

Medicare Drug and Health Plan Contract Administration Group

MEMORANDUM

DATE: September 29, 2009

TO: All Medicare Advantage (MA) Organizations, Prescription Drug Plans (PDP) Sponsors and 1876 Cost Plans

FROM: Teresa DeCaro, RN, M.S. /s/
Acting Director

SUBJECT: CMS Surveillance Activities for the 2010 Annual Election Period and Open Enrollment Periods

In the September 26, 2008 HPMS memorandum, CMS reminded organizations of their obligation to fulfill the requirements outlined in the Medicare Improvement for Patients and Providers Act (MIPPA) of 2008, the final regulations, and CMS guidance, including the updated Medicare marketing guidelines. These regulations and subsequent guidance documents were designed to protect Medicare beneficiaries from deceptive or high-pressure marketing tactics by private insurance companies and their agents and brokers. For contract year 2010, starting with the upcoming fall annual election period (AEP) and continuing through the open enrollment period (OEP), CMS will continue its efforts to implement a comprehensive surveillance program. This memorandum serves to communicate to all Medicare Advantage Organizations (MAO) and Prescription Drug Plan Sponsors (PDP) important announcements and guidance related to CMS' surveillance strategy for the upcoming AEP and OEP.

Surveillance Console

First, CMS is pleased to announce that it has taken measures to improve its communication of surveillance results and findings with organizations. CMS will be sharing surveillance performance results and findings with organizations through the use of a surveillance console. CMS will provide additional information on how to access the surveillance console soon through your Regional Office account manager. **CMS will provide each MA and PDP organization a single access log-in user ID and pass-code.** All surveillance results will be provided at the parent organization level. Therefore, this log-in and pass-code will grant access to performance and results for all legal entities and contracts operating under the parent organization.

Furthermore, as CMS conducts surveillance activities, organizations will receive a notification from CMS requiring them to review, investigate, and respond to deficiencies discovered. This notification will direct the organization to the surveillance console. In an effort to streamline communication and centralize information, all performance results and details related to the surveillance deficiencies, as well as plan responses to the deficiencies will be transmitted and

stored in the surveillance console. CMS will require organizations to respond in accordance to the prescribed deadlines. Organizations that do not provide timely responses will be at risk for further compliance action.

Submission/Cancellation of Marketing Events in HPMS

CMS issued updated guidance in the August 7, 2009 release of the marketing guidelines regarding the deadline for submission of marketing events. In response to industry feedback, CMS has updated the HPMS MA and PDP Marketing Module “Marketing Events” functionality to allow users the ability to enter new marketing events for the current month through the end of the month. CMS also modified the timeframe in which organizations were required to upload marketing events to HPMS no later than the 30th of the month preceding the event. However, CMS wishes to emphasize that organizations should submit events into HPMS as they are scheduled and confirmed, and should not wait until the last day of the month to submit all of its marketing events. The additional submission time was provided to the industry in an effort to accommodate late schedule and event changes.

Please also note that amendments to marketing/sales events including cancellations, updates and edits, must be updated in HPMS at least 48 hours prior to the scheduled event. Plan sponsors should enter cancellations of marketing/sales events as soon as possible using the HPMS Marketing Module Cancel Event function.

Finally, organizations must enter the contact information for the person responsible for the marketing event in the “Event Contact” fields in HPMS. The Event Contact is the agent, broker, or plan representative hosting the event. If this is not known at the time of upload, the event contact may be the manager/coordinator for the area responsible for scheduling the event. Note: the customer service area or a call-center for the plan should **not** be listed as the event contact. This will provide consistency in how marketing event data is entered.

CMS will be monitoring and comparing organizations’ performance in this area and may make modifications to this policy or take corrective action, if it appears that organizations are submitting late in an effort to circumvent surveillance activities.

Clarification of Marketing Event Presentation Requirements

In prior year surveillance activities, CMS observed that MA-PD and PDP sponsors did not always provide clear information to beneficiaries about their prescription drug coverage benefit, including information related to the coverage gap. The drug coverage benefit is a critical factor in a beneficiary’s health care decision-making process. Therefore, through this memorandum, CMS is clarifying requirements for any sales events (group or in-home) hosted by your organization. Specifically, if your sales presentation covers your prescription drug benefit, then the presenter **must** inform attendees on potential member costs for prescription drugs, how to find out if their prescription drugs are covered, and a description of the coverage gap. It is acceptable for the presenter to refer beneficiaries to other credible sources for obtaining that information (e.g. your Summary of Benefits, your website, etc.).

Another common problem observed in last year’s surveillance activities related to organizations that pressured beneficiaries to provide their names or other contact information. CMS wants to provide the following clarification:

- For drawings or raffles conducted at sales event, your organization may collect contact information from the beneficiary on a voluntary basis, but cannot *require* it for entry.
- Organizations may not require or pressure beneficiaries to provide contact information in order to attend a sales event presentation.

If you have questions related to any of the information contained in this memorandum, please contact Serrick McNeill at Serrick.McNeill@cms.hhs.gov or 410-786-7243.