

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

Mr. Curtis Barnett
Chief Executive Officer
USABLE Mutual Insurance Company
601 Gaines Street
Little Rock, AR 72201

Mr. Gray Dillard
Executive VP
USABLE Mutual Insurance Company
601 Gains Street
Little Rock, AR 72201

Re: Notice of Imposition of Civil Money Penalty for Medicare Advantage-Prescription Drug
Contract Numbers: H4213, H6158 and H9699

Dear Mr. Barnett and Mr. Dillard:

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 USABLE Mutual Insurance Company (USABLE), that CMS has made a determination to impose a civil money penalty (CMP) in the amount of **\$57,757** for Medicare Advantage-Prescription Drug (MA-PD) Contract Numbers H4213, H6158 and H9699.

An MA-PD organization's¹ primary responsibility is to provide Medicare enrollees with medical services and prescription drug benefits in accordance with Medicare requirements. CMS has determined that USAABLE failed to meet that responsibility.

Summary of Noncompliance

In 2024, CMS conducted an audit of USAABLE's 2022 Medicare financial information. In financial audit report issued on June 28, 2024, CMS auditors reported that USAABLE failed to comply with Medicare requirements related to Part C cost sharing in violation of 42 C.F.R. Part 422, Subpart F. More specifically, auditors found that in 2022, USAABLE overcharged enrollees for Part C medical services.

¹ Referenced as "plan sponsor".

USAable'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 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)). A plan sponsor is also required to ensure uniform levels of cost-sharing throughout its service area or, where applicable, a segment of its service area (see 42 C.F.R. 422.100(d)(2)). 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 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 USAable failed to comply with cost sharing requirements by charging incorrect coinsurance amounts. USAble Mutual Insurance Company experienced multiple systemic claims processing configuration errors that resulted in incorrect payment methodologies and non-compliance with Medicare requirements. There were four root causes that contributed to this issue.

- First, the Blue Cross Blue Shield (BCBS) Traveler Benefit was misconfigured in their system causing MA claims to be treated like commercial claims. After correcting the error in November 2023, a second error was discovered where claims were priced using the wrong locality fee schedule rates.
- Second, the claims' processing system was incorrectly configured for a specific provider group, resulting in improper claim payments.
- Third, certain claims were incorrectly paid at the Medicare allowable rate rather than the billed charges because USAble failed to configure their new claims processing system to apply the "lesser of usual charge" rule.
- Finally, due to system configurations, providers with a 0% Merit-based Incentive Payment System (MIPS) rate for the current year were not evaluated to determine whether they had prior year MIPS adjustments, which led to some providers being overpaid and increased cost sharing to beneficiaries.

As a result, enrollees were overcharged for various Part C services. USAable did not ensure enrollees were refunded until after the issue was identified on audit, which was several years after the incurred costs. USAable's failure to comply with cost sharing requirements violates 42 C.F.R. §§ 422.100(d)(2) and 422.270(b).

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 a 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 affecting) by the deficiency.

CMS has determined that USAable 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 F. USAable's violations of Part C requirements directly adversely affected (or had the substantial likelihood of adversely affected) enrollees and warrant the imposition of a CMP.

Right to Request a Hearing

USAable 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. USAable must send a request for a hearing to the Departmental Appeals Board (DAB) office listed below by July 1, 2026². The request for hearing must identify the specific issues and the findings of fact and conclusions of law with which USAable disagrees. USAable 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
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

² 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.

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 USAable 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. USAable 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 USAable 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 USAable 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
Scott Labrecque, CMS/ OPOLE
Jessica Quesada, CMS/OPOLE
Kevin Stansbury, CMS/CM/MOEG/DCE