

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

DATE: December 19, 2008

TO: All Part D Plan Sponsors, Medicare Advantage Organizations, Cost Plans, and Health Care Pre-Payment Plans

FROM: Anthony Culotta, Director
Medicare Enrollment & Appeals Group

SUBJECT: Important Information on Part C and Part D Appeals for the 2009 Plan Year

This HPMS memo announces three appeals related changes that will be effective in January 2009.

Issues Applicable to Medicare Health Plans and Part D Plan Sponsors

Use of Truncated Health Insurance Claim Numbers in Independent Review Entity Letters

As announced in the 2009 Call Letter, beginning January 1, 2009, beneficiary correspondence, including decision letters, issued by the Part C and Part D independent review entities (IREs) will only include the beneficiary's first initial, the beneficiary's full last name, and the last four digits of the beneficiary's health insurance claim number (HICN). This change is being implemented as part of CMS' ongoing efforts to safeguard the privacy and security of beneficiaries' protected health information (PHI).

Part D plan sponsors requested that an additional data point be used in the Part D IRE's decision letters to assist the plans in matching the reconsideration decision letter with the correct Part D plan enrollee. To that end, the Part D IRE will also include the enrollee's date of birth (DOB) on decision letters beginning January 1, 2009.

Based on feedback regarding Part C reconsiderations, it appears that an additional data point will not be needed in the Part C IRE decision letters in order to ensure that Medicare Health Plans can match a Part C reconsideration decision letter to an enrollee. Therefore, the Part C IRE will not be including the enrollee's DOB on decision letters at this time. CMS welcomes any additional feedback Medicare Health Plans may have about the potential need to include the enrollee's DOB in Part C IRE decision letters.

Including the Evidence of Coverage and Formulary in Cases Files Sent to an IRE

In an effort to ensure that administrative law judges (ALJs) have access to complete and comprehensive case files, all Medicare Health Plans and Part D plans are *strongly encouraged* to include a complete copy of the relevant Evidence of Coverage (EOC) and, for Part D plans, the relevant formulary, with all case files sent to the Part C or Part D IRE, beginning January 1, 2009. The current practice with respect to EOCs and formularies is to include excerpts of these plan documents, rather than entire copies, in case files requested by an ALJ. However, the Office of Medicare Hearings & Appeals (OMHA) ALJs have indicated that these documents are needed in their entirety in order to properly adjudicate an appeal. Additionally, the Medicare Appeals Council (MAC) recently declined to review certain Part D cases referred for own motion review because the ALJ did not have access to a complete copy of the relevant Part D plan formulary and/or EOC at the time of the ALJ hearing. Thus, CMS believes that it is in the plans' best interests to ensure that every case file sent to an IRE includes a CD-ROM with complete versions of these documents. This will ensure that cases subsequently appealed to an ALJ include a copy of all information necessary to adjudicate the appeal.

Issues Applicable Exclusively to Part D Plan Sponsors

Revised Part D Standardized Notices

Pursuant to the Paperwork Reduction Act (PRA), CMS recently revised the standardized Part D pharmacy notice entitled "Medicare Prescription Drug Coverage & Your Rights" (Form CMS-10147) and the standardized Part D denial notice entitled "Notice of Denial of Medicare Prescription Drug Coverage" (Form CMS-10146). Part D plan sponsors should begin using these revised standardized forms as soon as possible. Plans that fail to transition to these new forms by March 1, 2009 will be deemed out of compliance. The revised standardized Part D notices and instructions can be found on the CMS website at:

<http://www.cms.hhs.gov/MedPrescriptDrugApplGriev/> Click on the link in the left margin for Plan Sponsor Notices & Other Documents; the notices are posted under Downloads.

If you have any questions regarding this HPMS notice, please contact Kathryn Smith at (410) 786-7623.