



**CMS 2010 MEDICARE ADVANTAGE & PRESCRIPTION DRUG PLAN SPRING
CONFERENCE** *Sheraton Baltimore City Hotel, April 20-21, 2010*

Verbatim Transcript
Compliance Plans: Panel Discussion
Jennifer Smith, Director
Division of Compliance Enforcement

I'M JENNIFER SMITH.

I AM THE DIRECTOR OF THE
DIVISION OF COMPLIANCE ENFORCEMENT,

IN THE PROGRAM COMPLIANCE
AND OVERSIGHT GROUP,

AND THIS IS LIZ LOPEZ-CEPERO,
WHO IS THE DIRECTOR OF THE

DIVISION OF COMPLIANCE,
POLICY AND OPERATIONS,

ALSO IN THE PROGRAM COMPLIANCE
AND OVERSIGHT GROUP.

WE ARE GOING TO TALK TO YOU TODAY
A LITTLE BIT ABOUT ENFORCEMENT

ACTIONS AND PERFORMANCE AUDITS,
ALSO KNOWN AS PROGRAM AUDITS,

AS WELL AS COMPLIANCE PLANS.

I'M GOING TO START OFF WITH A
LITTLE BIT ABOUT ENFORCEMENT

ACTIONS WHICH COULD ALSO BE SEEN
AS "HOW YOU STAY AWAY FROM ME".

IF YOU'VE MET ME AND YOU ARE
DEALING WITH MY DIVISION

SOMETHING HAS GONE SERIOUSLY WRONG.

SO WHAT WE ARE HOPING TO DO IS TO
GIVE YOU A LITTLE BIT OF INFORMATION

ABOUT HOW TO KEEP YOUR ORGANIZATION
OUT OF TROUBLE AND HOW TO USE

INFORMATION THAT YOU HAVE AVAILABLE TO YOU

ON A DAY TO DAY BASIS TO MAKE SURE YOU ARE
IN COMPLIANCE WITH ALL OF OUR REQUIREMENTS.

GENERALLY THE ENFORCEMENT ACTIONS
THAT WE TAKE ARE EITHER A SUSPENSION OF MARKETING,
A SUSPENSION OF YOUR ENROLLMENT.

WE DO HAVE THE ABILITY TO SUSPEND PAYMENT
ALTHOUGH WE'VE NEVER DONE ONE OF THOSE.

WE CAN ALSO ISSUE CIVIL MONETARY PENALTIES
AGAINST YOUR ORGANIZATION IF THERE HAS BEEN
AN ADVERSE EFFECT ON ENROLLEES, OR THE
SUBSTANTIAL LIKELIHOOD OF AN ADVERSE IMPACT
ON ENROLLEES.

IN 2009 WE ISSUED 6 CIVIL MONETARY
PENALTIES TO ORGANIZATIONS.

THOSE WERE ALL FOR UNTIMELY ANNUAL NOTICE
OF CHANGE OR EVIDENCE OF COVERAGE.

WE HAVE BEEN VERY PUBLIC WITH ORGANIZATIONS
ABOUT HOW IMPORTANT IT IS TO NOT ONLY BE TIMELY
BUT ALSO TO ACCURATELY ISSUE BENEFIT
INFORMATION TO YOUR ENROLLEES.

WE WILL CONTINUE TO LOOK AT THAT THIS YEAR
AND WILL BE VERY PUBLIC ABOUT THOSE FINES,
ESPECIALLY WITH ORGANIZATIONS WHO CONTINUE
TO ISSUE INACCURATE OR UNTIMELY INFORMATION.

IN 2009 WE ALSO ISSUED 5 MARKETING AND
ENROLLMENT SANCTIONS AGAINST ORGANIZATIONS.

THE PRIMARY AREAS OR DEFICIENCIES
THAT THESE ORGANIZATIONS HAD,

THAT WERE SUBJECT TO THE SANCTIONS,
WERE ACCESS TO HEALTH AND DRUG SERVICES.

THIS IS A BIG ONE.

OBVIOUSLY IT'S THE CORE OF THE BENEFIT.
IF WE HAVE EVIDENCE THAT YOUR ORGANIZATION
IS NOT PROPERLY PROVIDING ACCESS TO

HEALTH SERVICES OR TO MEDICATIONS,
THAT'S SOMETHING THAT'S GOING TO CAUSE

US TO ACT VERY QUICKLY AND TO
PREVENT ADDITIONAL ENROLLEES FROM

JOINING YOUR ORGANIZATION
UNTIL YOU CAN GET THAT CORRECTED.

ANOTHER AREA WAS ENROLLMENT
AND DISENROLLMENT.

OBTAINING, AGAIN THIS HAS A VERY
DIRECT IMPACT ON BENEFICIARIES.

I THINK YOU'LL NOTICE THE PATTERN
WHEN I TALK ABOUT ORGANIZATIONS

WHO HAVE BEEN SUBJECT TO SANCTIONS
AND PENALTIES.

YOU'RE GOING TO FIND THAT MOST
OF THE AREAS WHERE ORGANIZATIONS

HAD THESE DEFICIENCIES WERE AREAS THAT
DIRECTLY EFFECTED BENEFICIARIES OR ENROLLEES.

THAT'S WHERE OUR FOCUS IS.
THAT'S WHEN WE'RE GOING TO STEP IN

AND TAKE SERIOUS ACTION AGAINST AN ORGANIZATION
IF THEY CONTINUE TO HAVE DEFICIENCIES IN THOSE AREAS.

ANOTHER AREA WAS ADMINISTRATION
OF THE LIS BENEFITS.

IF YOU'RE 408 [INDISTINCT] IS OFF,
IF YOU'RE LIS [INDISTINCT] IS OFF

YOU CAN'T PROPERLY ADMINISTER BEST AVAILABLE EVIDENCE.
THINGS ALONG THOSE SORTS...

THAT'S A VULNERABLE POPULATION.

AGAIN IT'S SOMETHING THAT GOING TO CATCH OUR ATTENTION,
IF YOU CONTINUE TO NOT COMPLY WITH THOSE REQUIREMENTS.

MARKETING VIOLATIONS, YOU HEARD TIM
TALK A LITTLE BIT ABOUT THAT.

AGAIN THAT'S SOMETHING
WE'VE BEEN VERY PUBLIC WITH.

IF WE FIND OUT THAT YOUR ORGANIZATION

HAS BEEN AGGRESSIVELY OR INACCURATELY

MARKETING AND NEGATIVELY EFFECTING
BENEFICIARIES ABILITY TO PROPERLY CHOOSE THEIR PLAN,

WE'RE GOING TO TAKE ACTION AGAINST THAT.

APPEALS AND GRIEVANCES,
WE BELIEVE THAT THIS IS
ALMOST AN EXTENSION OF ACCESS.

WE'VE COME A WAYS, AT LEAST
IN THE ENFORCEMENT AREA.

I KNOW YOU ARE GOING TO BE HEARING
FROM PEOPLE IN THE MEDICARE ENROLLMENT

AND APPEALS GROUP A LITTLE BIT LATER TODAY.

THEY ARE THE REAL EXPERTS ON THIS,
BUT FROM AN ENFORCEMENT PERSPECTIVE,

WHEN YOU ARE NOT PROPERLY ADMINISTERING
APPEALS AND GRIEVANCES AND COVERAGE DETERMINATIONS,

FROM OUR PERSPECTIVE WE DO LOOK AT THAT
AS AN EXTENSION OF DENIAL OF ACCESS TO SERVICE,

BECAUSE IF YOU ARE MAKING UNTIMELY DECISIONS,
IF YOU ARE MAKING INACCURATE DECISIONS,

THEN THE EFFECT IS THAT SOMEONE MAY NOT BE
GETTING ACCESS TO NEEDED SERVICES.

AND THEN WE'VE ALSO TAKEN MARKETING AND
ENROLLMENT SECTIONS FOR FINANCIAL SOLVENCY ISSUES.

IF YOUR ORGANIZATION IS ON THE BRINK OF INSOLVENCY,

WE VERY WELL MAY ISSUE A MARKETING
ENROLLMENT SANCTION TO PREVENT THEM

FROM GETTING ANY OTHER INDIVIDUALS,
WHO WITHIN A MATTER OF WEEKS OR DAYS,

MAY NEED TO BE MOVED TO ANOTHER PLAN.

WE ALSO DID ONE CONTRACT TERMINATION IN 2009
AND THAT WAS FOR FINANCIAL SOLVENCY ISSUES.

THE PLAN BECAME INSOLVENT
AND SO WE TOOK TERMINATION ACTION.

IN 2010 WE'VE TAKEN TWO MARKETING ENROLLMENT

SANCTIONS FOR MOST OF THE SAME ISSUES.

ACCESS TO HEALTH AND DRUG SERVICES,
APPEALS AND GRIEVANCES,

CLAIMS PAYMENT AND ONE ADDITIONAL,
OBVIOUSLY WITH TIMING,

THERE WERE ISSUES ACROSS BOTH
WHERE THEY WERE NOT PROPERLY

ADMINISTERING THE TRANSITION FILL.

THEY WEREN'T PROVIDING TRANSITION FILLS
TO MEDICARE BENEFICIARIES IN THE

FIRST FEW MONTHS OF 2010.

WE DID TAKE ONE IMMEDIATE CONTRACT
TERMINATION IN 2010

AND THIS WAS FOR VERY, VERY SERIOUS DEFICIENCIES,
AGAIN IN ACCESS TO HEALTH AND DRUG SERVICES,

APPEALS AND GRIEVANCES, CLAIMS PAYMENT,
AND COMPLIANCE PLAN.

WE DO HAVE ENFORCEMENT ACTIONS ON OUR WEB SITE.
I COULD READ THE WEB SITE TO YOU IF YOU LIKE,

OR IF YOU WANT TO JUST COME AND SEE ME AFTERWARDS,
I CAN HANG AROUND FOR A LITTLE BIT AND I'LL GIVE IT TO YOU.

IT'S PROBABLY ABOUT 100 LETTERS LONG
SO I WON'T READ IT TO YOU.

SO AGAIN AS I SAID,
OUR ENFORCEMENT FOCUS IS

LARGELY ON ACCESS TO SERVICES,
APPEALS AND GRIEVANCES,

THE WHOLE SPECTRUM OF ACCESS.

BENEFICIARY COMMUNICATIONS, AGAIN PROVIDING
PROPER INFORMATION TO BENEFICIARIES IS KEY,

SO THAT THEY CAN MAKE PROPER CHOICES.

MARKETING UNLICENSED,
UNTRAINED AGENTS OR BROKERS,

MISREPRESENTATION, ESPECIALLY TO
THE VULNERABLE POPULATIONS OF OUR BENEFICIARIES

IS GOING TO GET OUR ATTENTION.

PROCESSING ENROLLMENT ELECTIONS,
AND FAILING TO PROPERLY OVERSEE

YOUR DELEGATED ENTITIES,

IF YOUR DELEGATED ENTITY IS
NOT FOLLOWING OUR REQUIREMENTS,

AS YOU ALL WELL KNOW BY NOW,

THE FACT THAT THEY ARE A DELEGATED ENTITY
IS NOT GOING TO BE AN EXCUSE TO GET YOU OFF THE HOOK.

YOU ARE GOING TO BE RESPONSIBLE
FOR THEIR ACTIONS, OR INACTION.

AND OBVIOUSLY PROVIDING ANY FALSE OR MISLEADING
INFORMATION TO CMS WOULD ALSO BE PROBLEMATIC.

NOW I SAY ALL OF THAT AND
KNOW THAT LIZ IS GOING TO TALK TO YOU

A LITTLE ABOUT PERFORMANCE AUDITS, W
HICH ARE THOSE AUDITS THAT DEAL

WITH THE VARIOUS PROGRAMMATIC AREAS LIKE
ENROLLMENT AND DISENROLLMENT,

APPEALS AND GRIEVANCES.

I KNOW YOU KNOW THAT WE'RE ALL SUBJECT TO AUDIT
AND EVERYONE THINKS YOU GET A CAP,

IT'S NOT A BIG DEAL,
NOT MUCH TO PAY ATTENTION TO.

I WOULD REALLY CAUTION YOU AGAINST THAT AND
SUGGEST THAT YOU LISTEN TO WHAT LIZ HAS TO SAY

ABOUT NOT ONLY PERFORMANCE AUDITS
BUT COMPLIANCE PLANS,

BECAUSE I REALLY DO THINK THEY ARE THE KEY
TO HELPING YOUR ORGANIZATION DETECT DEFICIENCIES EARLY ON,

ISSUE CORRECTIONS, AND DESIGN WAYS
TO PREVENT FUTURE DEFICIENCIES.

OBVIOUSLY IF YOU HAVE THAT KIND
OF INTERNAL AUDITING AND MONITORING

GOING ON IN YOUR ORGANIZATION,
YOU ARE NEVER GOING TO FIND YOURSELF,

HOPEFULLY, IN A SITUATION WHERE YOU
ARE GOING TO BE THE SUBJECT OF A VERY

SERIOUS COMPLIANCE OR ENFORCEMENT ACTION.

ALSO JUST TO TEMPER WHAT WE SAY,
WE GET UP HERE AND WE TALK

ABOUT ENFORCEMENT ACTIONS
AND IT SOUNDS VERY SERIOUS

AND THE CROWD GETS VERY SOMBER BUT, YOU KNOW,
IT'S NOT SOMETHING THAT CMS TAKES LIGHTLY,

OR THAT WE DO LIGHTLY.

IT'S ALWAYS OUR GOAL TO RESOLVE THINGS
AT THE EARLIEST STAGE OF THE COMPLIANCE CONTINUUM,

SO YOU KNOW, WE SEND YOU THINGS LIKE
NOTICES OF NON-COMPLIANCE, WARNING LETTERS,

BUSINESS PLANS, CORRECTIVE ACTIONS PLANS.

WE HOPEFULLY WILL REACH OUT TO YOU,
HAVE YOUR ACCOUNT MANAGER WORK WITH YOU.

IT'S USUALLY ONLY IN TWO TYPES OF SITUATIONS
WHERE WE WOULD GO TO SUCH EXTREME LENGTHS,

AND THAT IS IN AN ORGANIZATION WHERE WE REALLY
FELT WE HAD EXHAUSTED THOSE COMPLIANCE EXERCISES,

AND YOUR ORGANIZATION IS NOT RESPONDING TO THEM,

OR WE HAVE A VERY EGREGIOUS SITUATION WHERE
WE BELIEVE THAT BENEFICIARIES MAY BE IN JEOPARDY,

AND WE NEED TO STEP IN IMMEDIATELY TO CORRECT IT.

THOSE ARE REALLY THE ONLY TYPES OF SITUATIONS
WHERE WE ARE GOING TO EVEN

CONTEMPLATE AN ENFORCEMENT ACTION.

GENERALLY WE'RE GOING TO LOOK TO DO
SOMETHING AT A LOWER LEVEL

IN ORDER TO ENSURE THAT WE CAN B
RING YOU BACK INTO COMPLIANCE, WHICH IS OUR GOAL.

SO HOPEFULLY AS I SAID,
YOU'LL NEVER REALLY MEET ME OUTSIDE OF A CONFERENCE,

AND YOUR ORGANIZATION WILL NEVER HAVE TO DEAL WITH ME.

NOW WITH THAT I'LL TURN IT OVER TO LIZ,
WHO'LL TALK ABOUT PERFORMANCE AUDITS AND COMPLIANCE PLANS.

THANK YOU.