



# Related-Party Arrangements for Medicare Advantage and Part D Bids

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CMS Office of the Actuary  
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# In This Session...

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- This session on Related-Party (RP) Arrangements will cover:
  - Objective of CMS' guidance
  - Requirements for plan sponsors
  - Instructions for Completing the Bid Pricing Tool (BPT)



# Related-Party Guidance Objective

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- The objective is to ensure that financial arrangements between the bid sponsor and related parties:
  - Are comparable to those negotiated at arm's length, and
  - Do not provide the opportunity to over- or under- subsidize the bid



# Related-Party Guidance Objective (cont.)

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- The bid must reflect the revenue requirements of the plan
- The plan sponsor must provide full disclosure of and support for the costs of the RP arrangements



# When Does Related-Party Guidance Apply?

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- To all Medicare Advantage (MA) and Part D (PD) sponsors that enter into any type of arrangement with or receive services from an entity that is associated with the plan sponsor through any form of common, privately-held ownership, control or investment
- To all RP arrangements completed through one or more unrelated parties



# Requirements for Sponsors in Related-Party Arrangements

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- Sponsors must:
  - Disclose each and every RP arrangement at the time of the initial bid submission,
  - Prepare the BPT in accord with CMS guidance, and
  - Support all arrangements as required by CMS guidance



# Options for Preparing the BPT

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- Actual Cost
- Market Comparison through Bid Sponsor
- Market Comparison through Related Party



# Actual Cost Method – Medicare Advantage BPT

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- Does not recognize the independence of the RP organization in the BPT
  - Enter the benefit expense, non-benefit expense (NBE) and gain/loss margin (G/L) of the RP organization as that of the sponsor
  - Support the benefit expense, NBE and G/L in accord with CMS Instructions for Completing the BPT





# Actual Cost Method for Part D Administrative Cost

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- Does not recognize the independence of the RP organization
  - All related-party costs are entered in the BPT as sponsor's cost
  - The NBE and G/L of the RP organization are reported on the BPT as those of the sponsor
  - It is not acceptable to report all related-party fees as NBE



# Actual Cost Method for Part D Benefit Costs

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- All RP Part D benefit costs are reported as the benefit expense of the sponsor as if there were no related party
- All benefit costs reported in the Part D BPT are always consistent with the PDEs
- RP margin is reported in the supporting documentation



# Supporting Part D Benefit Cost under the Actual Cost Method

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- A reasonable and auditable estimate of the gain or loss for the related-party benefit costs is required
- Gain or Loss equals the allowed drug costs less the cost of purchasing pharmaceuticals and dispensing prescriptions



# Market Comparison Methods

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- Demonstrate sponsor's RP arrangement is comparable to other arrangements with unrelated parties
- Sponsors recognize the independence of the RP organization when preparing the BPT
  - RP administrative costs entered as NBE
  - RP benefits costs as benefit expense



# Using the Market Comparison Methods

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- Sponsor's RP organization must have a comparable arrangement with an unrelated party, or
- Sponsor's arrangement with the RP organization must be comparable to the sponsor's arrangement with an unrelated party



# Demonstrating Sponsor's Fees are Comparable

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- Sponsor must show that the fees for at least one arrangement with at least one unrelated party are comparable
- The unrelated party:
  - Must be an MA or Part D organization for benefit costs when demonstrating comparability through the related party
  - May be a non-Medicare organization for administrative services



# Demonstrating Sponsor's Fees are Comparable (cont.)

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- Actual contracts must be available upon request by CMS
- Contracts with unrelated parties must be associated with sufficient service costs to be considered valid contracts
- Comparisons through RP require a signed attestation from RP stating that the actual contract will be made available to CMS



# Demonstrating Part D Sponsor's Fees are Comparable

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- Contracts are comparable when identical, or
- The results for the same services priced through the two contracts in question are shown to be within plus or minus 5 percent





# Demonstrating Part D Sponsor's Fees are Comparable (cont.)

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- Approach may be used when a Part D sponsor's RP pharmacy has a similar contract with an unrelated Part D sponsor
  - Price of utilization must be within the required plus or minus 5 percent
  - Sponsor may provide utilization and model to RP to price a contract with an unrelated Part D sponsor



# Demonstrating Sponsor's Fees are Comparable – Medicare Advantage

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- For administrative and benefit market comparisons, comparable fees means within plus or minus 5 percent or \$2 PMPM—whichever is greater
- For all benefit market comparisons, unrelated provider/MAO must provide similar services to a Medicare population
- For benefit comparisons through sponsor, unrelated provider must provide similar services in the bid's service area



# Fee-For-Service Options

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- Two options if MA sponsor cannot comply with actual cost method:
  - Comparable to FFS
    - Use 100% FFS for market comparison
    - Enter costs in RP arrangement as net medical
  - FFS Proxy
    - Use 100% FFS as a proxy for net medical



# Demonstrating Comparable to Fee-For-Service

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- For Comparable to FFS option, MA sponsor must demonstrate at bid submission that—
  - It is not possible to comply with actual cost method
  - Costs in RP arrangement are comparable to 100% FFS, that is, within plus or minus 5 percent or \$2 PMPM—whichever is greater



# Demonstrating Fee-For-Service Proxy

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- For FFS Proxy option, MA sponsor must demonstrate at bid submission that—
  - It is not possible to comply with actual cost or market comparison method
  - Costs in RP arrangement are not comparable to 100% FFS



# MA Example 1 – Market Comparison through Related Party

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- Related hospital provider at 105% of FFS
  - Has an agreement with unrelated MA organization—
    - Serve Medicare population at 109% of FFS
- Under market comparison through related party approach—
  - Enter 105% of FFS fee in BPT as net medical



# MA Example 2 – Market Comparison through Plan Sponsor

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- Related hospital—
  - Providing services at 105% of FFS
  - Has NO agreements with unrelated MA organization
- MA sponsor has agreement with unrelated hospital—
  - In the bid's service area
  - Serve Medicare population
  - 108% of FFS for similar services

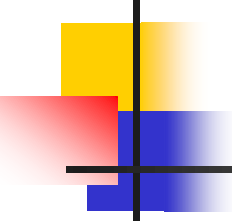


## MA Example 2 – Market Comp through Plan Sponsor (cont.)

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- Market comparison through plan sponsor method
  - 105% FFS versus 108% FFS
  - Enter 105% of FFS as net medical expense





# MA Example 3 – Comparable to Fee-For-Service

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- Similar to example 2 except—
  - Sponsor has NO unrelated hospital agreement
  - Related hospital cannot provide actual costs
- Comparable to FFS method
  - Document actual cost method not possible
  - Use 100% of FFS as benchmark
  - 105% of FFS versus 100% FFS
- Enter 105% of FFS as net medical expense



# MA Example 4 – Fee-For-Service Proxy

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- Related hospital providing services at 110% of FFS
- Related hospital has no agreements with other unrelated MA organizations
- MA sponsor has no agreements with unrelated hospitals in the same service area
- MA sponsor cannot determine actual cost of medical services



## MA Example 4 – Fee-For-Service Proxy (cont.)

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- Sponsor demonstrates actual cost and market comparison methods are not available
  - Market comparison through RP and plan sponsor are not available
  - 110% of FFS fee paid not within plus or minus 5 percent of 100% FFS
- Plan sponsor must enter 100% FFS as net medical



# Supporting Documentation for Related-Party Arrangements

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- All sponsors must:
  - Disclose whether or not RP arrangements exist
- Sponsors with RP arrangements must:
  - Disclose all RP arrangements
  - Document the approach used in the BPT
  - Prepare supporting documents in accord with CMS guidance



# Bid Point-of-Contact

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- Sponsors with RP arrangements must identify one or more points-of-contact for RP questions at the time of bid submission
- CMS can have separate contact with the sponsor and the subcontracted RP



# Questions?

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- MA and Part D Bid Instructions
- “Bidding Resources” section of the Introduction contains links to —
  - Advance Notice and Draft Call Letter
  - Rate Announcement and Call Letter
  - OACT mailbox: [actuarial-bids@cms.hhs.gov](mailto:actuarial-bids@cms.hhs.gov)
  - OACT weekly actuarial user group calls
  - Technical Instructions