

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

May 1, 2026

Ms. Ruth Krystopolski
President & Chief Executive Officer
Memorial Hermann Health Plan
24 Greenway Plaza
Suite 1150
Houston, TX 77046

Re: Notice of Imposition of Civil Money Penalty for Medicare Advantage-Prescription Drug
Contract Number: H7115

Dear Ms. Krystopolski,

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 Memorial Hermann Health Plan (Memorial Hermann), that CMS has made a determination to impose a civil money penalty (CMP) in the amount of **\$16,676** for Medicare Advantage-Prescription Drug (MA-PD) Contract Number H7115.

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 Memorial Hermann failed to meet that responsibility.

Summary of Noncompliance

In 2024, CMS conducted an audit of Memorial Hermann's 2022 Medicare financial information. In a financial audit report issued on August 28, 2024, CMS auditors reported that Memorial Hermann failed to comply with Medicare requirements related to Part C maximum out-of-pocket (MOOP) limit in violation of 42 C.F.R. Part 422, Subpart C. More specifically, auditors found that in 2022, Memorial Hermann charged enrollees more than the annual Part C MOOP limit. Memorial Hermann's failure to comply with Medicare Part C requirements adversely affected (or had the substantial likelihood of adversely affecting) enrollees because they may have experienced increased out-of-pocket costs.

Part C Maximum Out-of-Pocket Limit Requirements (42 C.F.R. §§ 422.100(f)(4) and (5))

Medicare Advantage (MA) organizations must have an enrollee in-network MOOP amount for basic benefits that is no greater than the annual limit calculated by CMS. In addition, MA Preferred Provider Organization (PPO) plans must also establish a combined MOOP amount for

basic benefits that are provided in-network and out-of-network. MA organizations are responsible for tracking out-of-pocket spending accrued by their enrollees and must alert enrollees and contracted providers when the plan's MOOP amounts are reached. MA organizations must not charge an enrollee in excess of MOOP limits

Violation Related to Part C Maximum Out-of-Pocket Limit Requirements

CMS determined that Memorial Hermann failed to comply with MOOP requirements by failing to track enrollee out-of-pocket spending and charging enrollees more than annual MOOP limits. More specifically, during Memorial Hermann's claims adjudication system transition from 2022-2023, a technical error in the legacy system's MOOP logic caused enrollees to be overcharged for coinsurances and copayments when their 2022 claims were processed in 2023. As a result, enrollees were charged amounts in excess of their annual MOOP limit. Memorial Hermann's failure to comply with MOOP limit requirements violates 42 C.F.R. §§ 422.100(f)(4) and (5).

Basis for Civil Money Penalty

Pursuant to 42 C.F.R. § 422.752(c)(1)(i), CMS may impose a CMP for any determination made under 42 C.F.R. § 422.510(a)(1). Specifically, CMS may issue a CMP if an MA-PD has failed substantially to carry out its contract. Pursuant to 42 C.F.R. § 422.760(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 Memorial Hermann failed substantially to carry out the terms of its contract (42 C.F.R. § 422.510(a)(1)) by substantially failing to comply with requirements at 42 C.F.R. Part 422, Subpart C. Memorial Hermann's violations of Part C requirements directly adversely affected (or had the substantial likelihood of adversely affecting) enrollees and warrant the imposition of a CMP.

Right to Request a Hearing

Memorial Hermann 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. Memorial Hermann must send a request for a hearing to the Departmental Appeals Board (DAB) office listed below by July 1, 2026.¹ The request for hearing must identify the specific issues and the findings of fact and conclusions of law with which Memorial Hermann disagrees. Memorial Hermann 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:

Civil Remedies Division
Department of Health and Human Services
Departmental Appeals Board

¹ 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.

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
Email: kevin.stansbury@cms.hhs.gov

If Memorial Hermann 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 July 2, 2026. Memorial Hermann may choose to have the penalty deducted from its monthly payment or transfer the funds electronically. 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 Memorial Hermann 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 Memorial Hermann 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: Ashley Hashem, CMS/ OPOLE
Verna Hicks, CMS/OPOLE
Scott Garrett, CMS/OPOLE
Kevin Stansbury, CMS/CM/MOEG/DCE