

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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April 17, 2014

Contract ID: H3327

Ms. Lisa Mingione  
Chief Compliance Officer  
TOUCHSTONE HEALTH HMO, INC.  
One North Lexington Avenue 12th Floor  
White Plains, NY 10601

**CORRECTIVE ACTION PLAN (CAP) REQUEST**

*Delivered via email to Lisa Mingione at lmingione@touchstoneh.com*

Dear Ms. Mingione:

The Centers for Medicare & Medicaid Services (CMS) is issuing this compliance notice to **TOUCHSTONE HEALTH HMO, INC.** concerning its failure, as indicated by its most recent low star rating, to meet the administrative and management requirements that apply to Medicare Advantage organizations (MAOs) and stand-alone Medicare Prescription Drug Plan (PDP) sponsors. In particular, your organization's score(s) established it as a poor performer, and CMS is requesting that your organization develop and implement a corrective action plan designed to ensure that it will achieve at least an "average" star rating.

Medicare regulations at 42 C.F.R. § 422.503(b)(4)(ii) and §423.504(b)(4)(ii) require MAOs and PDP sponsors, respectively, to have administrative and management arrangements satisfactory to CMS, including personnel and systems sufficient for the organization to market and administer benefit plans and conduct utilization management and quality assurance activities consistent with Medicare requirements. The performance measures used to calculate an organization's Part C or D Summary Star Rating reflect a sponsor's contract performance across multiple Medicare program requirements. A contracting organization's administrative and management arrangements necessarily have a direct impact on its performance of a similarly broad range of program requirements. Therefore, CMS considers a low Part C or D Summary Star Rating to be evidence that the sponsor has in place insufficient administrative and management arrangements to meet its obligations as a Medicare plan sponsor.

CMS has previously informed Part C and D contracting organizations that we consider a rating below three stars to be out of compliance with these obligations under the Medicare program. For example, in the preamble to our notice of proposed rulemaking published in the Federal Register on October 22, 2009, we stated that, "organizations and sponsors with

less than ‘good’ ratings should expect to be the subject of our monitoring and compliance actions.” Also, in the CY 2012 Call Letter, CMS stated that we would issue compliance notices each year to those organizations that received less than three stars and that those who received such a rating for three consecutive years should expect to have their contract performance closely evaluated by CMS to determine whether we should terminate the organization’s Medicare contract. Finally, in April 2012, CMS issued regulations that establish both the maintenance of at least three-star plan ratings as a Medicare program participation requirement and the failure to achieve a three-star rating for three consecutive years as a basis for contract termination. The termination authority goes into effect with the release of the 2015 star ratings which will be issued in the fall of 2014.<sup>1</sup>

On October 11, 2013, CMS released the CY 2014 Part C and D star ratings on the Medicare Plan Finder tool on [www.medicare.gov](http://www.medicare.gov). CMS assigned sponsors separate Summary Star Ratings for their Part C and Part D operations. Most MAOs were assigned both C and D Summary Star Ratings. PDP sponsors received only a Part D Summary Star Rating as did a number of MAOs for which CMS could not calculate a Part C rating. Your organization received the following Summary Star Rating(s):

### **Part C Summary Rating 2.5**

Be advised that CMS treats Summary Star Ratings of below 3 stars for Part C operations and for Part D operations as two separate compliance issues even though they may be discussed in a single letter. For sponsors with low star ratings for both Part C and D operations, CMS will document the issues in our records as two separate CAP requests.

CMS advises your organization to take steps to improve its operations in the areas identified above and bring its Summary Star Rating(s) to a level that indicates at least average contract performance, compliant with Medicare requirements. Should your organization fail for three straight years to achieve at least a three-star rating, CMS may initiate action to terminate its Medicare contract.

**While CMS is requesting that your organization implement a CAP, we do not expect you to submit a copy of the CAP for our review.** CMS will simply look at your organization’s star rating performance in the coming year to determine whether you took the necessary corrective action to achieve at least a three-star summary star rating.

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<sup>1</sup> As CMS noted in the CY 2015 Call Letter, released on April 7, 2014, for MA-PD contracts, we will apply the termination authority currently in effect and finalized in April 2012, not the revised authority we proposed in January 2014. Therefore, CMS will terminate, effective December 31, 2014, those MA-PD contracts that scored a Part C summary rating of less than three stars during the most recent three consecutive rating periods, regardless of their Part D summary rating performance during the same period. Also, CMS will terminate MA-PD contracts that scored a Part D summary rating of less than three stars during the most recent three consecutive rating periods, regardless of their Part C rating during the same period. Our pending proposal is to modify this authority such that MA-PD organizations that do not achieve at least three stars in both their Part C and D ratings in the same year for three consecutive years may be subject to termination.

If you have any questions about this notice, please contact ***Scott Nelson*** at ***Scott.Nelson2@cms.hhs.gov***.

Sincerely,

A handwritten signature in black ink, appearing to be 'Tracey McCutcheon', with a long, sweeping horizontal line extending to the right.

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

CC:

Scott Nelson, CMS  
HAROLD GOODWIN, CMS