



Related-Party Arrangements

CMS Office of the Actuary
Updated April 2015



In This Session...

- 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

- 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.)

- 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?

- 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

- 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

- Actual Cost Method
- Market Comparison through Plan Sponsor
- Market Comparison through Related Party



Actual Cost Method for MA Administrative Services

- Does not recognize the independence of the Related Party organization in the BPT
 - Enter the actual cost of the non-benefit services provided by the related party as the non-benefit expense (NBE) of the MAO
 - The gain/loss margin of the related party must be excluded from the amount entered as NBE on the BPT
 - When entering gain/loss margin in the BPT, the MAO may consider the gain/loss margin of the related party, subject to margin requirements



Actual Cost Method for MA Medical Services

- Does not recognize the independence of the Related Party organization in the BPT
 - Enter the actual cost of the medical services provided by the related party as the medical expense of the MAO
 - The gain/loss margin of the related party must be excluded from the amount entered as medical expense on the BPT
 - When entering gain/loss margin in the BPT, the MAO may consider the gain/loss margin of the related party, subject to margin requirements



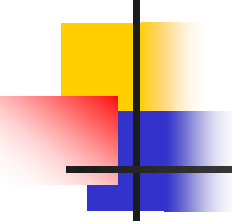
Actual Cost Method for Part D Administrative Services

- Does not recognize the independence of the Related Party organization in the BPT
 - Enter the actual cost of the non-benefit services provided by the related party as the non-benefit expense (NBE) of the Part D sponsor
 - The gain/loss margin of the related party must be excluded from the amount entered as NBE on the BPT
 - When entering gain/loss margin in the BPT, the Part D sponsor may consider the gain/loss margin of the related party, subject to margin requirements



Actual Cost Method for Part D Benefit Costs

- All related-party 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
- Related-party margin is reported in the supporting documentation



Supporting Part D Benefit Cost Under the Actual Cost Method

- 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

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



Using the Market Comparison Methods

- 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

- 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.)

- 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

- 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.)

- 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

- 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

- 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 medical
 - FFS Proxy
 - Use 100% FFS as a proxy for medical



Demonstrating Comparable to Fee-For-Service

- 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

- 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

- 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 medical



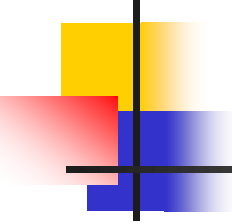
MA Example 2 – Market Comparison through Plan Sponsor

- 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
 - Serves Medicare population
 - 108% of FFS for similar services



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

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



MA Example 3 – Comparable to Fee-For-Service

- 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 medical expense



MA Example 4 – Fee-For-Service Proxy

- 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.)

- 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 medical expense



Supporting Documentation for Related-Party Arrangements

- 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

- 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



Other Resources

- 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
 - OACT weekly actuarial user group calls
 - Technical Instructions