

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



CENTER FOR DRUG and HEALTH PLAN CHOICE

TO: All Part D Sponsors

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

SUBJECT: Claims for Drugs Prescribed or Dispensed by Excluded Providers

DATE: January 13, 2010

The purpose of this memorandum is to clarify two points regarding the responsibility of Part D sponsors related to payment for prescription drug claims involving excluded providers. In the 2010 Call Letter, CMS described the follow-up actions that Part D sponsors should take upon discovering that payment has been made for a drug prescribed by a provider who has been excluded from participation in the Medicare program. The existing requirement, stated in §1862(e)(1) of the Social Security Act and in 42 CFR § 1001.1901, is that Medicare payment may not be made for items or services furnished by an excluded provider or entity or on the prescription of an excluded physician.

The first point of clarification is that these requirements apply not only to claims for drugs prescribed by excluded providers, but also to claims for prescription drugs dispensed by pharmacies that are excluded from Medicare participation. Therefore, sponsors must have processes in place to identify and prevent payment of Part D claims at point-of-sale (POS) when such claims are for drugs prescribed or dispensed by providers who have been excluded by the Department of Health and Human Services Office of Inspector General (OIG). When sponsors identify these claims at point-of-sale (POS), the claims should be denied.

The second point of clarification relates to “timing issues” associated with updating excluded provider lists and sponsor systems. This reference must not be interpreted as providing Part D sponsors with the discretion to delay either identifying excluded providers or updating sponsor systems to incorporate this information. The OIG updates the List of Excluded Individuals and Entities (LEIE) on a monthly basis, and exclusions are generally posted 15 days prior to the exclusion effective date. Therefore, sponsors have a reasonable amount of time to update their systems before the exclusion is effective in order to reject claims beginning with the effective date of the exclusion. After the effective date of the exclusion, any claims not rejected at POS must be reversed upon identification and the prescription drug event (PDE) data adjusted.

To ensure that sponsor systems are updated timely, Part D sponsors should subscribe to the OIG LISTSERV to receive immediate notice of updates to the LEIE. Subscribing to the LISTSERV is free and may be accomplished via the OIG Web site at <http://oig.hhs.gov/maillinglist.asp>.

With regard to the information contained in the exclusion lists, the OIG noted that many of their provider exclusions pre-dated the more recent requirement that providers have a national provider identifier (NPI) or the provider does not have an NPI. The OIG plans to include an NPI field on the database when it is upgraded. Sponsors must not use the absence of an NPI as a reason for not implementing this requirement.

A model letter (5017-Excluded Provider Model Letter) to be used when a sponsor is paying a claim for a Part D covered drug prescribed or dispensed by a provider on the LEIE with a future exclusion effective date is attached. This letter should be sent to alert the member that future medication fills will no longer be covered because the prescriber or pharmacy is being excluded from participation in the Medicare Program based on OIG findings.

If you have any questions concerning this memorandum, please contact Deborah Larwood at 410-786-9500 or Deborah.Larwood@cms.hhs.gov.