

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850



CENTER FOR MEDICARE

TO: All Part D Sponsors

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

SUBJECT: Revised Notice to Part D Sponsors Operating in Louisiana

DATE: September 1, 2010

This memo revises and supersedes our memo of August 13, 2010: “Notice to Part D Sponsors Operating in Louisiana”. As the result of recent compliance actions, CMS has determined that some Part D sponsors have continued to pay sales taxes on Louisiana pharmacy claims despite that fact that Louisiana state law prohibited the imposition of local sales taxes on Part D prescription drug sales effective July 1, 2006. The Louisiana law can be found at the following link: www.legis.state.la.us/lss/lss.asp?doc=208447. (State sales tax for all prescription drugs was eliminated in Louisiana by Constitution in 2003).

In our previous memo we instructed sponsors to reject any Part D claims originating in Louisiana that included a sales tax charge. We are now instead requiring sponsors to take immediate steps to ensure that no further sales taxes are paid on any Part D Louisiana pharmacy claims when adjudicating and paying such claims. Since local sales tax on non-Part D prescriptions is permitted, and we know that pharmacies generally cannot distinguish Part D claims from any other types of claims at this time, we do not believe that claim denial is the appropriate approach to eliminating sales tax on claim adjudication. We note that the identification of Part D claims will be facilitated in the future by our 2012 regulatory requirement for Part D sponsors to utilize unique billing identifiers for Part D claims.

We also remind you that it is the sponsor’s responsibility to determine whether sales tax on Part D claims is permissible in any locality. CMS expects sponsors to correctly adjudicate the Part D benefit without reliance on CMS to identify such errors. CMS is continuing to consider corrective action on this issue and will be providing additional guidance on recoupment efforts that sponsors should undertake in an upcoming memo.

If you have any questions concerning this memorandum, please contact your Account Manager.