



CENTER FOR DRUG AND HEALTH PLAN CHOICE

MEMORANDUM

Date: July 14, 2008

To: All Part D Sponsors

From: Teresa DeCaro, Acting Director /s/
Medicare Drug and Health Plan Contract Administration Group

Subject: Single State Licensure Waivers for 2010 – Submission of State Application

Beginning this year, applicants applying to CMS for a Single State Licensure Waiver must be able to show that a State license application was received by the State(s) no later than November 1, 2008. This includes new applicants for Prescription Drug Plan (PDP) sponsor contracts and for PDP Sponsors requesting a service area expansion for 2010, which include states for which they do not currently hold a risk license.

To meet the conditions for CMS to grant a state licensure waiver pursuant to 42 CFR §423.410(b), the waiver applicant must demonstrate that by the time the waiver application is submitted to CMS, either:

- 1) The State has already had a substantially complete license application for at least 90 days and has not made a determination; or
- 2) The State has denied the license application for one of the reasons specified in 42 CFR §423.410(b)(2) through (b)(4).

The State must have had a substantially complete application for 90 days at the time the waiver applicant applies to CMS for a waiver. Therefore, in order to use this as a basis for a waiver, any new State license application must be received by a State(s) no later than November 1, 2008. This will help to ensure that the State has time to confirm "the receipt and completeness of the application," which is necessary to establish that the 90-day period has been met. It is prudent to file the State application before November 1, 2008, to allow the determination that the application is substantially complete.

The specific grounds for licensure waivers for 2010 are:

1. The State has failed to complete action on a licensing application within 90 days of the date of the State's receipt of a substantially complete application. 42 CFR 423.410(b)(1).

2. The State does not have a licensing process in effect with respect to PDP sponsors. 42 CFR 423.410(c).
3. The State has denied the license application on the basis of one of the following: (a) material requirements, procedures, or standards (other than solvency requirements) not generally applied by the State to other entities engaged in a substantially similar business; or (b) the State requires, as a condition of licensure, the Applicant to offer any product or plan other than a PDP. 42 CFR 423.410(b)(2).
4. The State has denied the licensure application, in whole or in part, for one of the following reasons: (a) on the basis of the Applicant's failure to meet solvency requirements that are different from the solvency standards developed by CMS; or (b) the State has imposed, as a condition of licensing, any documentation or information requirements relating to solvency that are different from the information or documentation requirements in the solvency standards developed by CMS. 42 CFR 423.410(b)(3).
5. The State has denied the licensure application on the basis of grounds other than those required under Federal law. 42 CFR 423.410(b)(4).

Any questions regarding waivers of the State licensure requirement, including the documentation requirements for 2010 waivers, should be directed to Joseph Millstone (joseph.millstone@cms.hhs.gov).