

# Parts C & D Past Performance Analysis

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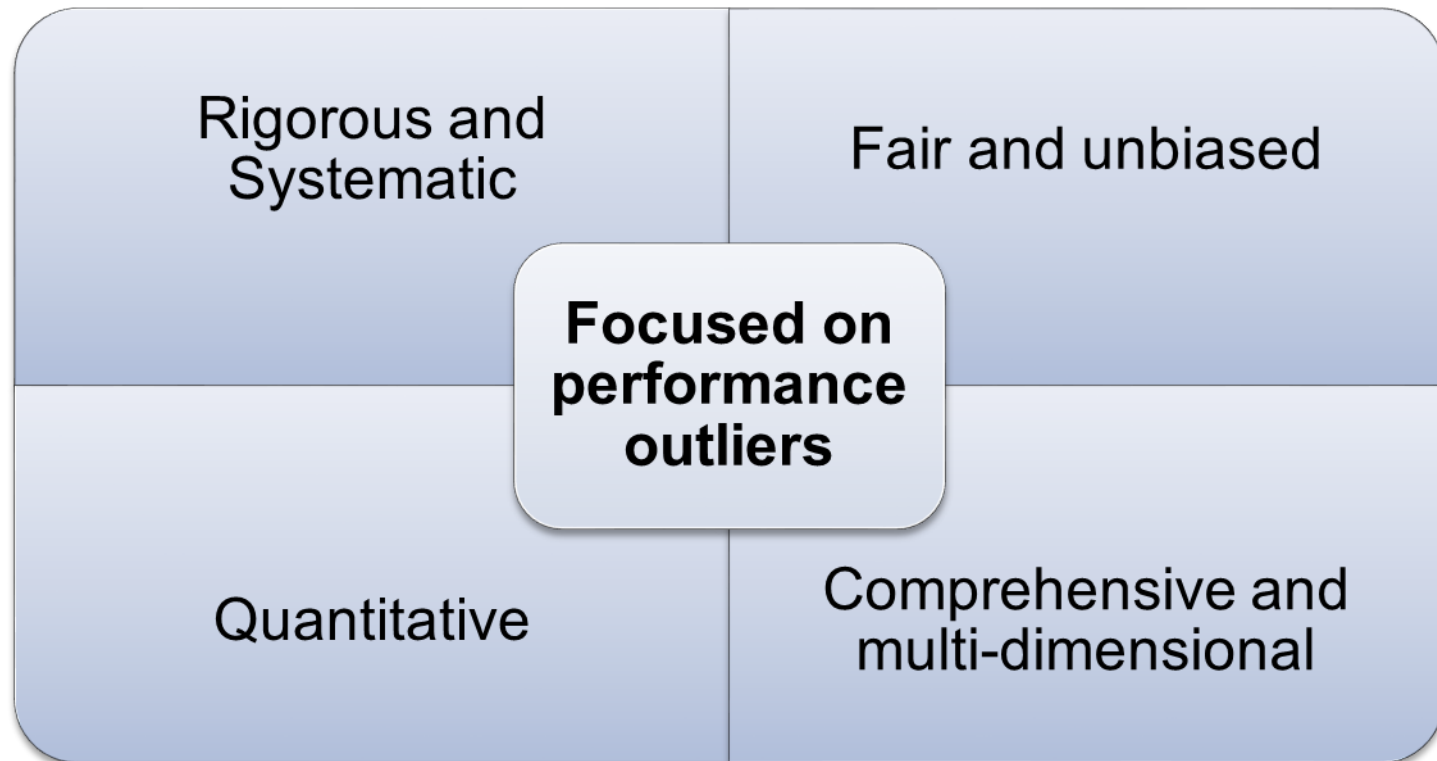


# Past Performance as an Element of Application Decisions

**Organizations with a recent history of performance problems must focus on their current books of business, and not expand until they are operating in full compliance**

- 42 C.F.R. § 422.502(b) and § 423.503 (b) – long standing authority to deny applications based on past performance
- Even if applicant otherwise meets all application requirements
- April 2010 regulation clarified period of review as 14 months leading up to application deadline

# Annual Performance Review



# Compiling Results

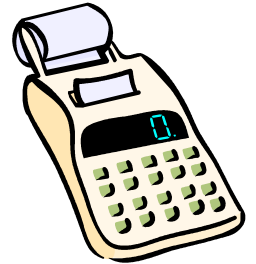
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## Point values assigned for each dimension

- Point values vary depending on nature of problem and risk to the program and beneficiaries

## Analysis identifies overall performance outliers

- Homes in on sponsors with problems in multiple categories and/or in one or more particularly high risk area
- Overall negative scores calculated at the contracting entity level



# Polling Question #1

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How many times per year is the Past Performance Analysis conducted?

- a. Once, in the spring
- b. Twice, once in January and once in June
- c. Twice, once in the spring to make contract determinations and once in the fall for informational purposes with an eye towards the spring

# What to Expect

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Applicants with high past performance scores:

- Scores will be posted in HPMS prior to issuance of Notices of Intent to Deny
- Given opportunity to withdraw applications
- May appeal the decision with CMS Hearings Office

# Applications Denied for Past Performance 2016 - 2018

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## 2016

- 26 organizations identified as performance outliers out of 441 legal entities, 0 out of 188 applications were denied due to Past Performance of legal entities that submitted applications.

## 2017

- 31 organizations identified as performance outliers out of 428 legal entities, 3 out of 118 Service Area Expansion applications were denied due to Past Performance of legal entities that submitted applications.

## 2018

- 23 organizations identified as performance outliers out of 425 legal entities, 3 out of 171 Service Area Expansion applications were denied due to Past Performance of legal entities that submitted applications.

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**Over the last several years, CMS' application denials based on past performance have been consistently upheld in response to requests for an administrative hearing.**

# Performance Review will Evolve

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Eleven performance dimensions for 2018 Application Cycle

- Categories and point values updated since 2017
- Methodology will continue to be updated (and open to comment and published) to reflect most current and comprehensive available information
- Point values may shift along with categories to reflect proportionate weights based on new information and analytic techniques



## Polling Question #2

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How many categories are in the Past Performance Analysis?

- a. 11
- b. 13
- c. 9

# Performance Information Is Not a Secret

- Organizations have the same information CMS has about their performance
- There is nothing that feeds into CMS' analysis that is not already available to the MA organization or Part D sponsor
- Results should not be a surprise



# 2018 Application Cycle Past Performance Review Methodology

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HPMS Memo (February 10, 2017):

- 2018 Application Cycle Past Performance Review Methodology

# Eleven Performance Dimensions

**Compliance  
Letters**

**Performance  
Metrics**

**Multiple Ad  
Hoc CAPs**

**Ad Hoc CAPs  
with  
Beneficiary  
Impact**

**Fiscal  
Soundness**

**Program  
Audits**

**One-Third  
Financial  
Audits**

**Exclusions**

**Enforcement  
Actions**

**Terminations/  
Non-renewals**

**Outstanding  
Significant  
Compliance**

# Compliance Letters



- Identifies organizations and sponsors receiving a high number of compliance notices
- Score is weighted according to the seriousness associated with the notices
  - A contract in the 90th percentile or above receives 2 points
  - A contract between the 80<sup>th</sup> and 90<sup>th</sup> percentile receives 1 point
  - Part C has floors for the 80<sup>th</sup> and 90<sup>th</sup> percentiles of 3 and 5

# Compliance Letters (cont.)

Letter Type	Weight	Rationale
Notice of Non-Compliance	1	Mildest letter. Does not contain specific language regarding escalation due to continued non-compliance.
Warning Letter	3	Explains consequences of continued non-compliance.
Warning Letter with Business Plan	4	Requires written response from plan explaining their corrective steps.
Ad Hoc CAP	6	Most serious type of letter and indicates continuing or systemic problems.

## Polling Question 3

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What is CMS' definitive system of record for compliance notices?

- a. HPMS
- b. E-mails
- c. MARx

# Multiple Ad Hoc CAPs

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- Ad Hoc CAPs are rare
- More than one CAP is an indication of ongoing performance problems



## Polling Question 4

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How many past performance points does a contract get under this category if they have multiple Ad Hoc CAPs?

- a. A contract gets 1 point total if they have multiple Ad Hoc CAPs.
- b. A contract gets 1 point per Ad Hoc CAP

# Ad Hoc CAPs with Beneficiary Impact

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- Ad Hoc CAPs are deemed to have beneficiary impact if the problems that resulted in the CAP were related to the delivery of service to members
- Contracts receive 1 point per Ad Hoc CAP with beneficiary impact

## Polling Question 5

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How do I know if an Ad Hoc CAP has beneficiary impact?

- a. The compliance letter will specify that there is beneficiary impact
- b. HPMS will identify it as having beneficiary impact
- c. Both

# Performance Metrics

- Based on “Star Rating” data posted on Medicare.gov
- Contracts with a summary score of 2.5 or below are identified as outliers

## Part C Domains

- Staying Healthy
- Managing Chronic Conditions
- Member Experience
- Complaints
- Customer Service

## Part D Domains

- Customer Service
- Complaints
- Member Experience
- Drug Pricing and Patient Safety

## Failure to Maintain Fiscally Sound Operations

- CMS requires all MAOs and PDPs to at least submit audited annual financial statements.
- All PDPs and some MAOs are also required to submit quarterly financial statements.
- MAOs and PDPs are required to maintain a fiscally sound operation by at least maintaining a positive net worth.



# Audits

## One-Third Financial Audit

- Adverse Audit: Financial data materially misstated.
- Disclaimed Audit: Auditor could not form an opinion due to circumstances created by the audited MAO or PDP.

## Program Audit

- Modified audit score:
  - Part D Formulary & Benefit Administration
  - Part D Coverage Determinations, Appeals, and Grievances
  - Part C Organizational Determinations, Appeals, and Grievances
  - Compliance Program Effectiveness

# Exclusions

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- Exclusion from receiving LIS reassignees or monthly auto-enrollees
- Exclusion from Medicare & You Handbook
- Exclusion from performing formulary updates
- Exclusion from participation in the Online Enrollment Center



# Terminations/Non-renewals

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- Requests by an organization or sponsor to mutually terminate or non-renew a contract (or portion of a contract's service area) after the non-renewal deadline or after marketing has begun
- Contracts that terminate, non-renew, or reduce for the upcoming contract year very late, especially during AEP, are problematic
- Terminations initiated by CMS are the most serious



# Enforcement Actions

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- Intermediate Sanctions and CMPs are rare and reflect significantly impaired performance
- Points are assessed during the appeals process
- If an organization wins an appeal overturning the enforcement, no points are assessed

# Outstanding Significant Compliance Concerns

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- CMS has identified non-compliance that supports a sanction, CMP, or termination but it has not yet been imposed
- CMS has already verified facts of severity and scope but has not yet issued letter due to internal processes
- Very limited circumstances

# In Conclusion

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- We have made adjustments to the methodology over time based on industry comments and will continue to do so.
- We are working to incorporate comments from RFI into future methodologies.
- There will be an opportunity to comment on our 2019 methodology.

**Transparency is our goal!**

# Questions?

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