

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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October 9, 2015

**VIA:**

**EMAIL** (mario.macias@missionpharmacial.com; rperry@medcommtech.com)

Mission Pharmaceutical  
Mr. Mario A. Macias, Senior Manager, Contracts  
10999 IH 10, STE 1000  
San Antonio, TX 78230

**RE: Notice of Determination to Impose a Civil Money Penalty for Pharmaceutical Manufacturer  
Contract Number P1368**

Dear Mr. Mario Macias:

Pursuant to 42 CFR §423.2335(d), the Centers for Medicare & Medicaid Services (CMS) is providing notice to Mission Pharmaceutical that CMS has made a determination to impose a civil money penalty (CMP) in the amount of \$9,658.60.

### **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 \$9,658.60 to Mission Pharmaceutical due to untimely payments for the 2014 second quarter invoices. Specifically, the following Part D sponsors did not receive payments within the requisite 38-day time period:

- 65 Part D Sponsors      \$38,634.41 (Breakdown on Attachment 2)

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The CMP that your company owes is equal to:

- 25% on the amount paid late, \$9,658.60

The determination by CMS to impose a CMP will become final and due no later than December 7, 2015 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 Mission Pharmaceutical 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 December 7, 2015. 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 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/

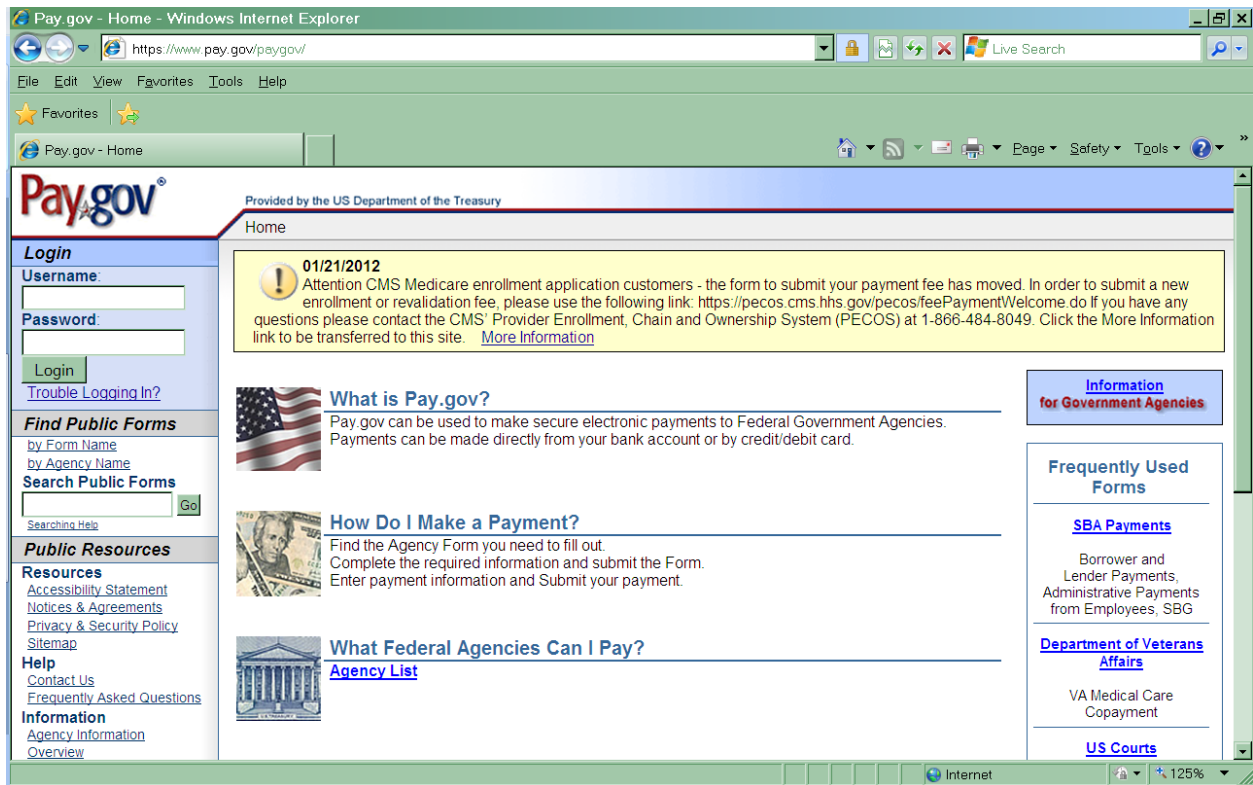
Amy K. Larrick  
Acting Director, Medicare Drug Benefit and C & D Data Group

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

## Attachment 1

### 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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The screenshot shows a Windows Internet Explorer browser window with the URL <https://qa.pay.gov/paygov/payments/keywordSearchForms.html?keyword=medicare+Coverage+gap+discount&f>. The search results are for "medicare Coverage gap discount" and returned 3 results. The results are sorted by Form Name. The first result is "CMS Data Payment Form" (Form Number: CMS Data Payment), the second is "CMS Medicare Application Fee" (Form Number: Medicare-app-fee-1), and the third is "Medicare Coverage Gap Discount Program CMPs" (Form Number: Medicare CGDP CMPs). Each result includes a brief description and a "View PDF" link. The left sidebar contains navigation links for Password, Find Public Forms, Search Public Forms, Public Resources, and Information. The bottom of the page features the HHS Department of Health and Human Services logo.

### 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 titled "Pay.gov - Form Instance - Windows Internet Explorer". The address bar shows the URL: <https://www.pay.gov/paygov/forms/forminstance.html?nc=1330705111240&agencyFormId=38616929&userForm>. The browser's address bar also shows "Live Search". The browser's menu bar includes "File", "Edit", "View", "Favorites", "Tools", and "Help". The browser's status bar shows "Done" and "Internet".

The main content area displays the "Medicare Coverage Gap Discount Program" form. The form is titled "Civil Money Penalty Payment" and includes the following fields:

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

At the bottom of the form, there are two buttons: "Submit Data" and "PDF Preview".

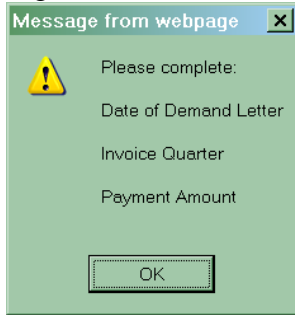
- Complete the required fields
  - **Manufacturer P Number:** (P####) must be a P followed by 4-digits
  - **Manufacturer Name:** manufacturer's complete name
  - **Point of Contact:** person authorized to make the payment
  - **Point of Contact Phone:** (\*\*\*\_\*\*\_\*\*\*\*) telephone number must 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
- 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.

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## 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.

Pay.gov - Online Payment - Windows Internet Explorer

https://qa.pay.gov/paygov/forms/formInstance.html

File Edit View Favorites Tools Help

Pay.gov - Online Payment

System message

The system has populated the Payment Date with the next available payment date.

Online Payment

Step 1: Enter Payment Information 1 | 2 | 3

Pay Via Bank Account (ACH) [About ACH Debit](#)

Required fields are indicated with a red asterisk \*

Account Holder Name:  \*

Payment Amount: \$1,000.00

Account Type:  \*

Routing Number:  \*

Account Number:  \*

Confirm Account Number:  \*

Check Number:

Routing Number Account Number Check Number

⑈026946783⑈ 9243767390⑈ 1234⑈

Payment Date: 01/27/2012 \* (MM/DD/YYYY)

Select the "Continue with ACH Payment" button to continue to the next step in the ACH Debit Payment Process.

Note: Please avoid navigating the site using your browser's Back Button - this may lead to incomplete data being transmitted and pages being loaded incorrectly. Please use the links provided whenever possible.

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Internet 100%

- 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,



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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 shows a web browser window titled "Pay.gov - Online Payment - Windows Internet Explorer". The address bar displays the URL: <https://qa.pay.gov/paygov/payments/authorizeACHPayment.html>. The browser interface includes a menu bar (File, Edit, View, Favorites, Tools, Help), a Favorites bar, and a toolbar with icons for home, search, and other functions. The main content area is the Pay.gov website, which is provided by the US Department of the Treasury. The page title is "Online Payment" and the current step is "Step 3: Confirm Payment". The page number is "1 | 2 | 3". The main message reads: "Thank you. Your transaction has been successfully completed. It is recommended you [print a copy](#) for your records." There is a "Print this window" icon and link. Below this, the "Pay.gov Tracking Information" section lists: Application Name: Medicare Coverage Gap Discount Program CMPs, Pay.gov Tracking ID: 3FOHC800, Agency Tracking ID: 120008876801, and Transaction Date and Time: 01/29/2012 12:36 EST. The "Payment Summary" section lists: Account Holder Name: manufacturer Inc, Payment Amount: \$1,000.00, Account Type: Business Checking, Routing Number: 041000124, Account Number: \*\*\*\*\*0424, Check Number: 0002, and Payment Date: 01/27/2012. At the bottom of the summary, there are links for "Return to your form search results" and "Return to Home". The left sidebar contains navigation links for "Login", "Find Public Forms", "Public Resources", and "Information". The footer includes the "fmu" logo and the text "Done". The browser status bar at the bottom shows "Internet" and "100%".

**Attachment 2**

	Contract Number	Contract Name	Invoice Amount
1	E3014	PSERS HOP PROGRAM	\$161.05
2	E7316	UNION PACIFIC RAILROAD	\$862.39
3	E7848	OKLAHOMA STATE AND EDUC	\$181.71
4	H0303	PACIFICARE OF ARIZONA	\$494.23
5	H0317	HUMANA INSURANCE COMPAN	\$210.52
6	H0354	CIGNA HEALTHCARE OF ARI	\$104.91
7	H0524	KAISER FOUNDATION HP I	\$181.00
8	H0543	PACIFICARE OF CALIFORNI	\$382.98
9	H0609	PACIFICARE OF COLORADO	\$63.91
10	H1036	HUMANA MEDICAL PLAN IN	\$48.62
11	H1509	UNITED HEALTHCARE INSUR	\$1,411.96
12	H1951	HUMANA HEALTH BENEFIT P	\$126.26
13	H2012	HUMANA HEALTH PLAN, INC	\$57.56
14	H2663	GROUP HEALTH PLAN INC.	\$102.93
15	H3107	OXFORD HEALTH PLANS (NJ	\$58.35
16	H3152	AETNA HEALTH INC.	\$76.47
17	H3154	HORIZON HEALTHCARE OF N	\$742.02
18	H3307	OXFORD HEALTH PLANS (NY	\$121.88
19	H3335	EXCELLUS HEALTH PLAN I	\$37.59
20	H3342	EMPIRE HEALTHCHOICE ASS	\$202.86
21	H3659	UNITED HEALTHCARE OF OH	\$345.33
22	H3813	ODS HEALTH PLAN	\$304.86
23	H3817	REGENCE BLUECROSS BLUES	\$406.16
24	H3907	UNIVERSITY OF PITTSBURG	\$30.60
25	H3909	INDEPENDENCE BLUE CROSS	\$168.84
26	H3916	HIGHMARK INC.	\$75.84
27	H3952	KEYSTONE HEALTH PLAN EA	\$1.96
28	H3957	KEYSTONE HEALTH PLAN WE	\$79.09
29	H4005	TRIPLE-S INC.	\$60.48
30	H5435	PACIFICARE LIFE AND HEA	\$13.46
31	H5521	AETNA LIFE INSURANCE CO	\$192.97
32	H5883	BLUE CARE NETWORK OF MI	\$185.18
33	H6609	HUMANA INSURANCE COMPAN	\$385.37
34	H6801	AHS - TULSA OKLAHOMA HE	\$156.06
35	H7917	BLUE CROSS BLUE SHIELD	\$138.26
36	H9947	BLUE CROSS BLUE SHIELD	\$629.09
37	R5287	UNITED HEALTHCARE INSUR	\$59.91

38	R5941	ANTHEM INSURANCE COMPAN	\$98.44
39	S0128	HEALTHMARKETS INSURANCE	\$199.35
40	S1030	BCBS OF ALABAMA AND BCB	\$145.42
41	S2468	CA PHYSICIANS SERVICE	\$274.37
42	S3440	ALLIANCE HEALTH AND LIF	\$57.69
43	S4802	STERLING LIFE INSURANCE	\$560.28
44	S5593	HIGHMARK SENIOR RESOURC	\$388.44
45	S5596	ANTHEM INSURANCE COMPAN	\$336.46
46	S5601	SILVERSCRIPT INSURANCE	\$1,008.72
47	S5617	CONNECTICUT GENERAL LIF	\$1,725.69
48	S5660	MEDCO HEALTH SOLUTIONS	\$9,124.94
49	S5715	HCSC INSURANCE SERVICES	\$507.85
50	S5743	BLUE CROSS BLUE SHIELD	\$123.61
51	S5755	UNITED AMERICAN INSURAN	\$667.17
52	S5768	FIRST HEALTH LIFE & HEA	\$505.36
53	S5795	ARKANSAS BCBS A MUTUAL	\$305.90
54	S5805	UNITED HEALTHCARE INSUR	\$604.68
55	S5810	AETNA LIFE INSURANCE CO	\$660.91
56	S5820	UNITED HEALTHCARE INSUR	\$3,675.74
57	S5884	HUMANA INSURANCE COMPAN	\$180.71
58	S5904	BLUE CROSS AND BLUE SHI	\$353.40
59	S5921	PACIFICARE LIFE AND HEA	\$4,685.29
60	S5967	WELLCARE PRESCRIPTION I	\$87.56
61	S5993	HORIZON HEALTHCARE SERV	\$108.42
62	S7694	ENVISION INSURANCE COMP	\$145.86
63	S7950	EXPRESS SCRIPTS INSURAN	\$1,608.37
64	S8841	NMHC GROUP SOLUTION INS	\$862.82
65	S9579	STONEBRIDGE LIFE INSURA	\$768.30
		Total	\$38,634.41