



Date: March 14, 2008

To: Medicare Advantage Organizations and 1876 Cost Plans

From: David A. Lewis
Director, Medicare Advantage Group

Subject: Warning Letters vs. Corrective Action Requirement (CAR) Letters for Part C

Over the last several months, CMS has issued numerous formal written notices (commonly referred to as warning letters) identifying MAO contractor performance concerns, particularly related to Private Fee-for-Service marketing and agent training. CMS is aware that for some organizations the issuance of such letters is new and has raised understandable questions. The purpose of this memorandum is to clarify the difference between warning letters and Corrective Action Requirement letters in the Part C program.

- Warning Letters are formal notices that identify an area of concern (unacceptable performance) that requires an immediate action to redress a limited and quickly fixable situation. MAOs that receive warning letters often are asked to respond to CMS within a specified period of time. As required, responses are mailed or emailed to the issuing plan manager or office. CMS reviews the response and, if satisfactory, CMS will consider the matter resolved. Failure to address a warning letter successfully and timely may result in further compliance activity, including corrective action plans, sanctions, civil money penalties, or contract termination. Warning letters are designated internal contract administration.
- Corrective Action Requirement letters are issued when CMS has identified an area of concern that requires a formal plan for a demonstrated cure. MAOs that receive Corrective Action Requirement letters always have a specified period of time to respond. MAOs submit their Corrective Action Plan (CAP) response via HPMS. The plan is then reviewed by CMS. CMS will not consider the issue resolved until the CAP is both accepted and released. Acceptance of the CAP means CMS has determined that an organization's proposed course of action to resolve a matter is acceptable. Release from the CAP involves CMS determining that the organization's CAP was implemented *and* that demonstrable interventions aimed at resolving an area of non-compliance were successful. CMS will notify organizations of how long they have to successfully close-out a CAP. CMS will not release organizations from CAPs until the Agency receives verifiable evidence that the non-compliance in question was resolved. Failure to close out a CAP successfully and timely may result in further compliance activity, which may include sanctions, civil money penalties, or contract termination. CAPs are publicly reported via the Internet.

Page 2 – All MAOs and 1876 Cost Based Plans

CMS intends to extend its Part C operations and monitoring of compliance through this more flexible approach and believes that MAOs will benefit from the ability to respond quickly to warning letters, without entering the CAR/CAP process.

If you have any questions regarding this memorandum or need further clarification, please contact Mike Adelberg at 410-786-7627 or michael.adelberg@cms.hhs.gov.