Q&A

Question: Are there any notice requirements or other expectations that a plan sponsor must satisfy if it changes a formulary for an upcoming contract plan year?

Answer: Yes. An enrollee may be stabilized on a covered medication that a plan intends to remove from its formulary or move to another tier on its formulary for the upcoming year. If an enrollee does not realize that a medication he or she is receiving will not be on the plan's new formulary or the cost-sharing status for the drug will change, coverage gaps may occur causing the enrollee to pay out-of-pocket for the medication or not get it at all. To minimize the impact of these formulary changes on enrollees, we have outlined the following expectations for the 2007 contract year.

Annual Notice of Change:

Consistent with current guidance, enrollees must receive an annual notice of change (ANOC) by October 31st prior to the upcoming contract year. The ANOC is intended to outline benefit changes for the upcoming year including changes in cost-sharing and drug tier structures. Because the upcoming year's formulary is viewed as a new formulary, plans are not required to identify specific drug changes impacting enrollees in their explanation of benefits, or provide a 60-day notice of changes for the upcoming year's formulary. However, enrollees must receive a comprehensive or abridged formulary with the ANOC, which will provide enrollees with at least 60 days to review the new formulary to determine if their medications are covered and whether the cost-sharing for their covered medications will change for the 2007 contract year.

Appeals and Exceptions/Transition

After enrollees receive their ANOC on October 31st of a given year, CMS expects plan sponsors to:

1. Prospectively process requests for formulary and tiering exceptions to the new formulary. If a plan sponsor approves such an exception request pursuant to the Part D regulations, the plan sponsor shall authorize payment prior to January 1, 2007 and provide coverage beginning January 1, 2007; *or*

2. Provide a transition period for current enrollees similar to the transition period allowed for new enrollees. In order to prevent coverage gaps, plans choosing this option are expected to provide a temporary supply of the requested prescription drug (where not medically contraindicated) and provide enrollees with notice that they must either switch to a drug on the plan's formulary or get an exception to continue taking the requested drug.