failed to offer enrollees the required repayment options to satisfy their premiums in arrears. In circumstances where retroactive collection of premium amounts is necessary and the enrollee is without fault in creating the premium arrearage, QHP is required to offer the enrollee the option of payment either by lump sum, by equal monthly installment spread out over at least the same period for which the premiums were due, or through other arrangements mutually acceptable to the enrollee and QHP. (See 42 C.F.R. §422.262(h) and §423.293(a)(4)). Instead the premium notices required enrollees to pay the entire lump sum within 30 days. Based on information obtained from CTM complaints, many enrollees feared that they would be disenrolled from QHP if they did not pay the entire amount within that timeframe afforded by QHP.

Also, pursuant to 42 C.F.R. §422.262(g) and §423.293(e), QHP must not bill any enrollee for a premium payment period if the enrollee has had the premium for that period withheld from his or her Social Security check. Prior to the on-site audit, CMS discovered that several enrollees, who were sent an invoice for premiums, had elected to have their premiums withheld from their Social Security checks and these enrollees were therefore billed twice. During the on-site audit, CMS confirmed 38 enrollees, who were on premium withhold, were incorrectly billed twice for their premiums in violation of 42 C.F.R. §422.262(g) and §423.293(e).

CMS has determined that QHP's failure to bill its enrollees for monthly premiums for over a year, causing its enrollees to unknowingly incur large balances, is a deficiency which directly adversely affects or has the substantial likelihood of adversely affecting these enrollees. Approximately seventy-five percent (75%) of QHP's enrollees are low income subsidy (LIS) members, which means they are receiving assistance for medications due to their financial status. In 2009, QHP's premiums rose substantially making it an above the benchmark plan. Many of QHP's LIS members, however, were not aware that their premiums increased in 2009 because QHP was not billing the monthly premiums. Had these LIS members known that QHP's premiums increased substantially (i.e. if they received a bill with their monthly premium amount), many of these LIS members may have enrolled in another plan that was below the benchmark with lower premiums. Instead, QHP's enrollees incurred substantial debts and due to the increase in premiums, many of the LIS members have expressed concerns with their inability to pay the unpaid premiums.

Basis for Civil Money Penalty

CMS has determined that QHP's compliance deficiencies, as described above and further detailed below, provide sufficient basis for the imposition of a civil money penalty. (*See* 42 C.F.R. 422.752(c) and § 423.752(c)).

QHP failed substantially to carry out the terms of its Medicare Advantage (MA) and Prescription Drug Plan (PDP) contracts with CMS and is carrying out its contracts with CMS in a manner that is inconsistent with the effective and efficient implementation of the program (42 C.F.R. §422.510(a)(1) and (2), 42 C.F.R. §423.509(a)(1) and (2)).

- QHP failed to bill enrollees their monthly premiums on a monthly basis, thus causing enrollees to unknowingly incur large balances in unpaid premiums. This failure continued even after QHP was notified and asked to correct this deficiency.
- QHP sent premium invoices to beneficiaries who had already paid their premiums through premium withhold (i.e. Social Security checks).
- QHP failed to give enrollees the option of paying their premiums in arrears either by lump sum, by equal monthly installments spread out over at least the same period for which the premiums were due, or through other arrangements mutually acceptable to the enrollee and QHP.

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, §422.1020, §423.1006 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 July 19, 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:

Mr. Oliver Potts
Chief, Civil Remedies Division
Department of Health and Human Services
Departmental Appeals Board
Mail Stop 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

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 July 20, 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 QHP 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 Jennifer Smith at (410) 786-1404 or by email at jennifer.smith2@cms.hhs.gov.

Dr. Nazeer Khan

May 17, 2010

Page 5 of 5

Sincerely,

/s/

Brenda J. Tranchida

Director

Program Compliance and Oversight Group

cc: Mr. Jonathan Blum, CMS/CPC
Mr. Timothy Hill, CMS/CPC
Ms. Danielle Moon, CMS/CPC/MCAG
Ms. Heidi Arndt, CMS/CPC/MCAG
Ms. Cynthia Tudor, CMS/CPC/MDBG
Ms. Jennifer Shapiro, CMS/CPC/MDBG
Ms. Cheri Rice, CMS/CPC/MPPG
Mr. Randy Brauer, CMS/CPC/MPPG
Ms. Marla Kilbourne, CMS/CPC/MPPG
Ms. Michele Edmondson-Parrott, CMS/CPC/MEAG
Ms. Mary A. Laureno, CMS/OBIS
Mr. Peter Ashkenaz, CMS/OEA
Ms. Laurie McWright, CMS/OL
Mr. Greg Jones, CMS/OL
Mr. James T. Kerr, CMS/CMHPO
Mr. Paul Collura, CMS/CMHPO
Ms. Gloria Parker, CMS/CMHPO/Region IV
Ms. Julia Shake, CMS/CMHPO/Region IV
Ms. Colleen Carpenter, CMS/CMHPO/Region IV
Ms. Carol Bennett, DHHS/OGC
Ms. Jill Abrams, DHHS/OGC
Ms. Leslie Stafford, DHHS/OGC
Ms. Jennifer M. Smith, CMS/CPC/PCOG
Mr. Oliver Potts, DHHS/DAB
Ms. Nancy Brown, DHHS/OIG/OCIG
Mr. Gerald T. Walters, CMS/OFM