NON-RENEWAL AND SERVICE AREA REDUCTION GUIDANCE

This document provides guidance to organizations/sponsors on the process for providing notice to beneficiaries in plans that are non-renewing their contracts or individual Plan Benefit Packages (PBPs), or reducing their service areas for Contract Year 2011. The guidance covers the content, format, marketing review, and deadline for receipt by beneficiaries of the notices. It also includes information on Medigap. This guidance has been updated to reflect the regulation issued on April 15, 2010 and the Medicare Marketing Guidelines (MMG) released on June 4, 2010. Please disregard all previous guidance.

Attached to the guidance are three model notices:

- A model final beneficiary notice for MA, MA-PD and cost contract plans;
- A model final beneficiary notice for Prescription Drug Plans (PDPs); and
- A **new** model final beneficiary notice for Special Needs Plans (SNPs) that exclusively enroll dual eligibles;

For this year, we have added language to the model final notice for beneficiaries in MA, MA-PD, Cost Contract, and EGWP plans that advises LIS eligibles and dual eligibles that CMS will enroll them in a prescription drug plan effective January 1, 2011 if they fail to choose a new plan on their own. We have also included this language in a new notice this year for SNPs that exclusively enroll dual eligibles. Please note that this letter is to be sent **without** the Medigap attachment (Tab E), so as to avoid confusion for dual eligible beneficiaries who may be prohibited from purchasing a Medigap policy and whose state may pay their cost-sharing if they are in Original Medicare.

We have removed the model interim beneficiary notice from the guidance this year, in part because of the earlier deadline for receipt of the final beneficiary notice this year, which is now October 2, 2010. Organizations should not send a non-renewal notice prior to September 21, 2010.

All three model notices have been assigned CMS Product Numbers that appear on the lower right hand corners of each page of the notices. Plans should keep these numbers on the versions of the notices they create and send out so that beneficiaries who contact 1-800-MEDICARE can reference the specific notice about which they are calling.

We have also provided model outbound scripts if organizations/sponsors choose to adopt the new option allowed by the April 15, 2010 regulation for providing information about enrollment alternatives to their members in plans that are non-renewing or reducing their service areas. Finally, there is an overview of Medigap policies and state-specific notices for the three Medigap waiver states of Massachusetts, Minnesota and Wisconsin.

A. Notices

1. Model Final Beneficiary Notices for MA, MA-PD, Cost Contract, EGWP Plans, PDPs, and SNPs that Exclusively Enroll Dual Eligibles that are Non-Renewing or Reducing Their Service Areas

a. Delivery Deadline for Final Beneficiary Notice

MA, MA-PD, cost contract, EGWP, and PDP plans must mail the final beneficiary notice so that it is received by the affected beneficiaries no later than October 2, 2010, CMS expects organizations that are non-renewing or reducing their service areas to send out the personalized final beneficiary notice after September 21, 2010. **If your organization is not able to mail the final notice so that it will be received on or before October 2, 2010, please inform your AM of your inability to execute the mailing as required.** Additionally, CMS recommends that organizations/sponsors use first class postage, since these notices will be mailed close to the required delivery deadline. Regardless of when the notices are mailed, all MA, MA-PD, cost contract and EGWP plan notices must be dated October 2, 2010 to ensure national consistency in the application of Medigap Guaranteed Issue (GI) rights to all beneficiaries. PDP notices can be dated to reflect the date that the notice is printed. EGWP organizations/sponsors non-renewing or reducing the service area of a non-calendar year plan need to ensure that the final beneficiary notice is received by affected beneficiaries 90 days before the plan year end date.

b. Content and Format of Model Final Beneficiary Notice

The model final beneficiary notices for all types of organizations are attached to this guidance (Tabs A, B, and C). Please choose the model notice that applies to your type of organization.

CMS only prepares state-specific Medigap protections for Massachusetts, Minnesota, and Wisconsin, the original "waiver states." Many other states have Medigap protections that go beyond federal requirements. CMS will advise our State Health Insurance Assistance Program (SHIP) partners so that they can provide the appropriate state-specific Medigap information when they are contacted by beneficiaries.

Federal Regulations at 422.506(a)(2)(ii) and 423.507(a)(2)(ii) state that the MA organizations or PDP sponsors must:

> ***…provide information about alternative enrollment options by doing one or more of the following:***
>
> ***(A) Provide a CMS approved written description of alternative MA plan, MA-PD plan, and PDP options available for obtaining qualified Medicare services within the beneficiaries' region.***

(B) Place outbound calls to all affected enrollees to ensure beneficiaries know who to contact to learn about their enrollment options.

If an organization/sponsor chooses Option A above, then the organization may obtain the necessary information from HPMS. A report entitled "Replacement Organizations – Service Area Losing Organizations for CY 2011" is available on HPMS and may be accessed by all MA, MA-PD, cost contract, EGWP plans, and PDP sponsors. This report provides each organization/sponsor that is non-renewing or reducing its service area a list of those Medicare health plan organizations/Part D sponsors that will be available to affected beneficiaries as replacement choices in 2011.

To access the report, go to the HPMS Home Page, then Contract Management, Contract Reports, 2011, Non-Renewal/SAR Reports, Organization Replacement Report, Select a Contract Number and State. The table that is displayed can be downloaded as an Excel file by clicking on "Download to Excel" at the bottom of the page and can then be attached to the beneficiary notice.

MA, MA-PD, cost contract, EGWP plans, and PDP sponsors that encounter any problems with the HPMS report should contact the HPMS Help Desk at 1-800-220-2028 or HPMS@cms.hhs.gov.

If an organization/sponsor chooses option B above, then the organizations/sponsor should use CMS' program-specific model outbound informational scripts (Tab D) for organizations/sponsors to use when making these calls to beneficiaries.

MA, MA-PD, and PDP organizations/sponsors **cannot** include information about their own Medicare supplemental policies in the body of the final notice. Plans must include the "Important Plan Information" mailing statement on the envelope used to mail the final beneficiary notice, consistent with requirements in section 50.2 of the MMG.

If the organization/sponsor that is non-renewing or reducing its service area wishes to provide additional marketing materials on other product options, including Medicare supplemental policies, it may do so in a separate mailing after the final notice. Any marketing to members of a plan/sponsor that is non-renewing or reducing its service area, whether the plan's/sponsor's own members or a competitor's members, cannot take place until October 2, 2010. All requirements in the MMG apply.

EGWPs may customize the model final beneficiary notice to the extent that modifications will more clearly and accurately reflect the benefits available to EGWP enrollees.

The final notice for MA, MA-PD, cost contract and EGWP plans and PDP sponsors should be on 8 ½" x 11" sized paper and mailed in a similarly-sized envelope. These final beneficiary notices must also include the individual beneficiary's name and address to enable affected beneficiaries to prove their special rights to Medigap insurers and other Medicare organizations/sponsors.

c. CMS RO Review

All MA, MA-PD, cost contract, and PDPs are required to use the models provided with no changes to expedite the review process. The final beneficiary notice should be submitted via HPMS as a file and use document, with no 45/10 day review option.

The scripts used for outbound informational calls to affected beneficiaries may be submitted as file and use documents using the new HPMS code 6007. If the plan makes any modifications to the script, it must be submitted for a 45/10 day review.

CMS has waived the prior review and approval requirements for all EGWPs. Therefore, EGWPs are not required to submit or receive approval of their final beneficiary notification notices or the outbound informational script from CMS RO staff.

d. Medigap Information

1) Paragraph below applies to MA Organizations

MAOs that are non-renewing or reducing their service areas must inform all of their Medicare beneficiaries, including those who are eligible for Medicare due to a disability and individuals with End Stage Renal Disease (ESRD), about their Medigap rights. Full information on this topic is provided in the enclosed document "What You Should Know about Medigap" (Tab E). CMS prepares state-specific model final notices regarding Medigap protections for Massachusetts, Minnesota, and Wisconsin, the three original "waiver states" (Tabs F, G, and H). Many other states have Medigap protections that go beyond federal requirements. The state-specific information can be obtained by contacting your local SHIP office or State Department of Insurance. Use of this state-specific language will ensure accurate communication of these provisions. Note that SNPs that exclusively enroll dual eligibles are not include this attachment (Tab E), to avoid confusion for dual eligibles, who may be prohibited from purchasing a Medigap policy, and whose State may pay their cost-sharing in Original Medicare.

2) Paragraph below applies to trial period beneficiaries enrolled in an MA or MA-PD plan

Special rules apply for affected beneficiaries in a managed care trial period. These individuals must actively and voluntarily disenroll from their non-renewing MA plans in order to choose from a broader range of Medigap policies available on a GI basis. MA organizations must provide these beneficiaries with written documentation of their voluntary disenrollment, even if the voluntary request is made for a December 31, 2010, effective date. Beneficiaries may be required to submit this written documentation to a Medigap issuer as proof of their right to purchase certain GI Medigap policies. CMS Model Notices for Voluntary Disenrollment are found in the Medicare Managed Care Manual, Chapter 2, on CMS' website at http://www.cms.gov/MedicareMangCareEligEnrol/.

B. “Close-Out” Information

In the fall of 2010, CMS will provide a “close-out” letter to organizations/sponsors that are non-renewing or reducing their service areas with complete details regarding their obligations after non-renewing or reducing their service areas. These instructions are to ensure that affected beneficiaries experience a smooth transition to another health coverage option and to define those tasks that the organization must perform after the last day of its contract.