DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
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CENTER FOR DRUG and HEALTH PLAN CHOICE

TO: Medicare Advantage Organizations
Medicare Advantage – Prescription Drug Organizations
Cost-Based Contractors
Prescription Drug Plan Sponsors
Employer/Union Sponsored Group Health Plans

FROM: Cynthia G. Tudor, Ph.D., Director, Medicare Drug Benefit and C&D Data Group

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SUBJECT: Medicare Managed Care Manual – Chapter 9
Medicare Prescription Drug Benefit Manual – Chapter 12

DATE: November 12, 2008

CMS is pleased to release the final versions of Chapter 9 of the Medicare Managed Care Manual (Employer/Union Sponsored Group Health Plans) and Chapter 12 of the Prescription Drug Benefit Manual (Employer/Union Sponsored Group Health Plans). CMS considered all of the comments received on the drafts of Chapter 9 and Chapter 12 that were released on May 14, 2008.

Chapters 9 and 12 contain information about:

- The application of CMS employer group waiver authority;
- Employer/union group health plan sponsorship of employer/union-only group waiver plans (EGWPs);
- Employer/union group health plan sponsorship of individual MA plans, MA-PD plans and PDPs;
- Identification of employer/union sponsored group health plan enrollees;
- Private reinsurance arrangements with employer/union group health plan sponsors
- EGWPs and COBRA;
- EGWP application procedures;
- Approved employer/union sponsored group health plan waivers; and
- Employer/Union Sponsored PFFS Plans (Chapter 9 only)

Please note that the final versions of Chapters 9 and 12 contain three significant changes or clarifications relative to the draft version released for comment on May 14, 2008:

1. We have clarified in section 20.3.6 of Chapter 9 and section 20.3.5 of Chapter 12 that in order to ensure that employer/union group sponsors are receiving accurate and reliable information to make informed decisions on behalf of their retirees, it is critical that health plan representatives such as agents and brokers (employed and contracted) performing these marketing and sales activities are knowledgeable about the products they are selling, including "800 series" plans. CMS expects that PDP sponsors will ensure that brokers and agents are knowledgeable about the products they are selling by requiring they are trained on Medicare rules and regulations, as well as on plan details specific to the plan products being sold. However, the broker/agent testing requirements do not apply under these circumstances.

2. We have clarified in section 20.5 of Chapter 9 and section 20.4 of Chapter 12 that, as part of the waiver of the uniform premium requirement, entities offering "800 series" plans serving multiple regions or the nation are allowed to vary premium and cost sharing between defined market areas within the same employer/union sponsored group plan. This waiver is contingent on the requirement that the market areas (geographic areas) within the employer sponsored group plan with premium variation are based on objective market information demonstrating verifiable differences in medical or drug costs between these market areas. The MAO or PDP sponsor must have documentation validating the medical or drug cost variation in these market areas comprising the plan. MAOs and PDP sponsors will be required to retain all of these documents and must provide access to this documentation for inspection or audit by CMS (or its designee) in accordance with the requirements of 42 CFR 422.503(d) and 422.504(d) and (e) for MAOs and 42 CFR 423.504(d) and 423.505(d) and (e) for PDP sponsors.

3. We have clarified in section 20.17 of Chapter 9 and section 20.13 of Chapter 12, which address the administration of non-calendar year plans, the transfer of true out-of-pocket and gross covered drug cost accumulators when a beneficiary joins a non-calendar year plan during the middle of the plan year. Specifically, we have clarified that any accumulators incurred under a different plan between the beginning of the non-calendar plan year and the effective date of enrollment year **and within the same calendar year** must carry over with the beneficiary.

We also remind Part D sponsors that the former Center for Beneficiary Choices (CBC) was reorganized into the Center for Drug and Health Plan Choice (CPC) in June 2008 to better reflect the responsibilities of the Center as it works with health and drug plans on behalf of our beneficiaries. The Medicare Drug Benefit and C&D Data Group (MDBG) and the Medicare Drug and Health Plan Contract Administration Group (MCAG) are now responsible for policy and operations related to PDP and MA EGWPs, respectively, and employer/union sponsored group health plan enrollments in individual PDPs and individual MA plans, respectively. The CMS Regional Offices are responsible for management of direct contract and 800 series accounts, and sponsors should direct all questions to their Regional Office account managers, who will work collaboratively with Central Office specialists in MDBG and MCAG to answer those questions.

Chapter 9 will also be posted at:

http://www.cms.hhs.gov/Manuals/IOM/itemdetail.asp?filterType=none&filterByDID=-99&sortByDID=1&sortOrder=ascending&itemID=CMS019326

Chapter 12 will also be posted at:

http://www.cms.hhs.gov/PrescriptionDrugCovContra/12_PartDManuals.asp#TopOfPage.