



CENTER FOR MEDICARE

DATE: August 13, 2015

TO: Medicare Advantage Organizations
Medicare Advantage - Prescription Drug Organizations
Section 1876 Cost Plans
Prescription Drug Plan Sponsors
Employer/Union-Sponsored Group Health Plans
Medicare-Medicaid Plans

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SUBJECT: Clarification of CY2016 Medicare Marketing Guidelines

The Centers for Medicare & Medicaid Services (CMS) has received inquiries regarding the Medicare Marketing Guidelines (MMG) released on July 2, 2015. The following information clarifies provisions for Plans/Part D Sponsors to consistently and correctly implement CMS’s requirements. These new requirements and revisions are effective as of the date of this memo.

40 – General Marketing Requirements – Clarification Only

40.1 Marketing Material Identification

As mentioned in section 40.1, Plans/Part D Sponsors are required to place a unique marketing material identification number on all marketing materials to facilitate CMS review of and oversight of marketing materials. CMS would like to clarify that Plans/Part D Sponsors should not include a status after the material ID of non-marketing materials.

60 – Required Documents

60.4 Directories

CMS is revising section 60.4 to clarify requirements for Plans/Part D Sponsors that send a notice related to provider directories. Plans/Part D Sponsors should include the following, revised language in this notice:

| Current language | Revised language |
|--|--|
| The notice must include the following language: “If you want a Provider/Pharmacy Directory [as applicable] mailed to you, or if you need help finding a network provider | <i>The notice must include the following language if you will not allow requests by email:</i> “If you need help finding a network provider |

| Current language | Revised language |
|---|---|
| <p>and/or pharmacy, please call [customer service phone #]. You may also email your request for the directory at [Plan/Part D Sponsor email address]. You can always access our online [searchable, if applicable] directory at [URL].”</p> | <p>and/or pharmacy, please call [customer service phone #] or visit [URL] to access our online [searchable, if applicable] directory. If you would like a Provider/Pharmacy Directory [as applicable] mailed to you, you may call the number above, or request one at the website link provided above.”</p> <p><i>The notice must include the following language if you will allow requests by email:</i></p> <p>“If you need help finding a network provider and/or pharmacy, please call [customer service phone #] or visit [URL] to access our online [searchable, if applicable] directory. If you would like a Provider/Pharmacy Directory [as applicable] mailed to you, you may call the number above, request one at the website link provided above, or email [Plan/Part D Sponsor email address].”</p> |

CMS is also revising the information in the written notice of termination of a contracted provider under section 60.4. Plans/Part D Sponsors should include the following, revised language in this notice:

| Current language | Revised language |
|--|---|
| <p>Language on notices to enrollees who will be affected by a provider termination: “If you want a Provider/Pharmacy Directory mailed to you or if you need help finding a network provider/pharmacy, please call [phone #]. You may also email your request for the directory at [email address]. You can always access our online [searchable, if applicable] directory at [URL].”</p> | <p><i>The notice must include the following language if you will not allow requests by email:</i></p> <p>“If you need help finding a network provider and/or pharmacy, please call [customer service phone #] or visit [URL] to access our online [searchable, if applicable] directory. If you would like a Provider/Pharmacy Directory [as applicable] mailed to you, you may call the number above or request one at the website link provided above.”</p> <p><i>The notice must include the following language if you will allow requests by email:</i></p> <p>“If you need help finding a network provider and/or pharmacy, please call [customer service phone #] or visit [URL] to access our online [searchable, if applicable] directory. If you</p> |

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| | would like a Provider/Pharmacy Directory [as applicable] mailed to you, you may call the number above, request one at the website link provided above, or email [Plan/Part D Sponsor email address]. ” |
|--|--|

60.8 Other Mid-Year Changes Requiring Enrollee Notification

CMS is revising the language under section 60.8 regarding mid-year changes requiring enrollee notification. The following, revised language must be included in the enrollee notification:

| Current Language | Revised Language |
|--|---|
| <p>CMS requires enrollee notification of mid-year benefit changes at least 30 days prior to the effective date. Examples of changes include National Coverage Determination (NCD) changes, plan rule changes, or provider network changes. In many cases, Plans/Part D Sponsors may use a variety of mechanisms to inform enrollees of these changes in coverage.</p> <p>For NCD changes, if Plans/Part D Sponsors choose to provide notification via Plan/Part D Sponsor website, Plans/Part D Sponsors must publish the notification in the next plan newsletter or other mass mailing not specifically dedicated to the NCD notification. Alternatively, Plans may choose to provide this information to enrollees via email or one-time mailings specific to this issue. NCD communications do not need to be submitted in HPMS.</p> | <p>CMS requires enrollee notification of mid-year benefit changes at least 30 days prior to the effective date. Examples of changes include National Coverage Determinations (NCD), legislative changes in benefits, plan rule changes, or provider network changes. Guidance on significant mid-year network changes can be found in Chapter 4 of the Medicare Managed Care Manual. If an NCD or legislative change in benefits is made less than 30 days prior to the effective date, then notification is required as soon as possible. Mid-year benefit changes due to an NCD or legislative change in benefits must be reflected on the Plan/Part D Sponsor website. See also Chapter 4 of the Medicare Managed Care Manual, section 90.3 - General Rules for NCDs.</p> <p>For NCDs or legislative changes in benefits that result in a new mid-year benefit Plans/Part D Sponsors must publish the notification in the next plan newsletter or other mass mailing not specifically dedicated to the NCD notification. Alternatively, Plans/Part D Sponsors may choose to provide this information to enrollees via email (if the enrollee has opted to receive communications via email as described in section 40.9 of the Medicare Marketing Guidelines) or one-time mailings specific to this issue. NCD communications do not need to be submitted in HPMS.</p> |

100 – Plan/Part D Sponsor Websites and Social/Electronic Media

100.1 General Website Requirements

CMS is revising the website posting requirement under section 100.1 from “on September 30 to “by September 30. CMS is also listing exceptions to this requirement. The revised language now reads:

| Current Language | Revised Language |
|---|---|
| <p>Post the following information on the website on September 30 for the upcoming contract year:</p> <ul style="list-style-type: none"> - Annual Notice of Change/Evidence of Coverage - Provider and/or Pharmacy Directory - Formulary and Utilization Management Documents - Multi-Language Insert | <p>Post the following information on the website by September 30 for the upcoming contract year:</p> <ul style="list-style-type: none"> - ANOC/EOC - Provider and/or Pharmacy Directories - Formulary and Utilization Management Documents - Multi-Language Insert <p>Please note the exceptions to postings by September 30 below:</p> <ul style="list-style-type: none"> - Existing D-SNPs and MMPs that mail the ANOC and EOC separately must post the ANOC by September 30 and the EOC by December 31. All other information must be posted by September 30 as noted above. - Existing Section 1876 cost plans that do not offer Part D benefits must post the ANOC/EOC by December 1. All other information must be posted by September 30 as noted above. - New Plans/Part D Sponsors are required to post the above applicable information for the upcoming year on their website no earlier than October 1, but prior to December 31. |

100.4 Online Provider/Pharmacy Directory Requirements

CMS is revising the online provider/pharmacy directory requirement in section 100.4 to remove “office hours”. The revised language now reads:

| Current Language | Revised Language |
|--|--|
| Plans should contact their network/contracted providers on a monthly basis to update the following information in the online provider directory: <ul style="list-style-type: none">● Ability to accept new patients;● Street address;● Phone number;● Office hours; and● Any other changes that affect availability to patients. | Plans should contact their network/contracted providers on a monthly basis to update the following information in the online provider directory: <ul style="list-style-type: none">● Ability to accept new patients;● Street address;● Phone number; and● Any other changes that affect availability to patients. |

Below is additional clarification regarding the Online Provider Directory requirements under section 100.4:

- Plans should contact individual providers on a monthly basis. This includes providers of supplemental benefits. It is not sufficient to determine that a group practice is accepting new patients.

Note: This guidance does not apply to entities, such as hospitals. Plans should contact providers using a method that is likely to achieve the highest response rate.

- Plans should include a notation that identifies providers that *are* accepting new patients or a notation that identifies providers that *are not* accepting new patients.

Should you have any questions, please contact your Account Manager and/or Marketing Reviewer.