

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

REQUEST FOR CORRECTIVE ACTION PLAN

February 27, 2014

Ms. Cyndi Baily
SVP & Chief Compliance Officer
WellCare Health Plans, Inc.
8735 Henderson Rd, Renl
Tampa, FL 33634

Contract IDs: H0117, H0320, H0712, H0913
H1032, H1112, H1216, H1264
H1416, H1903, H2491, H3361,
H9730, S5967

Delivered via email to: medicarecomplianceofficer@wellcare.com

Dear Ms. Baily:

The Centers for Medicare & Medicaid Services (CMS) is issuing this request for the development and implementation of a corrective action plan (CAP) to WellCare Health Plans, Inc., which operates through its subsidiaries the Medicare Advantage-Prescription Drug (MA-PD) and Medicare Prescription Drug Plan (PDP) Sponsor contracts listed above, in response to its failure to comply with Part D requirements concerning the representation of its contracted pharmacy network in reports to CMS for use in populating the Medicare Plan Finder (MPF). WellCare's pharmacy network errors also prevented its plan members from receiving point-of-sale coverage for Part D drugs at certain network pharmacies.

Part D sponsors must provide CMS with information necessary to facilitate a process for current and prospective beneficiaries to exercise choice in obtaining prescription drug coverage. 42 C.F.R. §§ 423.48 and 423.505(f)(2). Pursuant to that authority, CMS collects pharmacy network and drug pricing information from Part D sponsors to maintain the Medicare Plan Finder (MPF), a searchable website where beneficiaries can find information about a PDP's network pharmacies in their area and the prices they can expect to pay for Part D drugs under sponsors' plans. CMS routinely provides instructions to Part D sponsors on the process for submitting their pharmacy network and drug pricing information, including the "2014 Drug Pricing Guidelines and Calendar" released on April 26, 2013. According to these instructions, sponsors were required to begin submitting their CY 2014 network and pricing information on September

9, 2013, to allow the MPF to display information beneficiaries needed to select a Part D plan during the annual election period (AEP) that began on October 1, 2013. On page 12 of the instructions, CMS noted that sponsors' submissions were to include a full representation of their contracted Part D networks. CMS also advised sponsors on page 7 that we would review all MPF submissions and would suppress from display information about plans whose data submission was incorrect. We adopted this policy to prevent beneficiaries from relying on incorrect information in making their plan election for the upcoming benefit year.

In November 2013, some pharmacies contacted CMS with their concern that they had signed contracts to participate in WellCare's Part D network but were not listed as WellCare pharmacies on the MPF. When CMS brought this complaint to WellCare's attention, it acknowledged in a November 26, 2013, message that its pharmacy benefit manager, Catamaran, first received complaints from pharmacies omitted from WellCare's MPF display on October 18, 2013. Catamaran determined that approximately 1,200 WellCare pharmacies had been omitted from its data submission for the CY2014 plan year. Catamaran did not alert WellCare until November 7, 2013, to the fact that its CY 2014 MPF submissions to that point had failed to include approximately three percent of the WellCare Part D pharmacy network until November 7, 2013. WellCare never reported the matter to CMS, allowing pharmacy network information it knew (through its delegated entity, Catamaran, the performance of which WellCare is accountable according to 42 C.F.R. §423.505(i)(1)) to be incorrect at least as early as October 18, 2013, to remain displayed on the MPF during the AEP. Also, in a later communication to CMS on January 22, 2014, WellCare stated that an audit it conducted in December 2013 identified 1,888 discrepancies between its actual contracted pharmacy network and the information it provided for the MPF. In the same message, WellCare stated that its MPF submission discrepancies continued after January 1, 2014, as its December 2013 audit methodology failed to account for 1,492 of its network pharmacies.

As noted above, CMS has instructed all Part D sponsors that their information will be suppressed from display on the MPF upon a determination that the submitted information is incorrect. WellCare avoided this consequence during the AEP, when beneficiaries most rely on the information displayed on the MPF, by failing to disclose to CMS the information it had concerning its inaccurate MPF submissions.

The confusion surrounding WellCare's pharmacy network had beneficiary impact beyond the provision of incorrect information to beneficiaries. In response to an inquiry from CMS based on beneficiary complaints we had received, WellCare also reported in February 2014 that it rejected approximately 950 Part D claims between January 1 and January 9, 2014 when its claim processing system failed to recognize certain contracted pharmacies as members of the WellCare network and denied claims for Part D drugs submitted by WellCare plan members. In these instances, WellCare failed to comply with the requirement stated at 42 C.F.R. § 423.505(b)(17) that it provide Part D benefits by means of a point-of-service (POS) system to adjudicate drug claims in a timely and efficient manner.

Consistent with CMS' authority at 42 C.F.R. §§ 423.507(b)(3) and 423.509(c), we request that your organization develop and implement a CAP designed to ensure that your organization will develop and implement a plan for coming into and maintaining compliance with Part D

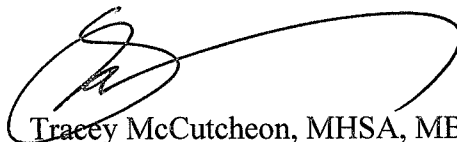
requirements concerning the accurate reporting of MPF data, the production of pharmacy directories, the payment of claims at point of sale for network pharmacies, and the effective oversight of delegated entities. CMS will continue to monitor your organization's performance and will consider the CAP closed when it is demonstrated that your organization has come into compliance with the identified program requirements.

We appreciate your organization's prompt attention to this matter. Should your organization fail to come into compliance in a timely manner, CMS may consider taking enforcement actions in the form of intermediate sanctions (e.g., the suspension of marketing and enrollment activities) or civil money penalties pursuant to our authority under 42 C.F.R. 423, Subpart O or the issuance of a contract termination notice pursuant to 42 C.F.R. 423, Subpart K.

Please be aware that this CAP request will be included in the record of your organization's past Medicare contract performance, which CMS will consider as part of your 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 with beneficiary impact. In issuing this CAP request, CMS considered that WellCare failed to self-disclose this matter.

If you have any questions about this matter, please contact your CMS account manager, Laura Collins at laura.collins@cms.hhs.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tracey', enclosed within a large, loopy oval shape.

Tracey McCutcheon, MHSA, MBA
Acting Director
Medicare Drug Benefit and C & D Data Group

cc: Scott Nelson, CMS Part D Compliance Lead
Laura Collins, CMS Account Manager