

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



**MEDICARE DRUG BENEFIT AND C & D DATA GROUP**

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**CORRECTIVE ACTION PLAN REQUEST**

May 5, 2015

Contract IDs: H3916, H3957, H5106

Melissa Stephens  
Medicare Compliance Officer  
Highmark, Inc.  
120 5<sup>th</sup> Avenue  
Suite 1833  
Pittsburgh, Pennsylvania 15222-3099

VIA EMAIL: melissa.stephens @highmark.com

**RE: Failure to Comply with CMS CY2015 Bid Instructions**

Dear Ms. Stephens,

The Centers for Medicare & Medicaid Services (CMS) is issuing a request for Highmark, Inc., (“Highmark”), which operates the Medicare Advantage Prescription Drug Plan (MA-PD) contracts identified above, to develop and implement a corrective action plan to address the organization’s failure to comply with CY2015 Part D bid submission requirements.

In the 2015 Call Letter (released on April 7, 2014, via the Health Plan Management System (HPMS)) and in an HPMS memo, entitled *Release of Contract Year (CY) 2015 Bid Upload Functionality in HPMS* (released on May 9, 2014), CMS provided instructions for submitting bid, initial actuarial certification, and benefit certification information. Part D program regulations at 42 C.F.R. § 423.265(c) state that each potential Part D sponsor must submit bids (and supplemental information specified by CMS) that reflect the features (e.g., premium amount, cost sharing) and projected cost estimates of each benefit package it expects to offer. For CY2015, sponsors provided their bid information through three different submissions: a proposed formulary, a Bid Pricing Tool (BPT), and a Plan Benefit Package (PBP) submitted together by the statutory June 2, 2014 deadline. In general, the PBP describes the structure of a proposed benefit package (e.g., co-pay amounts, deductibles) while the BPT describes the underlying basis used to calculate the price of the benefit package. The information in all three of these submissions must combine to reflect a consistent benefit package. Additionally, pursuant to 42 C.F.R. § 423.505(k)(4), the sponsor’s CEO or CFO must submit a certification (referred to

as the “benefit certification”) that the information provided in each bid is accurate, complete, and truthful.

Federal regulations at 42 C.F.R. § 423.104(f)(3) state that an MA organization offering coordinated care plans must offer required prescription drug coverage throughout its service area. The regulations at § 423.100 define “required prescription drug coverage” as the coverage of Part D drugs under either a basic prescription drug plan or an enhanced alternative plan provided there is no MA monthly supplemental beneficiary premium applied under the plan.

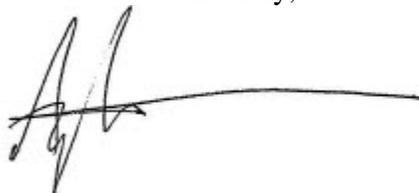
Organizations are responsible for ensuring that complete and accurate CY 2015 bids were submitted by the June 2, 2014 deadline. Yet, the Part D portion of Highmark’s initial MA-PD bid failed to constitute required prescription drug coverage. This deficiency was discovered when CMS conducted a routine MA-PD basic offering analysis report. The report signaled that Highmark’s bid submission only contained enhanced alternative plans and those plans alternatively did not have \$0 Part D Supplement Premium. The need for CMS to work with Highmark to correct its CY2014 bid to include this fundamental plan element indicates that it failed to comply with Part D regulatory requirements and follow CMS bid instructions.

CMS requests that your organization take corrective action to come into compliance. The first opportunity for Highmark to demonstrate that it has taken the necessary corrective action will be the 2016 bid cycle. Therefore, CMS requests that Highmark address these areas of noncompliance in the spring of 2015 leading up to the 2016 bid cycle. CMS will rely on Highmark’s 2016 bid submission to determine whether the corrective action plan has been successfully implemented. CMS will consider the CAP closed once the Division of Formulary and Benefit Operations has determined that Highmark’s 2016 bid submission demonstrates that it has effectively resolved the issues described above. Should your organization fail to be in compliance with these requirements in the future, CMS may consider taking enforcement actions in the form of the imposition of intermediate sanctions (e.g., the suspension of marketing and enrollment activities) or civil money penalties or the issuance of a contract termination notice.

Please be aware that this compliance notice will be included in the record of your organization’s past Medicare contract performance, which CMS will consider as part of our review of any application for new or expanded Medicare contracts your organization may submit. For past performance analysis purposes, this is considered a Part D issue without beneficiary impact. CMS notes that we are issuing this compliance notice based on information that we obtained from sources other than the sponsor’s own self-disclosure.

If you have any questions about this notice, please contact Michael Neuman at (410) 786-7069 or [michael.neuman@cms.hhs.gov](mailto:michael.neuman@cms.hhs.gov) and copy your account manager.

Sincerely,

A handwritten signature in black ink, appearing to be 'M. Neuman', followed by a long horizontal line extending to the right.

Amy K. Larrick  
Acting Director  
Medicare Drug Benefit C & D Data Group

cc via email:

Linda Anders, CMS  
Scott Nelson, CMS  
Kevin Berna, CMS