

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
90 7<sup>th</sup> Street, #5-300 (W)  
San Francisco, CA 94103



**Drug & Health Plan Operations**

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October 24, 2024

**WARNING LETTER**

Contract ID: H0302, H5140, S6506

Parent Organization: Blue Cross Blue Shield of Arizona

Legal Entity: BLUE CROSS AND BLUE SHIELD ARIZONA, INC., MEDISUN, INC.

Veronica Moore  
Medicare Compliance Officer  
8220 N 23rd Ave.  
Phoenix, AZ 85021

VIA EMAIL: [veronica.moore@azblue.com](mailto:veronica.moore@azblue.com)

Subject: Failure to Properly Administer the Part D Plan Benefit

Dear Veronica Moore:

The Centers for Medicare & Medicaid Services (CMS) is issuing this warning letter to the legal entities listed above, which operate the Medicare Advantage Prescription Drug Plan (MA-PD) and Prescription Drug Plan (PDP) Contract IDs H0302, H5140 and S6506, regarding your organization's failure to process Part D claims according to the plan benefits approved by CMS. We are issuing a warning letter because, on September 15, 2021, CMS issued a notice of non-compliance for this same compliance issue.

Pursuant to 42 C.F.R. § 423.104(a), Part D sponsors must provide their enrollees with coverage of plan benefits (including formularies) that have been approved by CMS. Further, pursuant to 42 C.F.R. § 423.505(b)(17), Part D sponsors must provide those benefits by means of point-of-service systems to adjudicate drug claims in a timely and efficient manner in compliance with CMS standards. Your organization is out of compliance with Part D requirements because your organization did not adjudicate claims at the point of service according to your CMS-approved plan benefits.

On July 23, 2024, Blue Cross Blue Shield of Arizona (BCBS AZ) disclosed to CMS that its pharmacy benefit manager (PBM), OptumRx, failed to include the maximum allowable cost (MAC) list pricing in its Performance network system. When a price change was submitted for CVS, Walgreens, and Walmart effective June 3, 2024, the prices defaulted to the average wholesale price, usual and customary price or submitted price rather than the MAC pricing for some generic drugs. This issue resulted in 3,810 enrollees being overcharged for the prescription drugs from June 3, 2024 through June 18, 2024 at CVS, Walgreens, and Walmart pharmacies. The average overpayment of copayments was \$52.16. Additionally, eight enrollees with protected class drugs were impacted and five of the eight enrollees did not have a subsequent claim for the protected class drug.

To correct this issue, your organization reported to CMS that your PBM corrected the pricing for all impacted drugs on June 18, 2024 and reprocessed impacted drug claims on July 7, 2024. In addition, you reported that your PBM conducted telephonic outreach between July 9, 2024 and August 1, 2024 to enrollees who overpaid to inform them that a refund would be issued on August 1, 2024, and between September 4, 2024 and September 6, 2024 to enrollees who did not fill their prescription. To prevent this issue from reoccurring, BCBS AZ informed CMS that its PBM had updated and enhanced its job aids and audit tool.

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.

Should your organization fail to come into compliance in a timely manner, CMS may consider taking additional compliance actions, including a formal request for a corrective action plan (CAP), or taking enforcement actions in the form of the imposition of intermediate sanctions (e.g., the suspension of marketing and enrollment activities) or civil money penalties.

If you have any questions about this notice, please contact your CMS Account Manager, Yolanda Li, at: (415) 744-3648, or [Yolanda.Li@cms.hhs.gov](mailto:Yolanda.Li@cms.hhs.gov).

Sincerely,



Deanna Gee, Director  
Division of Medicare Plan Management  
Medicare Plan Management Group

CC via email:

Yolanda Li, CMS  
Arianne Spaccarelli, CMS Baltimore