



Federal Coordinated Health Care Office

DATE: April 17, 2023

TO: All Organization Types and Stakeholders

FROM: Kimberly Spalding-Bush
Director, Program Alignment Group

SUBJECT: Refunds of Excess Cost Sharing

This memorandum provides Medicare Advantage (MA) organizations and section 1876 cost plan sponsors serving individuals dually eligible for Medicare and Medicaid with additional guidance on the obligation to refund any payments of excess cost sharing. This memorandum specifically addresses refunds where the payment of cost sharing is by state Medicaid agencies or Medicaid managed care plans on behalf of individuals who are dually eligible for Medicare and Medicaid. For certain new cost sharing obligations for MA plans and section 1876 cost plans where the obligation to furnish a refund may be applicable, please see the HPMS memo released on November 7, 2022 entitled “Inflation Reduction Act Changes to Cost Sharing for Part B Drugs for Contract Year 2023 Medicare Advantage and Section 1876 Cost Plans.”

Refunds of excess cost sharing go to state Medicaid agencies or Medicaid managed care plans in certain instances. Medicaid covers cost sharing on behalf of all Qualified Medicare Beneficiaries (QMBs) and certain other dually eligible individuals. Per 42 CFR §§ 417.456 and 422.270, an MA organization and a section 1876 cost plan sponsor “must agree to refund all amounts incorrectly collected from its Medicare enrollees, or from others on behalf of the enrollees, and to pay any other amounts due the enrollees or others on their behalf.” Therefore, refunds go to the entity responsible for the payment (e.g., the state Medicaid agency or Medicaid managed care plan) rather than the enrollee. Where Medicaid covers cost sharing and an incorrect amount of cost sharing has been paid, the refunds are owed to Medicaid. Under these regulations, refunds of cost sharing must be made by a lump sum for incorrectly collected amounts that are not premiums. (See §§ 417.456(c)(1) and 422.270(c)(1).) The amount of the refund must equal the difference in the cost sharing that should have been charged (or collected) and the amount of cost sharing that was charged (or collected) for the applicable covered benefit.