

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop C1-26-16  
Baltimore, Maryland 21244-1850



## **Center of Medicare**

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June 9, 2016

**VIA:**

**EMAIL** evp@u-g.com; briccardo@u-g.com

United-Guardian, Inc.  
Robert Rubinger  
230 Marcus Blvd.  
POB 18050  
Hauppauge, NY 11788

**RE: Notice of Determination to Impose a Civil Money Penalty for Pharmaceutical Manufacturer  
Contract Number P1054**

Dear Mr. Robert Rubinger:

Pursuant to 42 CFR §423.2335(d), the Centers for Medicare & Medicaid Services (CMS) is providing notice to United-Guardian, Inc. that CMS has made a determination to impose a civil money penalty (CMP) in the amount of \$437.26.

**Basis for Civil Money Penalty**

This action is based on your organization's failure to pay specified Part D sponsors within 38 calendar days of receipt of the quarterly invoice from the third party administrator, in violation of 42 CFR §423.2315(b)(3) and Section II(b) of the Medicare Coverage Gap Discount Program Agreement (Discount Agreement).

Based on the payment confirmation report provided by your organization and the payment confirmations provided by Part D sponsors, CMS has determined to impose a CMP of \$437.26 to United-Guardian, Inc. due to untimely payments for the 2015 first quarter invoices. Specifically, the following Part D sponsors did not receive payments within the requisite 38-day time period:

- 24 Part D Sponsors \$1,749.05 (Breakdown on Attachment 1)

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The CMP that your company owes is equal to:

- The 25% penalty, \$437.26

The determination by CMS to impose a CMP will become final and due no later than August 7, 2016 if you do not request a hearing to appeal in the manner and timeframe described below. Please see the required payment method below under Method to Submit CMP Payments.

Please note that any further failures by United-Guardian, Inc. to comply with these or any other CMS requirements may subject your organization to termination as described in 42 CFR §423.2345 and section VIII of the Discount Agreement.

### **Right to Request a Hearing**

Your organization may request a hearing to appeal CMS' determination in accordance with Section VIII (c) of the Discount Agreement. You must send a written request for a hearing to the Departmental Appeals Board office listed below, and a copy to CMS at the address listed below, within 60 calendar days from receipt of this notice. Your request must be received no later than August 7, 2016. The request for a hearing must identify the specific issues, the findings of fact and conclusions of law with which you disagree, and specify the basis for each contention that the finding or conclusion of law is incorrect. Your request should be sent to:

Nancy K. Rubenstein  
Director, Civil Remedies Division  
Departmental Appeals Board  
U.S. Department of Health & Human Services  
330 Independence Avenue, SW  
Cohen Building, Room G-644  
Washington, DC. 20201

A copy of your hearing request should also be sent to CMS at the following address:

Craig Miner  
Deputy Director, Division of Part D Policy  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
MAIL STOP: C1-26-16  
Baltimore, MD 21244  
Email: [Craig.miner@cms.hhs.gov](mailto:Craig.miner@cms.hhs.gov)

### **Method to Submit CMP Payments**

All CMP payments must be made using Pay.gov (See Attachment 1 for instructions). Pay.gov provides a free service to Federal government agencies and to the entities that make online payments to a Federal government agency. The Pay.gov Collection Service collects and processes the Internet-authorized

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deductions from a checking or savings account via Automated Clearing House (ACH) debit entries processed at the Federal Reserve Bank of Cleveland (FRB-C). Your Pay.gov payment transaction will not require a Username and Password in Pay.gov.

Companies sometimes have blocks on their bank accounts that will only allow designating transactions to be processed. It may be necessary to provide your banking institute with the following two pieces of information to unblock the bank account:

- **Originating Depository Financial Institution (ODFI):** FRB-C is the payment processor for ACH payments made through Pay.gov and will appear as the ACH ODFI. FRB-C processes Pay.gov ACH transactions under the American Bankers Association (ABA) routing numbers 041036046 and 042736141.
- **Company ID:** Every ACH batch contains a company ID number in accordance with the National Automated Clearing House Association (NACHA) requirements. CMS' company ID number for Pay.gov payments is 7505008012.

For Pay.gov technical issues contact Pay.gov Customer Service at (800) 624-1373 *or* (216) 579-2112, Monday–Friday from 6:00 A.M. to 7:00 P.M. Eastern Time.

You will find it helpful to have the following information available when you complete your payment:

- P# (P#####)
- CMP payment demand letter from CMS
- Bank account and routing numbers
- Point of contact regarding the payment
- Business mailing address

Acknowledgement of this letter is required, please reply to [CGDPandManufacturers@cms.hhs.gov](mailto:CGDPandManufacturers@cms.hhs.gov). If you have any questions about this notice, please contact Sonia Eaddy at [Sonia.eaddy@cms.hhs.gov](mailto:Sonia.eaddy@cms.hhs.gov).

Sincerely,

/s/

Amy K. Larrick  
Director, Medicare Drug Benefit and C & D Data Group

cc: Ms. Cheri Rice, CMS/CM/MPPG  
Ms. Amanda Johnson, CMS/CM/MPPG  
Ms. Whitney Hubbard, CMS/OL  
Mr. Aaron Albright, CMS/OC  
Mr. Ray Thorn, CMS/OC  
Ms. Jill Abrams, DHHS/OGC  
Ms. Jennifer Garver, DHHS/OGC  
Ms. Nancy Rubenstein, DHHS/DAB

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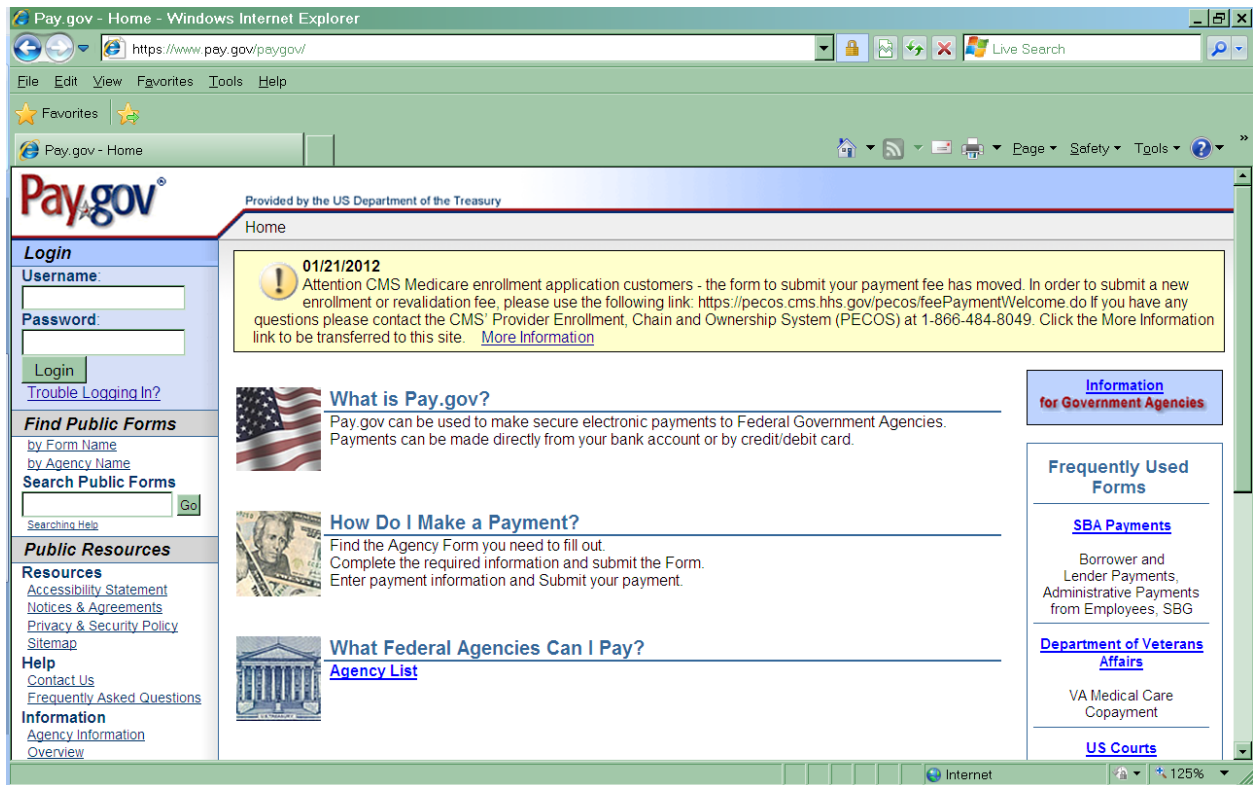
**Attachment 1**

	<b>Contract Number</b>	<b>Contract Name</b>	<b>Invoiced Amount</b>
1	H2944	Humana Inc.	\$17.74
2	H3335	Excellus BlueCross BlueShield	\$35.91
3	H3362	Independent Health	\$35.91
4	H3384	HealthNow NY Inc	\$17.93
5	H3916	Highmark Inc	\$36.98
6	H3957	Highmark Inc	\$35.29
7	H5009	Cambia Health Solutions	\$53.88
8	H5253	UnitedHealth Group	\$35.91
9	H6609	Humana Inc.	\$17.74
10	H8145	Humana Inc.	\$16.94
11	H9947	Anthem, Inc.	\$35.60
12	S5596	Anthem, Inc.	\$53.62
13	S5601	CVS Health	\$71.57
14	S5617	CIGNA	\$35.22
15	S5660	Express Scripts	\$285.31
16	S5715	Health Care Service Corporation	\$54.86
17	S5743	ClearStone Solutions	\$17.94
18	S5805	UnitedHealth Group	\$105.09
19	S5820	UnitedHealth Group	\$247.79
20	S5884	Humana Inc.	\$222.76
21	S5967	WellCare Health Plans	\$18.12
22	S7950	Express Scripts	\$70.91
23	S8841	SXC Health Solutions	\$17.49
24	S9579	MedImpact Healthcare Systems, Inc.	\$208.54
			\$1,749.05

## Attachment 2

### Step 1

Access Pay.gov at <https://www.pay.gov>



### Step 2

On the Pay.gov home page,

- In the **Search Public Forms** box (on the left side of the home page), Type: *Medicare Coverage Gap Discount (not case sensitive)*
- then click on Go

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Pay.gov - Search Results - Windows Internet Explorer

https://qa.pay.gov/paygov/payments/keywordSearchForms.html?keyword=medicare+Coverage+gap+discount&f

File Edit View Favorites Tools Help

Pay.gov - Form I... Contractor Perf... Pay.gov - Home Baltimore Winte... Pay.gov - Se... x

Search:

Your search for "medicare Coverage gap discount" returned 3 results.

Results: 1-3 of 3

Sort By: [Form Name](#) | [Form Number](#) | [OMB Number](#) | [Agency Name](#) [Hide Details](#)

**CMS Data Payment Form** [View PDF](#)

Form Number: **CMS Data Payment**

Please use this form to pay your public use files, limited data sets, and research identifiable files fees. Also use this form to pay all other recovery of data processing fees from the Centers for Medicare & Medicaid Services. This form is NOT to be used for submitting the CMS 855 Application Fee. If you need to submit a new enrollment or revalidation fee, please use the following link:  
<https://pecos.cms.hhs.gov/pecos/feePaymentWelcome.do>.  
[Department of Health and Human Services](#)  
<https://qa.pay.gov/paygov/forms/formInstance.html?agencyFormId=1818891>

**CMS Medicare Application Fee** [View PDF](#)

Form Number: **Medicare-app-fee-1**

For all questions please call: 1-866-484-8049. After December 31, 2011, you must access this url to CMS' Provider Enrollment, Chain and Ownership System (PECOS) website to pay the Medicare enrollment application fee: <https://pecos.cms.hhs.gov/pecos/feePaymentWelcome.do>.  
[Department of Health and Human Services](#)  
<https://qa.pay.gov/paygov/forms/formInstance.html?agencyFormId=3149023>

**Medicare Coverage Gap Discount Program CMPs** [View PDF](#)

Form Number: **Medicare CGDP CMPs**

Please use this form to pay your Medicare Coverage Gap Discount Program Civil Monetary Penalties.  
[Department of Health and Human Services](#)  
<https://qa.pay.gov/paygov/forms/formInstance.html?agencyFormId=3550318>

Results: 1-3 of 3

**Public Resources**

**Resources**

- [Accessibility Statement](#)
- [Notices & Agreements](#)
- [Privacy & Security Policy](#)
- [Sitemap](#)

**Help**

- [Contact Us](#)
- [Frequently Asked Questions](#)

**Information**

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- [Documentation](#)
- [Press / Articles](#)

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### Step 3

Click on **Medicare Coverage Gap Discount Program CMPs** link. You will be taken to the civil money penalty collection form. Have available your payment demand letter from CMS.

The screenshot shows a web browser window displaying the Medicare Coverage Gap Discount Program Civil Money Penalty Payment form. The form is titled "Medicare Coverage Gap Discount Program" and "Civil Money Penalty Payment". It contains several required fields for data entry:

- \*Required Fields
- \*Manufacturer P Number: [Text Input]
- \*Manufacturer Name: [Text Input]
- \*Address: [Text Input]
- \*City: [Text Input]
- \*State: [Dropdown Menu]
- \*Zip Code: [Text Input]
- \*Point of Contact Name: [Text Input]
- \*Point of Contact Phone: [Text Input]
- \*Point of Contact Email: [Text Input]
- \*Date of Demand Letter: [Text Input]
- Invoice Quarter for which Penalties are due:
  - \*Quarter: [Dropdown Menu]
  - \*Year: [Dropdown Menu]
- \*Payment Amount: \$ [Text Input]

At the bottom of the form, there are two buttons: "Submit Data" and "PDF Preview". The browser window shows the URL: <https://www.pay.gov/paygov/forms/forminstance.html?nc=1330705111240&agencyFormId=38616929&userFormId=>

- Complete the required fields
  - **Manufacturer P Number:** (P####) must be a P followed by 4-digits
  - **Manufacturer Name:** manufacturer's complete name
  - **Point of Contact:** person authorized to make the payment
  - **Point of Contact Phone:** (\*\*\*\_\*\*\_\*\_\*\*\*\*) telephone number must include dashes
  - **Point of Contact Email:** email address
  - **Mailing address:** Street, city, state, and zip code
  - **Date of Demand Letter:** (MM/DD/YEAR) typed date on the demand letter received from CMS
  - **Quarter:** (Q1, Q2, Q3, Q4) use the drop arrow to select the calendar year quarter in which the invoice payment was late or unpaid
  - **Year:** use the drop down arrow to select the calendar year in which the invoice payment was late or unpaid
  - **Payment Amount:** the total amount indicated on the demand letter from CMS

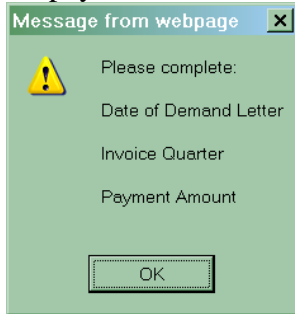
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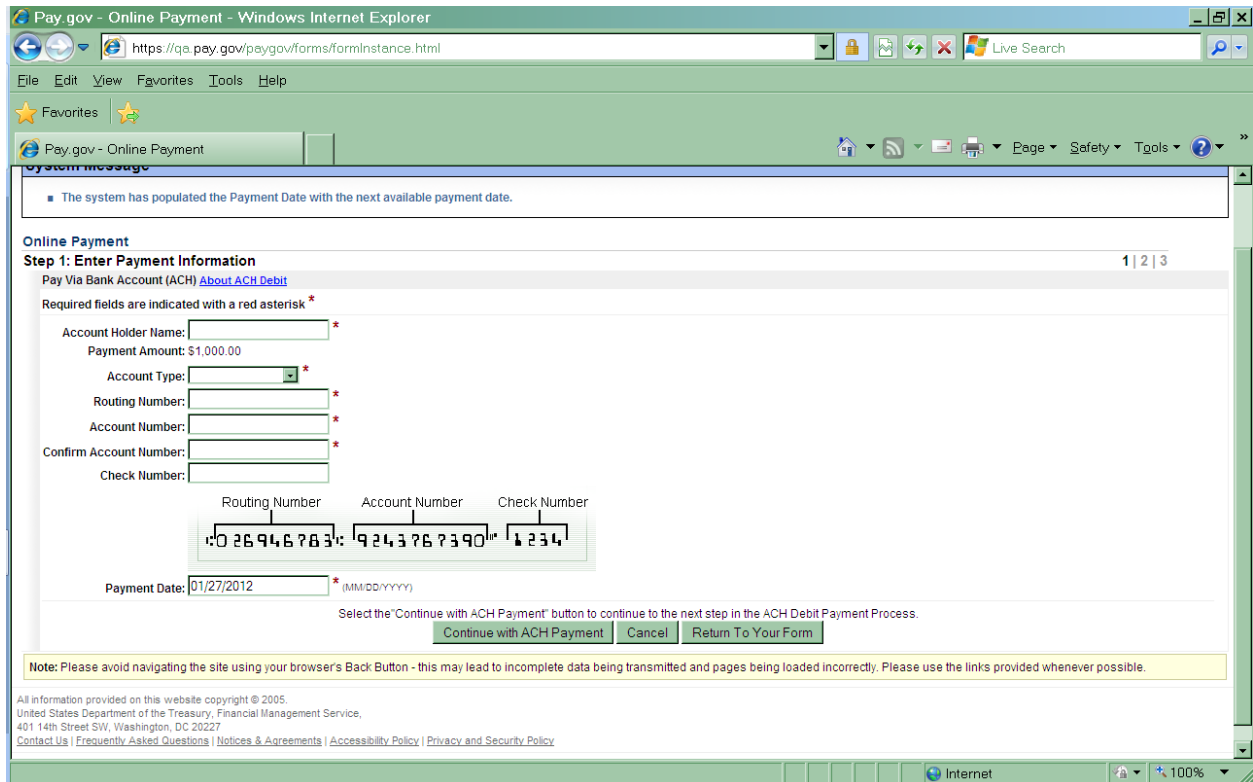
- Review
- Click on Submit Data

NOTE: You will immediately receive a message if **any** of the required information is missing on the payment form. Click OK, complete the missing information, and click on Submit Data.



#### Step 4

Have your banking information available to enter the payment information. Enter bank information, review, and print your payment confirmation to complete your Pay.gov payment.



- Enter Payment Information
  - **Account Holder Name:** name as it appears on the actual banking account



***Notice the payment amount you entered on the previous screen has populated. Click on Return To Your Form to correct the payment amount.***

- **Account Type:** (Personal Checking, Personal Savings, Business Checking, or Business Savings) use the drop down arrow to select account type
- **Routing Number:** bank routing number
- **Account Number:** bank account number
- **Confirm Account Number:** re-type your bank account number
- **Check Number:** check number used for this payment
- **Payment Date:** automatically populates the next available date in which the financial institutes can initiate the payment transaction

**Continue with ACH Payment-** will move you the next step of your payment

**Cancel-** will cancel all information entered during this session

**Return To Your Form-** will take you back to the Civil Money Penalty form

**Note: You will be redirected to the Pay.gov home page to start a new session if you click on Continue with ACH Payment before the account information is entered.**

- Review the payment summary,

Pay.gov - Online Payment - Windows Internet Explorer

https://qa.pay.gov/paygov/payments/enterACHDebitPaymentInformation.html

File Edit View Favorites Tools Help

Pay.gov - Online Payment

Step 2: Authorize Payment

Payment Summary [Edit this information](#)

Account Holder Name: manufacturer Inc  
Payment Amount: \$1,000.00  
Account Type: Business Checking  
Routing Number: 041000124  
Account Number: \*\*\*\*\*0424  
Check Number: 0002  
Payment Date: 01/27/2012

Email Confirmation Receipt

To have a confirmation sent to you upon completion of this transaction, provide an email address and confirmation below.

Email Address:   
Confirm Email Address:   
CC:  Separate multiple email addresses with a comma

Authorization and Disclosure

Required fields are indicated with a red asterisk \*

I agree to the authorization and disclosure language.  \*

The U.S. Treasury Department's Financial Management Service. As used in this document, "we" or "us" refers to the Financial Management Service and its agents and contractors operating Pay.gov. "You" refers to the end-user reading this document and agreeing to it prior to engaging in a debit transaction.

I. Consumers

A. Authorization

You acknowledge that you have read and understand the consumer disclosure language and authorize the Federal Reserve financial institution of Cleveland to debit the named financial institution account. This authorization is to remain in full force and effect until we have received notification of its termination in such time and in such manner as to afford Pay.gov a reasonable opportunity to act on it, or unless otherwise terminated for any reason by Pay.gov.

B. Disclosure

In case of errors or questions about a transaction, immediately contact the Federal agency using the Pay.gov service or contact Pay.gov directly.

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- Enter email address(es) to receive the payment confirmation
- Please add to the CC box: [cgdg\\_manufacturers@cms.hhs.gov](mailto:cgdg_manufacturers@cms.hhs.gov)
- Read and/or print the Authorization and Disclosure. If you agree, Click, *I agree to the authorization and disclosure language*

**Submit Payment-** will submit your payment and move you to the final step of your payment

**Cancel-** will cancel all information entered during this session

**Return To Your Form-** will take you back to the Civil Money Penalty form

- Print the payment confirmation.

The screenshot displays the Pay.gov Online Payment interface in a Windows Internet Explorer browser window. The address bar shows the URL: <https://qa.pay.gov/paygov/payments/authorizeACHPayment.html>. The page title is "Pay.gov - Online Payment".

The main content area is titled "Online Payment Step 3: Confirm Payment" and includes a confirmation message: "Thank you. Your transaction has been successfully completed. It is recommended you [print a copy](#) for your records." A "Print this window" icon is visible next to the message.

Below the confirmation message is the "Pay.gov Tracking Information" section, which includes the following details:

- Application Name: Medicare Coverage Gap Discount Program CMPs
- Pay.gov Tracking ID: 3FOHC800
- Agency Tracking ID: 120008876801
- Transaction Date and Time: 01/29/2012 12:36 EST

The "Payment Summary" section provides the following information:

- Account Holder Name: manufacturer Inc
- Payment Amount: \$1,000.00
- Account Type: Business Checking
- Routing Number: 041000124
- Account Number: \*\*\*\*\*0424
- Check Number: 0002
- Payment Date: 01/27/2012

At the bottom of the payment summary, there are two links: "Return to your form search results" and "Return to Home".

The left sidebar contains navigation options such as "Login", "Find Public Forms", and "Public Resources". The footer of the page features the "fmu" logo.