



DATE: August 24, 2015

TO: Pharmaceutical Manufacturers

FROM: Amy K. Larrick, Acting Director, Medicare Drug Benefit and C & D Data Group
Cheri Rice, Director, Medicare Plan Payment Group

SUBJECT: Coverage Gap Discount Program - Timely Payment Determination

The purpose of this memorandum is to provide pharmaceutical manufacturers with updated guidance necessitated by the implementation of the new Direct Payment Process (DPP) which will simplify manufacturers' ability to comply with timely payment requirements associated with the Medicare Coverage Gap Discount Program (CGDP). The updated guidance will become effective with the launch of the DPP for the 2nd quarter 2015 invoicing cycle.

The CGDP Manufacturer's Agreement (Agreement) requires manufacturers to pay Part D Sponsors amounts due via electronic funds transfer within 38 calendar days of receipt of the quarterly invoice, and to provide the TPA with electronic documentation of payment, in a manner specified by CMS, within 5 days of the transfer. The Centers for Medicare & Medicaid Services (CMS) is required to assess a civil monetary penalty (CMP) on a manufacturer who fails to pay the amounts invoiced within the required timeframe. The CMP is equal to the sum of the applicable discount payments that the manufacturer has failed to provide plus 25%.

Though payment time frames remain unchanged, the DPP will result in streamlined processes for both invoice payment and payment confirmation as specified in the Agreement. The DPP permits users to access the payment portal on the TPA website (<http://tpaadminstrators.com>) and schedule disbursements for a specified date in the future. This will allow manufacturers to ensure compliance with timely payment requirements while still managing their organization's cash flow. We recommend that manufacturers use this capability because consistent with the current policy, late payments resulting from a manufacturer's error, such as a problem with the manufacturer's computer systems, are subject to compliance actions and CMP assessment. In addition, the DPP has obviated the need for a separate payment confirmation process. CMS will use reports directly from the DPP system, which will fulfill the requirement for confirmation of payment.

With the DPP's capabilities in mind, CMS is implementing the following methods to determine a manufacturer's compliance with contractual requirements:

Timely Payment: A payment will be considered timely if it is both initiated on or before the payment deadline, as defined on the CGDP Calendar (posted at <http://tpadministrator.com>), and is successfully debited from the manufacturer's account without subsequent Automated Clearing House (ACH) reversal. Should funds not be transferred from the manufacturer's account for reasons outside of the manufacturer's control, the manufacturer will still be considered compliant, but will need to re-submit payment in order to successfully pay and obtain payment confirmation.

We suggest that manufacturers use the CGDP portal to monitor the status of their payments. Manufacturers should log into the portal to make sure that each of their payments successfully transition from "pending", to "completed" status. In the event that a pending payment reverts to the Payments section with a failure message, the manufacturer should work with the TPA to resolve the issue.

Payment Confirmation: A manufacturer's payment confirmation will be considered received when the manufacturer's initiated payment is successfully debited from the account, without subsequent ACH return. The Completed Payments tab will display the status as successful for these transactions.

CMS will evaluate the implementation of the DPP, and may revise this guidance in the future, if necessary. In the meantime, please send any questions to Shelly.Winston@cms.hhs.gov.