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DATE: September 17, 2026

TO: Current and Prospective Medicare Advantage Organizations

FROM: Gerard J. Mulcahy, Director
Medicare Drug & Health Plan Contract Administration Group

SUBJECT: Waiver for Certain Organizations Seeking to Offer Medicare Advantage Plans to Federal Employee Health Benefit Program and to Postal Service Health Benefit Program Annuitants

Background

The United States Office of Personnel Management (“OPM”) operates the FEHB Program to provide employer-sponsored group health coverage to almost nine million federal employees, annuitants, and their family members. OPM administers the FEHB Program pursuant to its authority under 5 USC §§ 8901-8914, the FEHB regulations at 5 CFR Part 890, and the applicable Federal Acquisitions Regulations at 48 CFR Chapter 16. Federal annuitants and their family members can maintain FEHB coverage after the annuitant retires.

On January 25, 2023, OPM issued guidance to FEHB Carriers, allowing them to offer standalone PDPs to FEHB annuitants and their family members who are eligible for Part D under certain circumstances.¹ OPM also issued the guidance in preparation for implementing the Postal Service Reform Act of 2022 (PSRA), which created the PSHB Program that took effect in 2025. Under the PSRA, PSHB Carriers are required to provide prescription drug coverage for most Medicare-eligible Postal Service annuitants and their Medicare-eligible family members through a Part D plan. OPM implemented this requirement by permitting the PSHB Part D coverage to be provided through either a Medicare Advantage Prescription Drug (MA-PD) plan or a Medicare Prescription Drug Plan (PDP). Considering the above statutory changes and OPM’s guidance, in 2024, an FEHB Carrier requested that CMS waive its licensure requirement for FEHB Carriers seeking to offer PDP EGWPs exclusively to eligible FEHB enrollees pursuant to the new flexibilities announced by OPM. CMS granted that waiver, as announced in an HPMS memo dated December 19, 2024.

Recently, CMS received a similar request from an FEHB Carrier asking that CMS consider waiving its licensure and state certification requirements for FEHB Carriers seeking to offer MA-PD EGWPs exclusively to eligible FEHB enrollees. The requested waiver would be complementary to the waiver announced on December 19, 2024, as it would provide FEHB Carriers seeking to offer MA-PD EGWPs exclusively to eligible FEHB enrollees the same

¹ Office of Personnel Management, Carrier Letter 2023-02: FEHB and Medicare Part D Prescription Drug Coordination, January 25, 2023

waiver already available to FEHB Carriers seeking to offer PDP EGWPs exclusively to eligible FEHB enrollees.

Conditions of Waiver

CMS has determined that a waiver of the state licensure requirements for FEHB and PSHB Carriers seeking to offer MA-PD EGWPs exclusively to eligible individuals enrolled in FEHB or PSHB plans will facilitate the offering of EGWPs to federal and Postal Service annuitants and their Medicare eligible family members without jeopardizing the well-being of Part C beneficiaries or creating additional risk for the Part C program.

CMS waives for such carriers the requirements at 42 CFR §§ 422.400(a) and 422.503(b)(2) that an MA organization that CMS contracts with be licensed or otherwise authorized to operate under state law as a risk bearing entity eligible to offer health insurance or health benefits coverage in each state in which it offers an MA-PD plan, provided that the contracting entity is affiliated with a risk-bearing entity that is so licensed or authorized in each such state, as described below. For such plans, CMS also waives the requirement set forth at § 422.400(b) requiring an unlicensed MA organization to obtain state certification demonstrating financial solvency and such other standards as the State may require for it to operate as an MA organization as described below.

This waiver is only available to entities that meet the following conditions:

- The entity relying upon the waiver is contracted with OPM as an FEHB Carrier offering health benefits to federal employees, annuitants, and their eligible family members or as a PSHB Carrier offering health benefits to Postal Service employees, annuitants, and their eligible family members;
- The entity has been approved by OPM to enroll eligible individuals in an MA-PD EGWP offered by the entity;
- The contracting MA Organization is affiliated with a risk-bearing entity that is licensed or otherwise authorized to operate under state law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each state in which the entity offers or plans to offer the MA-PD EGWP;
- The waiver only applies to the extent that the entity offers or plans to offer MA-PD EGWPs exclusively to federal or Postal Service annuitants and their family members qualified to receive benefits under OPM rules who are eligible for Medicare Part C and receive health benefits through an FEHB or PSHB plan offered by the entity; and
- The entity has applied for and been approved to contract with CMS to offer MA-PD EGWPs exclusively to Part C-eligible individuals enrolled in employment-based retiree health coverage.

This waiver does not apply to any MA organizations that are not FEHB or PSHB Carriers contracting with OPM, nor does it apply with respect to any Part C plan offerings outside of the FEHB Program and PSHB Program by MA organizations that are also FEHB and PSHB Carriers contracting with OPM. This waiver is limited to CMS purposes.

Organizations should submit any questions regarding this waiver to the Medicare Drug & Health Plan Contract Administration Group (MCAG) Division of Policy, Analysis, and Planning (DPAP) mailbox: <https://dpap.lmi.org/dpapmailbox/mailbox>.