

Contract Year 2019
Non-Renewal and Service Area Reduction (NR/SAR) Guidance: Enrollee Notification

Medicare Advantage Organizations (MAOs), Prescription Drug Plans (PDPs), section 1876 Cost Plans, Employer/Union-Only Group Waiver Plans (EGWPs), and Medicare-Medicaid Plans (MMPs) non-renewing contracts or individual plan benefit packages, or reducing their service areas are required to notify their enrollees within a specific timeframe and provide information about alternative enrollment options. (42 C.F.R. §422.506(a)(2)(ii), 42 C.F.R. §423.507(a)(2)(ii), 42 C.F.R. §417.492(a)(1)(ii))

Information about non-renewals or service area reductions may not be released to the public, including current enrollees, until CMS provides notice in a separate HPMS e-mail. Any marketing to members of a non-renewing plan, whether the plan's own members or a competitor's, may not take place until October 1, 2018. MAOs may elect to share Non-Renewal and Service Area Reduction (NR/SAR) information only with first tier, downstream, and related entities (FDRs) or anyone that the MAO does business with (i.e., contracted providers). However, plans that share NR/SAR information with these entities in advance of CMS's notice will be held responsible should this information become public before the appropriate time.

Plans impacted by the Cost Contract Plan Competition Requirements and the Cost Contract Plan Transition Requirements under the Medicare Access and CHIP Reauthorization Act of 2015 may follow the guidance provided in two HPMS memos, Reminder Regarding Permissible Communications to Cost Plan Enrollees, published on June 15, 2018, and Cost Plan Transition Notice Requirements in the Medicare Access and CHIP Reauthorization Act of 2015, published July 27, 2018.

Delivery and Notification Receipt Requirements

NR/SAR Plans/Part D sponsors must send final notices with individual enrollee names and addresses, and ensure timely enrollee receipt as follows:

- MAOs, PDPs, Cost plans that offer a Part D benefit, EGWPs, and MMPs must provide notice to each of its affected enrollees **at least 90 days** before the end of the current contract period. For contracts ending on December 31, 2018, notice must be provided not later than October 2, 2018.
 - Since some EGWPs operate on a non-calendar year basis, the 90-day notice should be calculated based on when its contract year ends.
 - MAOs and Part D sponsors who accept enrollment requests into an employer/union sponsored Medicare Advantage (MA) plan or PDP may send out a single notice to enrollees that is consistent with the group enrollment process requirements. The MAO or Part D sponsor's advance notice must tell enrollees that their current plan is being terminated and they will be moved to new employer coverage if they decide not to opt out of such enrollment. Notice shall be provided to the enrollee no later than 21 calendar days prior to the effective date of the beneficiary's enrollment in the employer/union sponsored MA plan or PDP. (See §40.1.6.1 of the MA

enrollment guidance and §40.1.6 of the PDP enrollment guidance.)

- Cost plans that do not offer a Part D benefit must provide notice to each of its affected enrollees **at least 60 days** before the end of the current contract period.

CMS recommends the use of first class postage for these notices. Plans/Part D sponsors that send non-renewal notices may only provide information regarding other Medicare products (such as other MA-PDs available in the service area) to those enrollees receiving the non-renewal notice. Plans/Part D sponsors may include additional materials in a separate enclosure within the same envelope. Enrollment applications may not be provided in the same envelope with non-renewal or termination notices.

Regardless of when the notices are mailed, all plan notices must be dated **October 2, 2018** to ensure national consistency in the application of Medigap Guaranteed Issue (GI) rights to all enrollees, except for those enrollees in MMPs and Special Needs Plans (SNPs). PDP notices can be dated to reflect the date that the notice is printed.

NR/SAR Plans/Part D sponsors that are unable to meet the required enrollee receipt date must inform their Account Manager (Contract Management Team for MMPs) and specify why the notices were not sent timely and when they will be sent.

Format Requirements

The personalized final enrollee notices should be on 8 ½” x 11” sized paper and mailed in a similarly-sized envelope. These notices must also include the individual beneficiary’s name and address to enable affected beneficiaries to prove their special rights to Medigap insurers and other Medicare Plans/Part D sponsors.

Non-Renewal Model Notices

In accordance with 42 CFR 422.2260, NR/SAR materials are no longer considered marketing materials. NR/SAR materials are communication materials that are not required to be submitted in HPMS. In addition, Plans/Part D sponsors are not required to enter Actual Mail Dates in HPMS. MMPs must use the applicable attached non-renewal notices and submit them under their state-specific MMP non-renewal notice codes in HPMS.

- Model Notice to Enrollees in PDPs that are Non-Renewing or Reducing their Service Areas (Tab A);
- Model Notice to Enrollees in MA, MA-PD, and Cost Plans that are Non-Renewing or Reducing their Service Areas (Tab B);
- Model Notices to Enrollees in Dual Eligible Special Needs Plans (D-SNPs) that are Non-Renewing or Reducing their Service Areas (Tabs C, D, and J);
- Model Notices to Enrollees in Medicare-Medicaid Plans (Tab K);
- Model Notices to Enrollees in integrated D-SNPs Working with States on the model notice (Tab L); and
- “What You Should Know about Medigap,” including specific notices for the three waiver States: Massachusetts, Minnesota, and Wisconsin (Tabs F-I).

EGWPs are not required to submit non-renewal notices in HPMS, but must make them available to CMS upon request.

CMS and certain contracting states will reach out to integrated D-SNPs to populate the integrated notice (Tab L). All other D-SNPs should use the notice in Tab C.

Notification of Alternative Enrollment Options

NR/SAR Plans/Part D sponsors must notify enrollees of alternative enrollment options using one or both of the options below:

- **Written Description.** If a plan or sponsor chooses to provide a written description, the plan or sponsor must provide all plan options to the affected enrollees. The list of available plans must be downloaded from HPMS and included in the final beneficiary notice mailing. To access the list, go to HPMS > Contract Management > Contract Reports > 2018 > Non-Renewal/SAR Reports > Organization Replacement Report > Select Contract Number and State. The table may be downloaded as an Excel file by clicking on “Download to Excel” at the bottom of the page.
- **Outbound Phone Calls.** If a plan or sponsor chooses to place outbound calls, the plan or sponsor must notify the affected enrollees on how they may find out about plan options from available sources, including 1-800-MEDICARE, State Health Insurance Program (SHIP), Medicare.gov, and State Ombudsman as applicable for MMPs. NR/SAR plans and Part D sponsors must adhere to the Outbound Non-Renewal/Service Area Reduction Call Script Requirements (Tab E); however, submission in HPMS is not required.

Medigap Policies and State-Specific Notices

Applicable to MA Organizations:

MAOs must inform all enrollees affected by the NR/SAR about their Medigap rights. This includes informing those who are eligible for Medicare due to a disability and individuals with End Stage Renal Disease. Information on this topic is provided in the enclosed document “What You Should Know about Medigap.” (See Tab F.) CMS has prepared State-specific Medigap notices for Massachusetts, Minnesota, and Wisconsin, which are the three original “waiver States.” (See Tabs G-I.) Many other States have Medigap protections that go beyond federal requirements. The State-specific information can be obtained by contacting your local SHIP office or State Department of Insurance. Use of this State-specific language will ensure accurate communication of these provisions. Note that SNPs and MMPs that exclusively enroll dual eligibles should **not** include Medigap information in their communications. This is to avoid confusion for dual eligibles, who may be prohibited from purchasing a Medigap policy, and whose State may pay the dual eligible’s cost-sharing in Original Medicare.

Guaranteed Issuance Rights:

Enrollees have guarantee issue rights to elect a Medigap policy if they are disenrolled from a MAO that is non-renewing or reducing its service area. MAOs that are non-renewing or reducing their service areas must contact the local SHIP Directors to determine whether there are any special

state law Medigap protections beyond Federal law requirements. When necessary, CMS will notify Medigap Issuers and State Insurance Departments.

Chapter 2 of the Medicare Managed Care Manual (MMCM), MA Enrollment and Disenrollment, includes additional information on situations in which an individual has GI rights and the role of the MAO in each of the situations.

Medigap is governed by Section 1882 of the Social Security Act. Subsection(s)(3) requires Medigap issuers to sell certain types of Medigap policies to individuals whose MAO elects to non-renew or reduce its service area.

The GI time period begins 60 days before disenrollment and ends 63 days after the last day of coverage with the non-renewing organization. The time period for most individuals subject to NR begins with receipt of the final enrollee notice of NR and ends 63 days after the last day of managed care coverage.

Special rules for affected enrollees in a MA trial period are defined in Section 12, Guaranteed Issue for Eligible Persons, of the NAIC Model Regulations to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act and Section 1882(s) of the Social Security Act. These individuals must actively and voluntarily disenroll from their non-renewing MA plans in order to choose from a broader range of Medigap policies available on a GI basis. MAOs must provide these enrollees with written documentation of their voluntary disenrollment, even if the voluntary request is made for a December 31, 2018, effective date. Enrollees may be required to submit this written documentation to a Medigap issuer as proof of their right to purchase certain GI Medigap policies. CMS Model Notices for Voluntary Disenrollment are found in the Chapter 2 of the MMCM.

For further assistance on NR/SARs, contact your Account Manager (Contract Management Team for MMPs) or submit your question to the “SARs/Non-Renew/Terminations” Mailbox, located at: <https://dmao.lmi.org/>.