

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850



MEDICARE PARTS C AND D OVERSIGHT AND ENFORCEMENT GROUP

November 17, 2020

Mr. Bruce Broussard
President and Chief Executive Officer
CarePlus Health Plans, Inc.
500 West Main Street
6th Floor – Humana Tower
Louisville, KY 40202

Re: Notice of Imposition of Civil Money Penalty for Medicare Advantage-Prescription Drug
Contract Number: H1019

Dear Mr. Broussard:

Pursuant to 42 C.F.R. §§ 422.752(c)(1), 422.760(b), 423.752(c)(1), and 423.760(b), the Centers for Medicare & Medicaid Services (CMS) is providing notice to CarePlus Health Plans, Inc. (CarePlus) that CMS has made a determination to impose a civil money penalty (CMP) in the amount of **\$100,806** for Medicare Advantage-Prescription Drug (MA-PD) Contract Number H1019.

An MA-PD organization's primary responsibility is to provide Medicare enrollees with medical services and prescription drug benefits in accordance with Medicare requirements. CMS has determined that CarePlus failed to meet that responsibility.

Summary of Noncompliance

In 2019, CMS conducted an audit of CarePlus' 2017 Medicare financial information. In a financial audit report issued on August 15, 2019, CMS auditors reported that CarePlus failed to comply with Medicare requirements related to the administration of the low-income subsidy in violation of 42 C.F.R. Part 423, Subparts J and P. More specifically, auditors found that in 2017, CarePlus failed to process retroactive adjustments to cost-sharing for low-income subsidy (LIS) individuals and any resulting refunds within the applicable timeframes. CarePlus' failure was systemic and adversely affected (or had the substantial likelihood of adversely affecting) enrollees because they experienced increased out-of-pocket costs.

Part D Low-Income Subsidy Requirements

(42 C.F.R. §§ 423.466 and 423.800)

Medicare Part D Prescription Drug Program requirements apply to stand-alone Prescription Drug Plan sponsors, Medicare Cost Plans, and Medicare Advantage organizations that offer Part D prescription drug benefits. Sponsors that offer these plans are required to enter into agreements with CMS by which the sponsors agree to comply with a number of statutory, regulatory, and sub-regulatory requirements.

Pursuant to 42 C.F.R. §§ 423.466 and 423.800, CMS notifies the Part D sponsor offering the Part D plan of an individual's eligibility for a subsidy and the amount of the subsidy. When this occurs, the sponsor must reduce the individual's cost-sharing as applicable. The Part D sponsor must track the application of the subsidies and must reimburse subsidy eligible individuals any excess cost-sharing paid after the individual's low-income subsidy (LIS) status has been updated. The Part D sponsor must process retroactive claims adjustments and issue refunds or recovery notices within 45 days of the sponsor's receipt of complete information regarding claims adjustment.

Violation Related to Part D Low-Income Subsidy (LIS) Requirements

CMS determined that CarePlus failed to process retroactive adjustments to cost-sharing for LIS individuals and any resulting refunds within the applicable timeframes. CarePlus made updates to their LIS claims processor's eligibility system, however due to processing errors their system did not appropriately reflect retroactive LIS adjustments. As a result, enrollees incurred inappropriate out-of-pocket expenses. This failure violates 42 C.F.R. §§ 423.466(a) and 423.800(e).

Basis for Civil Money Penalty

Pursuant to 42 C.F.R. §§ 423.752(c)(1) and 423.760(b), CMS has determined that CarePlus' violation of Part D requirements directly adversely affected (or had the substantial likelihood of adversely affecting) enrollees and warrants the imposition of a CMP. CarePlus failed substantially to carry out the terms of its contract with CMS (42 C.F.R. § 423.510(a)).

Right to Request a Hearing

CarePlus may request a hearing to appeal CMS's determination in accordance with the procedures outlined in 42 C.F.R. Parts 422 and 423, Subpart T. CarePlus must send a request for a hearing to the Departmental Appeals Board (DAB) office listed below by January 19, 2021.¹ The request for hearing must identify the specific issues and the findings of fact and conclusions of law with which CarePlus disagrees. CarePlus must also specify the basis for each contention that the finding or conclusion of law is incorrect.

¹Since January 17th falls on a weekend or holiday, the date reflected in the notice is the next regular business day for you to submit your request.

The request should be filed through the DAB E-File System (<https://dab.efile.hhs.gov>) unless the party is not able to file the documents electronically. If a party is unable to use DAB E-File, it must send appeal-related documents to the Civil Remedies Division using a postal or commercial delivery service at the following address:

Civil Remedies Division
Department of Health and Human Services
Departmental Appeals Board
Medicare Appeals Council, MS 6132
330 Independence Ave., S.W.
Cohen Building Room G-644
Washington, D.C. 20201

Please see https://dab.efile.hhs.gov/appeals/to_crd_instructions for additional guidance on filing the appeal.

A copy of the hearing request should also be sent to CMS at the following address:

Kevin Stansbury
Director, Division of Compliance Enforcement
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244
Mail Stop: C1-22-06
Email: kevin.stansbury@cms.hhs.gov

If CarePlus does 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 January 20, 2021. CarePlus may choose to have the penalty deducted from its monthly payment, transfer the funds electronically, or mail a check to CMS. To notify CMS of your intent to make payment and for instructions on how to make payment, please call or email the enforcement contact provided in the email notification.

Impact of CMP

Please note, this action may factor into CarePlus' Past Performance calculations.

Further failures by CarePlus to provide its enrollees with Medicare benefits in accordance with CMS requirements may result in CMS imposing additional remedies available under law, including contract termination, intermediate sanctions, penalties, or other enforcement actions as described in 42 C.F.R. Parts 422 and 423, Subparts K and O.

If CarePlus has any questions about this notice, please call or email the enforcement contact provided in the email notification.

Sincerely,

/s/

John A. Scott
Director
Medicare Parts C and D Oversight and Enforcement Group

cc: Judith Flynn, CMS/ OPOLE
Amanda Larigan, CMS/ OPOLE
Kane Kunard, CMS/OPOLE
Kevin Stansbury, CMS/CM/MOEG/DCE