

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



## **PROGRAM COMPLIANCE AND OVERSIGHT GROUP**

June 13, 2011

**VIA:**  
**FEDERAL EXPRESS DELIVERY (1-860-273-1188)**  
**EMAIL (BertoliniM@aetna.com)**  
**AND FACSIMILE (1-860-754-1078)**

Mr. Mark T. Bertolini  
Chief Executive Officer and President  
Aetna, Inc.  
151 Farmington Avenue, A-801  
Hartford, CT 06156  
Phone: 860-273-1188

Re: Notice of Release of Intermediate Sanctions (Suspension of Marketing and Enrollment) For All Medicare Advantage-Prescription Drug and standalone Prescription Drug Plan Contracts  
Contract Numbers: H0318, H0523, H0901, H1109, H1110, H1419, H2112, H3152, H3312, H3597, H3623, H3931, H4523, H4524, H4910, H5414, H5521, H5736, H5793, H5813, H5832, H5950, H6923, H7908, H8684 and S5810

Dear Mr. Bertolini:

On April 5, 2010, the Centers for Medicare & Medicaid Services (CMS) imposed intermediate sanctions on Aetna, Inc. (Aetna), thereby suspending Aetna's marketing and enrollment activities for all Aetna Medicare Advantage-Prescription Drug and standalone Prescription Drug Plan contracts (effective April 21, 2010). CMS' decision was based on Aetna's serious deficiencies in the following operational areas: prescription drug (Part D) formulary and benefit administration, coverage determinations and appeals and best available evidence (BAE) requirements for low-income subsidy (LIS) individuals. Additionally, on April 6-8, 2010, CMS conducted an audit and inspection at Aetna's Blue Bell, Pennsylvania location which revealed additional serious deficiencies in the aforementioned operational areas and also that Aetna's Part D grievance operations and compliance program failed to meet CMS requirements.

On March 31, 2011, CMS received your attestation that Aetna's deficiencies had been corrected and were not likely to recur. On May 31, 2011 and June 1, 2011, CMS conducted extensive

validation exercises at its Baltimore, Maryland Headquarters offices to determine whether Aetna had corrected its deficiencies and they were not likely to recur. These exercises included remotely accessing Aetna's prescription drug claim data system, along with its coverage determination and appeals, grievance and BAE systems, data and records to determine compliance with CMS requirements.

Based on CMS' review of data, documentation and information provided by Aetna, CMS' validation activities and additional assurances provided by Aetna, CMS has determined that Aetna has made sufficient progress in correcting its deficiencies to merit lifting the marketing and enrollment sanctions imposed. Therefore, effective immediately, CMS is removing the sanctions. Effective immediately, Aetna may begin marketing to beneficiaries. Aetna may begin enrolling beneficiaries with effective dates beginning July 1, 2011. However, because CMS still considers Aetna a high-risk sponsor, CMS will be closely monitoring and overseeing Aetna's activities in all operational areas and Aetna will continue to be subject to targeted monitoring and heightened surveillance and oversight. In addition, CMS will be periodically asking Aetna for specific data to provide CMS with assurance that Aetna has fully addressed its deficiencies.

### **Enrollment of Low-Income Subsidy Beneficiaries**

Although Aetna is being released from the intermediate sanctions, CMS remains concerned about Aetna's capacity to accept the potentially high volume of enrollments associated with CMS auto-enrollment and reassignment processes for low-income subsidy (LIS) enrollees. CMS is especially concerned because of the history of serious deficiencies in administering the prescription drug transition of benefits process and BAE procedures, both of which have the potential to adversely affect LIS enrollees. Notably, in response to inquiries from CMS concerning Aetna's prescription drug transition process and BAE failures in 2010, Aetna responded that its system and staff were overwhelmed due to the high number of LIS auto-enrollments and LIS reassigees that Aetna received at the beginning of 2010.

Therefore, in light of the history of serious deficiencies in the area of transition of benefit coverage and BAE, CMS has determined that Aetna's prescription drug plans (PDPs) will not be included among the PDPs into which CMS carries out daily auto-enrollments or annual reassignment of LIS-eligible beneficiaries until at least March 1, 2012. This prohibition will remain in place until CMS is able to verify that Aetna has consistently demonstrated an ability to administer its prescription drug transition process for other new enrollees. Thus, until further notice, Aetna will not receive any LIS-eligible individuals from CMS, and should not process enrollments for any LIS-eligible enrollees, unless those individuals affirmatively choose to enroll in an Aetna plan.

Although Aetna has assured CMS that its operational deficiencies have been corrected, CMS needs to monitor Aetna as it engages in marketing and enrollment for the 2011/2012 plan years before CMS concludes that it is appropriate to entrust the most vulnerable enrollees to Aetna. As previously mentioned, CMS is continuing to closely monitor Aetna. If Aetna continues to demonstrate to CMS that its deficiencies do not recur, CMS will reevaluate Aetna's availability

Mr. Mark T. Bertolini

June 13, 2011

Page 3 of 3

for CMS-initiated enrollment of LIS beneficiaries and may revise Aetna's availability status at a later date. CMS' evaluation activities may include, but are not limited to, Aetna's ability to meet CMS LIS key performance indicators, effectively administer the transition benefit in 2012, and/or successfully perform during a CMS LIS readiness Audit.

### **Corrective Action Required**

During the sanction validation activities conducted, CMS found several deficiencies, none of which prevent CMS from releasing Aetna from sanctions but all of which merit corrective action. CMS will separately issue a notice of these deficiencies and provide an opportunity for your organization to demonstrate to CMS that these deficiencies are corrected. CMS expects Aetna to work directly with its Regional Office Account Manager to provide the information requested and to ensure ultimate correction of these identified deficiencies.

Please note that any further failures by Aetna to comply with these or any other CMS requirements may subject Aetna to other applicable remedies available under law, including the imposition of intermediate sanctions, civil money penalties and/or contract termination or non-renewal 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 (trish.axt@cms.hhs.gov).

Sincerely,

/s/

Brenda J. Tranchida

Director

Program Compliance and Oversight Group

cc: Mr. Jonathan Blum, CMS/CM  
Mr. Timothy Love, CMS/CM  
Ms. Cynthia Tudor, CMS/CM/MDBG  
Mr. Anthony Culotta, CMS/CM/MEAG  
Ms. Danielle Moon, CMS/CM/MCAG  
Mr. Brian Cook, CMS/OEABS  
Mr. Greg Jones, CMS/OL  
Mr. James T. Kerr, CMS/CMHPO  
Mr. Paul Collura, CMS/CMHPO  
Ms. Martha Stuker, CMS/CMHPO/Region I  
Ms. Patricia Farris, CMS/CMHPO/Region I  
Mr. Thomas Devins, CMS/CMHPO/Region I  
Ms. Carol Bennett, DHHS/OGC  
Ms. Julie Burns, DHHS/OGC