

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
JFK Federal Building, 15 New Sudbury St., Room 2325
Boston, MA 02203



Drug & Health Plan Operations

January 16, 2025

WARNING LETTER

Contract ID: H0137, H0876, H2225, H9414, H9876

Parent Organization Name: Commonwealth Care Alliance, Inc.

Legal Entity: Commonwealth Care Alliance Massachusetts, LLC., Commonwealth Care Alliance Rhode Island, LLC, COMMONWEALTH CARE ALLIANCE, INC.

Katherine Charron
Medicare Compliance Officer
30 Winter Street
Boston, MA 02108

VIA EMAIL: kcharron@commonwealthcare.org

RE: Failure to Ensure Claims Payment Only for Enrolled Members, Resolve Rejected Prescription Drug Event Transactions, and Implement an Effective Compliance Program

Dear Katherine Charron:

The Centers for Medicare & Medicaid Services (CMS) is issuing this warning letter to the legal entities listed above, which operate the Medicare-Medicaid Plan and Medicare Advantage Prescription Drug Plan (MA-PD) Contract IDs listed above, regarding your organization's failure to process disenrollments properly, ensure coverage of benefits only for enrolled members, resolve rejected Prescription Drug Event (PDE) transactions, and implement an effective compliance program. We are issuing a warning letter because, on February 29, 2024, CMS issued a warning letter (ID 80961) for the same compliance issue: the plan's failure to implement an effective compliance program.

Your organization is not compliant with the following:

- 42 CFR § 423.104(a), which authorizes plans only to provide coverage of Part D benefits to enrollees in the plan.
- 42 CFR § 423.504(b)(4)(vi), which requires plans to adopt and implement an effective compliance program, which must include measures that prevent, detect, and correct noncompliance with CMS' program requirements as well as measures that prevent, detect, and correct fraud, waste, and abuse.
- 42 CFR § 423.505(b)(2), which requires plans to process disenrollments as required by 42 CFR subpart B.

- 42 CFR § 423.505(b)(8), which requires plans to comply with the disclosure and reporting requirements in § 423.505(f), § 423.514, and the requirements in § 423.329(b) for submitting current and prior drug claims and related information to CMS for its use in risk adjustment calculations and for the purposes of implementing § 423.505(f), (l), and (m) and § 423.329(b).

On September 5, 2023, CCA received a complaint through 1-800-MEDICARE that stated the enrollee continued to receive Part D Explanation of Benefit (EOB) materials from CCA, despite their disenrollment. Your organization determined that this enrollee was supposed to be disenrolled on February 28, 2023, but claims continued to pay through April 11, 2023.

Your organization determined on October 11, 2023, this beneficiary's disenrollment was not processed due to the unintended result of remediation actions for a separate, concurrent compliance issue. In order to prevent your pharmacy benefit manager (PBM), Navitus, from receiving inaccurate low-income subsidy (LIS) assignments, you implemented a "full file fix" on February 24, 2023. The full file only included data for active or prospective enrollees at a single point in time, so enrollment changes were not included in the file sent to your PBM until this concurrent compliance issue could be resolved.

On April 18, 2023, your organization resumed sending Navitus the incremental file, which includes all changes to an enrollee's record. However, only enrollees who have their record changed that day are included in the file, so any enrollee who had an enrollment change between February 24, and April 18, 2023, was not captured in the plan's communications to Navitus. Thus, Navitus did not receive member disenrollment records during this time frame, resulting in a discrepancy between the PBM and CCA's enrollment systems and MARx.

The enrollee who filed the complaint was included on the April 24, 2023, incremental file to Navitus, as they had an additional eligibility update that day. That update also captured the correct disenrollment date of February 28, 2023, so the enrollee's record was corrected on April 24, 2023, as well. In May 2023, the enrollee's claims from April 2023 were reversed, though your organization states the pharmacy and enrollee were not held liable.

On October 12, 2023, CMS asked your organization if this issue could have impacted any additional enrollees and/or to determine if enrollees were utilizing their pharmacy benefits after they should have been disenrolled. Your organization was not able to provide a response. On November 17, 2023, CMS asked specifically if any enrollees with a disenrollment date between February 24, 2023 and April 18, 2023 could have been utilizing their pharmacy benefits. On December 7, 2023, CMS and your organization discussed this request, and CCA committed to delivering this impact analysis on January 5, 2024. CMS provided CCA an extension to January 18, 2024, to submit the data. However, the data provided was not complete. CMS asked your organization to resubmit the impact analysis and CCA gave a January 31, 2024, target date. CCA requested another extension, and the full impact was shared with CMS on February 15, 2024. This delayed reporting is further evidence of your organization's inability to maintain an effective compliance program.

On February 15, 2024, your organization disclosed the plan failed to disenroll 834 enrollees from your pharmacy system, resulting in the erroneous payment of 3,600 pharmacy claims for 291 enrollees, totaling \$241,114.87. CCA stated this issue was not identified through the receipt of PDE rejections as these were not being remediated by CCA's enrollment team. Your organization identified the root cause of this issue to be resource constraints, with only one member of the enrollment team trained in this process.

Your organization stated that you were not able to identify an exact start of the PDE "backlog," only that it extended back to 2022. Your organization reported that at the height of this backlog, there were PDE rejections associated with 11,519 claims on behalf of 1,624 members that had not been previously reviewed.

On February 22, 2024, CMS requested additional detail on the enrollee who filed the original complaint. CMS requested CCA collaborate with Navitus to determine why this enrollee's disenrollment was processed on April 24, 2023, and to confirm if the disenrollment was for April 30, 2023, or for February 28, 2023, as originally intended. On March 22, 2024, CCA confirmed that the original enrollee was retroactively disenrolled to February 28, 2023, and stated that Navitus was still investigating the root cause of this update.

On April 3, 2024, CMS requested that CCA review the dates that all other impacted enrollees were updated in CCA's pharmacy system. These updates reflected the correct disenrollment dates for these enrollees. CCA was not able to determine the root cause of these updates until July 5, 2024, when your organization reported updates were primarily made because of ad hoc files sent to Navitus and a database refresh.

CMS provided detailed guidance for claims reconciliation on March 29, 2024. CMS advised your organization that CCA remained responsible for paid claims that could not be reconciled with another plan. For those claims where there was another Contract of Record (beneficiary was enrolled in another plan at the time the claim was paid incorrectly by CCA), CMS advised that CCA could attempt to reconcile with that plan for recoupment purposes. CMS also provided CCA with the enrollees' subsequent plans to facilitate CCA's ability to reconcile with the other plans. Beginning March 29, 2024, CMS asked more than 17 times for an update from your organization on your progress in working with other plans to remediate claims that should not have been paid by CCA. On August 16, 2024, CCA reported that you made the decision not to pursue those claims.

Your organization also confirmed on August 16, 2024, that all claims for these disenrolled members had been paid, and that pharmacies and enrollees remained whole. CCA reported that you had reviewed and remediated the PDE rejection backlog by September 6, 2024. In order to prevent similar failures in the future, CCA's enrollment department now has three people trained on the PDE process to ensure that there is no longer a single point of failure. Additionally, you have implemented bi-weekly team meetings with the enrollment team and leadership to review the volume of PDE's and resolve any issues.

Not only did your organization's failure to process disenrollments correctly, pay claims only for enrollees, and remediate PDE rejections violate the relevant requirements of the Part D regulation listed above, but these failures demonstrate that your organization did not implement an effective compliance program. Your organization's compliance program both failed to prevent these violations and failed to uncover them for an extended period of time. Only when a beneficiary complained about receiving EOBs from your plan after they disenrolled did your organization uncover the violations.

Please be aware that this letter will be included in the record of your organization's past Medicare contract performance, which CMS will consider as part of our review of any application for new or expanded Medicare contracts your organization may submit. CMS determines this instance of non-compliance a Part D issue. CMS considers your organization's efforts in self-reporting information concerning the non-compliant activity as a mitigating factor in determining the severity of this notice.

Your organization has been referred for enforcement action. CMS has the authority to impose sanctions, penalties, and other enforcement actions as described in federal regulations at 42 C.F.R. Part 423 Subpart O.

If you have any questions about this notice, please contact your CMS Account Manager Em Chapple at: (857) 357-6368, or Emily.Chapple@cms.hhs.gov.

Sincerely,



Adele Pietrantonio, Director
Division of Medicare Plan Management
Medicare Plan Management Group

CC via email:

Emily Chapple, Deborah O'Leary, Edgardo Reyes, CMS
Arianne Spaccarelli, CMS Baltimore