

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 16, 2008

VIA FEDERAL EXPRESS DELIVERY

Dr. Jayant Patel
President, Citrus Health Care, Inc.
5420 Bay Center Drive
Tampa, FL 33609
Email Address: jpatel@citrushc.com
FAX: (813) 490-8809
Phone Number: (813) 490-8900 Ext.8959

Re: Notice of Intent to Impose Intermediate Sanctions (Suspension of Enrollment and Marketing) For: Medicare Advantage Organization Contract Number H5407 and Prescription Drug Plan Contract Number S8465

Dear Dr. Patel:

Pursuant to 42 C.F.R. §422.756 and 42 C.F.R. §423.756, the Centers for Medicare & Medicaid Service (CMS) is hereby providing notice to Citrus Health Care, Inc. (CHC) of its intent to impose intermediate sanctions for contract numbers H5407 and S8465. These intermediate sanctions will consist of suspension of enrollment of Medicare beneficiaries (42 C.F.R. §422.750(a)(1), 42 C.F.R. §423.750(a)(1)) and suspension of all marketing activities to Medicare beneficiaries (42 C.F.R. §422.750(a)(3), 42 C.F.R. §423.750(a)(3)). This determination to impose intermediate sanctions will be effective 15 calendar days after the date of this notice, or on January 1, 2009, and will remain in effect until CMS is satisfied that the deficiencies upon which the determination was based have been corrected and are not likely to recur.

Background

CMS Audit Issues

CMS conducted two separate audits in September 2008: (1) a focused program audit of Part C requirements for Citrus' Medicare Advantage contract number H5407; and (2) a separate Part D readiness audit of its standalone Prescription Drug Plan contract number S8465. The program audit was conducted based on a variety of factors including CMS'

concerns with Citrus' ability to administer the contract, Citrus' inability to provide data when requested, and Citrus' failure to demonstrate an adequate understanding of CMS requirements. The Part D readiness audit was conducted to determine if CHC had the administrative and operational capabilities to provide CMS required services to LIS eligible beneficiaries.

The focused program audit resulted in 30 deficiencies for failure to comply with CMS requirements. Deficiencies were found in a number of areas including, but not limited to, failure to produce documentation showing that transactions had been processed; failure to produce enrollment/disenrollment notices to beneficiaries; failure to exercise adequate oversight of organization determinations, appeals, and credentialing functions performed by its delegated entities; and failure to exercise adequate internal controls and processes. Notably, during this audit, CHC also failed to produce an auditable universe of samples for CMS to assess performance in several critical functional areas.

The Part D readiness audit concluded that CHC was not prepared to accept low-income subsidy enrollees. Therefore, CHC failed the audit and was determined ineligible to receive auto-enrollees. Notably, as similarly mentioned above regarding the focused program audit, CMS was not able to conduct a complete Part D readiness audit due to CHC's inability to produce basic information necessary for the audit.

Failure to Accept Enrollments

CHC informed CMS that they failed to accept MA or PDP enrollment applications for two separate periods of time. More specifically, Citrus informed CMS that they failed to accept enrollments during the periods October 22, 2008 through November 18, 2008, and November 24, 2008 through November 26, 2008 based on financial solvency concerns.

Basis of Proposed Intermediate Sanctions

CMS has determined, based on the results of the focused program audit of contract number H5407 (see attached); and the separate Part D readiness audit of contract number S8465 (see attached) that CHC lacks adequate administrative and management capabilities pursuant to 42 C.F.R. §422.503(b)(4) and 42 C.F.R. §423.504(b)(4). CHC also failed to be available to accept Medicare enrollees at all times. In addition, CHC failed to adequately perform its enrollment and disenrollment functions, organizational determination functions and grievance and appeals functions in accordance with CMS requirements.

The CMS focused program audit and the Part D readiness audit provide sufficient basis for concluding that CHC demonstrates a pattern of widespread deficiencies in its administration and operation of its CMS contracts. CMS has determined that CHC has substantially failed to carry out the terms of its contracts with CMS, is carrying out its contracts with CMS in a manner that is inconsistent with the effective and efficient implementation of the program, and no longer meets the requirements for being a

contracting organization, pursuant to 42 C.F.R. §422.510(a)(1), 42 C.F.R. §422.510(a)(2), §422.510(a)(3), 42 C.F.R. §423.509(a)(1), 42 C.F.R. §423.509(a)(2), and 42 C.F.R. §423.509(a)(3). Therefore, CMS has authority to suspend CHC's marketing and enrollment for contracts H5407 and S8465 pursuant to 42 C.F.R. §422.752(b) and 42 C.F.R. §423.752(b).

CMS has also determined based on the audit findings that CHC has substantially failed to comply with the requirements related to grievances, organization determinations and appeals in 42 C.F.R. Part 422 Subpart M. Therefore, pursuant to 42 C.F.R. §422.510(a)(6), CMS has the authority to suspend CHC's marketing and enrollment for contract H5407.

The detailed basis for CMS' determination is described below:

CHC substantially failed to carry out the terms of its Medicare Advantage contract number H5407 and its Prescription Drug Plan contract number S8465 with CMS (42 C.F.R. §422.510(a)(1) and 42 C.F.R. §423.509(a)(1)), is carrying out its contract with CMS in a manner that is inconsistent with the effective and efficient implementation of the program (42 C.F.R. §422.510(a)(2), 42 C.F.R. §423.509(a)(2)), and no longer meets the requirements for being a contracting organization (42 C.F.R. §422.510(a)(3), 42 C.F.R. §423.509(a)(3)).

Medicare Advantage and Prescription Drug Plan Sponsors must be available at all times to accept new enrollments from Medicare beneficiaries. Enrollment of eligible beneficiaries requiring Medicare Advantage and/or Prescription Drug Plan services is a fundamental obligation under all Medicare Advantage and Prescription Drug Plan contracts. CHC failed to be available to accept Medicare enrollees at all times as required by 42 C.F.R. §422.504(a)(1) and 42 C.F.R. §423.505(b)(2).

In addition, CHC failed to substantially meet its contractual obligations and is carrying out its Medicare Advantage contract in a manner inconsistent with effective and efficient implementation of the program as determined by the CMS focused program audit discovering deficiencies in a variety of functional areas. These deficiencies include, but are not limited to:

- CHC failed to demonstrate it processed enrollment elections and issued enrollment acknowledgements timely under 42 C.F.R. §422.60(e);
- CHC improperly disenrolled special needs individuals from its SNP plan under 42 C.F.R. §422.74(a)(1);
- CHC failed to demonstrate it processed disenrollment requests under 42 C.F.R. §422.66(b);
- CHC failed to send disenrollment notices timely under 42 C.F.R. §422.66(b)(3);

- CHC failed to demonstrate its SNP enrollees met the SNP eligibility requirements under 42 C.F.R. §422.52;
- CHC failed to demonstrate that beneficiary premiums that were improperly collected were promptly refunded to affected beneficiaries under 42 C.F.R. §422.270(b);
- CHC failed to demonstrate that beneficiaries were involuntarily disenrolled who no longer reside in that service area under 42 C.F.R. §422.74(d)(4);
- CHC failed to demonstrate proper claims determinations were made under 42 C.F.R. §422.100(a) and (b)(1), and §422.504(g)(1); and
- CHC failed to demonstrate it followed proper credentialing requirements for physicians and other health care professionals under 42 C.F.R. §422.204(b)(2);.

CHC substantially failed to comply with grievance and appeals requirements (42 C.F.R. §422.510(a)(6)).

CHC failed to comply with grievance and appeals requirements as determined by the CMS focused program audit which identified deficiencies in a variety of other functional areas. These deficiencies include, but are not limited to:

- CHC failed to provide proper claim denial notices to enrollees under 42 C.F.R. §422.568;
- CHC failed to timely process beneficiary grievances within 30 days under 42 C.F.R. §422.564(e)(1)-(2) and (f);
- CHC failed to follow proper procedures for processing organization determinations accurately and timely notifying the enrollees of the determination under 42 C.F.R. §422.568(a);
- CHC failed to properly notify enrollees of organization determinations under 42 C.F.R. 422.568;
- CHC failed to timely notify enrollees of favorable claims reconsiderations under 42 C.F.R. §422.590(b)(1);
- CHC failed to properly forward an adverse claim reconsideration to the IRE for independent review under 42 C.F.R. §422.590(b)(2), (c), and (e);

- CHC failed to properly track and process standard pre-service reconsiderations under 42 C.F.R. §422.590(a)(1) - (2) and (e); and
- CHC failed to demonstrate it properly identified and processed expedited organizational determinations under 42 C.F.R. §§422.570, 572, 584, and 590(d).

Finally, CHC substantially failed to carry out the terms of its standalone Prescription Drug Plan contract number S8465 with CMS, (42 C.F.R. §423.509(a)(1)), and is carrying out its contract with CMS in a manner that is inconsistent with the effective and efficient implementation of the program (42 C.F.R. §423.509(a)(2)).

CHC failed the Part D readiness audit and was determined ineligible to receive auto-enrollees for failure to meet the following requirements:

- Failure to have documented policies and procedures for any of the eight performance standards tested;
- Failure to demonstrate the ability to process the additional influx of low income subsidy eligible auto-enrollees/reassignees;
- Failure to document testing procedures and/or update their automated systems; and
- Failure to meet the requirements of performance standard 8 (Best Available Evidence).

Opportunity to Respond to Notice

Pursuant to 42 C.F.R. §422.756(a)(2) and 42 C.F.R. §423.756(a)(2), Citrus Health Care Inc. has ten (10) calendar days from the date of receipt of this notice to provide a written rebuttal, or by December 27, 2008. Please note that CMS considers receipt of notice as the day after notice is sent by fax, e-mail, or overnight mail, or in this case, December 17, 2008.

Right to Request a Hearing

Citrus Health Care, Inc. may also request a hearing before a CMS hearing officer in accordance with the procedures outlined in 42 C.F.R. §§422.660 through 684 and 42 C.F.R. §§423.650 through 662. Pursuant to 42 C.F.R. §422.756(b) and 42 C.F.R. §423.756(b), your written request for a hearing must be received by CMS within 15 calendar days of your receipt of this notice, or by January 1, 2009. Please note, however, a request for a hearing will not delay the date specified by CMS when the sanction becomes effective. If the 15th day falls on a weekend or federal holiday, you have until the next regular business day to submit your request. Your hearing request will be considered officially filed on the date that it is mailed; accordingly, we recommend using an overnight traceable mail carrier.

Dr. Jayant Patel
December 16, 2008
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Citrus Health Care, Inc. must 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

You must also send a courtesy copy of your request 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:

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

Please note that we are closely monitoring your organization and Citrus Health Care, Inc. may also be subject to other applicable remedies available under law, including the imposition of additional 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 determination, please do not hesitate to contact me directly at (410) 786-2001.

Dr. Jayant Patel
December 16, 2008
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Sincerely,

/s/

Michelle G. Turano
Acting Deputy Director
Program Compliance and Oversight Group

Attachment: Audit Report of Findings, 10/11/2008
Part D Readiness Audit Letter, 09/22/2008

cc: Ms. Carol Bennett, DHHS/OS/OGC
Mr. James Kerr, CMS/OA/CMHPO
Ms. Nancy Brown DHHS/OIG/OCIG
Mr. Peter Ashkenaz, CMS/OEA
Ms. Kimberly Brandt, CMS/OFM/Program Integrity
Ms. Teresa DeCaro, CMS/CPC/MCAG
Ms. Cynthia Tudor, CMS/CPC/MDBG
Ms. Gloria Parker, CMS/CMHPO/Region IV

Note: Copies also sent to Citrus via email (jpatel@citrushc.com) and facsimile (813-490-8809)