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

CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR MEDICARE

MEDICARE PARTS C AND D OVERSIGHT AND ENFORCEMENT GROUP

November 2, 2023

Mr. Richard Fisher
Senior Vice President, Medicare Solutions & Chief Executive Officer
Centene Corporation
8725 Henderson Road
Tampa, FL 33634

Re: Notice of Imposition of Civil Money Penalty for Medicare Advantage-Prescription Drug and Prescription Drug Plan Contract Numbers: H0111, H0174, H0351, H0908, H1032, H1215, H1664, H1723, H2174, H2491, H2915, H3561, H4506, H5087, H5117, H5190, H5294, H5475, H5590, H5779, H6446, H6550, H6815, H6870, H7326, H8189, H9276, H9630, H9811, H9900 and S4802

Dear Mr. Fisher:

Pursuant to 42 C.F.R. §§ 422.752(c)(1), 422.760(c), 423.752(c)(1), and 423.760(c), the Centers for Medicare & Medicaid Services (CMS) is providing notice to Centene Corporation (Centene) that CMS has made a determination to impose a civil money penalty (CMP) in the amount of **$49,764** for Medicare Advantage-Prescription Drug (MA-PD) and Prescription Drug Plan (PDP) Contract Numbers H0111, H0174, H0351, H0908, H1032, H1215, H1664, H1723, H2174, H2491, H2915, H3561, H4506, H5087, H5117, H5190, H5294, H5475, H5590, H5779, H6446, H6550, H6815, H6870, H7326, H8189, H9276, H9630, H9811, H9900 and S4802.

An MA-PD and PDP organization's[1] primary responsibility is to provide Medicare enrollees with medical services and prescription drug benefits in accordance with Medicare requirements. CMS has determined that Centene failed to meet that responsibility.

Summary of Noncompliance

In 2022, CMS conducted an audit of Centene's 2020 Medicare financial information. In financial audit reports issued on July 31, 2022, CMS auditors reported that Centene failed to comply with Medicare requirements related to Part D gross covered drug costs and True Out-of-Pocket (TrOOP) accumulators in violation of 42 C.F.R. Part 423, Subparts C and J and Part C cost sharing in violation of 42 C.F.R. Part 422, Subpart F. More specifically, auditors found that Centene overcharged enrollees for Part D medications and Part C medical services. Centene's

[1] Referenced collectively as "plan sponsor".

failures adversely affected (or had the substantial likelihood of adversely affecting) enrollees because they may have experienced increased out-of-pocket costs.

Part D Gross Covered Drug Costs and TrOOP Accumulator Requirements *(42 C.F.R. § 423.104(d); Medicare Prescription Drug Benefit Manual, Chapter 14, Section 50.8; 42 CFR § 423.464(f)(2); and 80 FR 7934)*

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. Plan 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.

Gross covered drug costs and TrOOP expenses factor into a beneficiary's movement through the various standard prescription drug benefit phases, such as the deductible phase, initial coverage limit, coverage gap, and catastrophic phase. Pursuant to 42 C.F.R. § 423.104(d), a plan sponsor must track a beneficiary's gross covered drug costs and TrOOP and correctly apply these costs to the benefit limits to correctly position the beneficiary in the benefit and provide the catastrophic level of coverage at the appropriate time. When a beneficiary transfers enrollment between plan sponsors during the coverage year, the enrollee's gross covered drug costs and TrOOP must be transferred between plans and applied by the subsequent plan in its administration of the Part D benefit.

Violation Related to Part D Gross Covered Drug Costs and TrOOP Accumulator Requirements

CMS determined that Centene failed to comply with Part D gross covered drug costs and TrOOP accumulator requirements by failing to accurately track these accumulators for beneficiaries with multiple member IDs.[2] This issue occurred because Centene failed to combine claims from the old member ID with the new member ID within its claims processing system. This caused TrOOP and gross covered drug cost data to be tracked separately for each member ID. As a result, the beneficiary did not progress correctly through the benefit phases and paid incorrect amounts for Part D prescription drugs. Centene then failed to ensure refunds were provided to enrollees who overpaid. This is in violation of 42 C.F.R. § 423.104(d).

Part C Cost Sharing Requirements *(42 C.F.R. §§ 422.111(b), 422.254, and 422.270; and Chapter 4, Section 50 of the Medicare Managed Care Manual (IOM Pub. 100-16))*

Every year, a plan sponsor must submit to CMS an aggregate monthly bid amount which must include a description of deductibles, coinsurance, and copayments applicable under the plan and the actuarial value of the deductibles, coinsurance, and copayments. When the bid is approved by CMS the plan sponsor must provide to each enrollee a description of the benefits offered under a plan, including the applicable cost-sharing for the benefits (see 42 C.F.R. § 422.111(b)). The plan sponsor must not charge an enrollee a different amount from what was approved in the bid and disclosed to the enrollee for that benefit. Pursuant to 42 C.F.R. § 422.270(b), if the plan

[2] A beneficiary may have more than one member ID for different reasons, including enrollment changes.

sponsor charges amounts in excess of the agreed upon cost-sharing, then the plan sponsor must agree to refund all amounts incorrectly collected from its Medicare enrollees.

Violation Related to Part C Cost Sharing Requirements

CMS determined that Centene failed to comply with cost sharing requirements by charging incorrect cost sharing amounts. More specifically, Centene's claims processing workflow that was in place to identify duplicate claims was being manually overridden inappropriately, which resulted in the plan paying twice for various medical and durable medical equipment (DME) claims in error. There is a substantial likelihood providers charged enrollees additional cost sharing for medical services and DME. Centene did not have evidence whether enrollees received refunds for potential overpayments. This failure violates 42 C.F.R. § 422.270(b).

Basis for Civil Money Penalty

Pursuant to 42 C.F.R. §§ 422.752 (c)(1)(i) and 423.752(c)(1)(i), CMS may impose a CMP for any determination made under 42 C.F.R. §§ 422.510 (a)(1) and 423.509(a)(1). Specifically, CMS may issue a CMP if a MA-PD or PDP has failed substantially to follow Medicare requirements according to its contract. Pursuant to 42 C.F.R. §§ 422.760(b)(2) and 423.760(b)(2), a penalty may be imposed for each enrollee directly adversely affected (or with the substantial likelihood of being adversely affected) by the deficiency.

CMS has determined that Centene failed substantially to carry out the terms of its contract (42 C.F.R. §§ 422.510(a)(1) and 423.509(a)(1)) by substantially failing to comply with requirements at 42 C.F.R. Part 422, Subpart F and Part 423, Subparts C and J. Centene's violations of Part C and Part D requirements directly adversely affected (or had the substantial likelihood of adversely affecting) enrollees.

Right to Request a Hearing

Centene 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. Centene must send a request for a hearing to the Departmental Appeals Board (DAB) office listed below by January 2, 2024[3]. The request for hearing must identify the specific issues and the findings of fact and conclusions of law with which Centene disagrees. Centene must also specify the basis for each contention that the finding or conclusion of law is incorrect.

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:

[3] Pursuant to 42 C.F.R. §§ 422.1020(a)(2) and 423.1020(a)(2), the plan sponsor must file an appeal within 60 calendar days of receiving the CMP notice.

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 emailed 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 Centene 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 3, 2024. Centene 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

Further failures by Centene 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 Centene 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: Tamara McCloy, CMS/OPOLE
Laura Coleman, CMS/OPOLE
Mortez Williams, CMS/OPOLE
Mike Moore, CMS/OPOLE
Verna Hicks, CMS/OPOLE
Michael Taylor, CMS/OPOLE
Jeff Mouakket, CMS/OPOLE
Shannon Comage, CMS/OPOLE
Anthony Jordan, CMS/OPOLE
Kevin Stansbury, CMS/CM/MOEG/DCE