DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
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CENTER FOR DRUG AND HEALTH PLAN CHOICE

DATE: October 8, 2009

TO: Medicare Advantage Organizations
Medicare Advantage-Prescription Drug Organizations
Cost-Based Contractors
Prescription Drug Plan Sponsors

FROM: Teresa DeCaro, Acting Director, /s/
Medicare Drug & Health Plan Contract Administration Group

Anthony Culotta, Director, /s/
Medicare Enrollment and Appeals Group

RE: Clarification of Outbound Enrollment Requirements in Section 70.6 of the Medicare Marketing Guidelines

On August 10, 2009, CMS sent an HPMS memorandum announcing the issuance of the revised Medicare Marketing Guidelines as Chapters 3 and 2 of the Medicare Managed Care Manual and the Prescription Drug Benefit Manual, respectively. Section 70.6 of the Guidelines extended to all plan sponsors existing requirements regarding outbound enrollment verification processes that had previously applied only to private fee-for-service (PFFS) plans.

Since the release of the revised Medicare Marketing Guidelines, many plan sponsors have requested additional clarification about the expanded applicability of the enrollment verification requirements. Given the expected volumes of enrollments and disenrollments during the upcoming Annual Coordinated Election Period (AEP), which begins November 15, we recognize the need to ensure that our extension of these requirements to all plan sponsors – not just those organizations offering PFFS products – does not impede or unduly delay the processing of enrollment actions. We are also concerned that organizations and sponsors have sufficient time to establish an outbound verification process (where necessary) and incorporate the new model notices and scripting into existing processes before they start accepting enrollments on November 15. At the same time, however, we want to ensure that all beneficiaries requesting enrollment through an agent or broker – whether independent or employed – understand plan rules and the consequences of their enrollment.

Thus, the purpose of this memorandum is to address those concerns and provide clarified guidance regarding the requirements in section 70.6 of the Guidelines, and includes revised language for section 70.6 of the Guidelines as an attachment. Until we update the Guidelines in 2010, plan sponsors should refer to the revised section 70.6 language provided with this

memorandum rather than the original section 70.6 language included with the Guidelines released in August 2009.

As detailed in the attached guidance, the outbound enrollment verification requirements articulated in section 70.6 of the Guidelines:

- Apply to all plan sponsors, with the exception of employer or union-sponsored plans and PACE plans;

- Apply only to enrollments effectuated by agents and brokers – including both independent and employed agents and brokers – with effective dates of January 1, 2010 or later.

- Do not apply to auto-enrollments, facilitated enrollments, and reassignments effectuated by CMS, or enrollments submitted to plans by State Pharmaceutical Assistance Programs (SPAPs), given that such enrollments would not be effectuated by an agent or broker. If an LIS member makes a voluntary enrollment choice (which would override or change their CMS-generated enrollment election), and that voluntary enrollment election is effectuated by an agent or broker, the requirement would apply.

- Do not apply to enrollees who switch from one plan to another plan offered by the same MA organization or PDP sponsor.

We also clarify that we expect plan sponsors to make at least three documented attempts to contact the applicant by telephone within fifteen (15) calendar days – not 10 calendar days, as provided in previous guidance – of receiving the enrollment request. If plan sponsors are unable to successfully complete the verification on the first attempt, then they are expected to send the applicant an enrollment verification letter. Attached to this memorandum is a model enrollment verification letter. This model document is also posted at http://www.cms.hhs.gov/ManagedCareMarketing/09_MarketngModelsStandardDocumentsandEducationalMaterial.asp.

The outbound calls to the beneficiary must be made after the sale has occurred; they cannot be made at the point of sale. Furthermore, plan sponsors must ensure that the verification calls made to beneficiaries are not made directly by sales agents and also that the sales agents are not with the beneficiaries at the time of the verification call. Plan sponsors may not use automated calling technologies to effectuate these outbound calls; our expectation is the calls will be interactive. Plan sponsors will be required to conduct these calls for all new enrollments (unless excluded as stated above). We have developed a model script for use by all plan sponsors for this purpose. This model script is also posted at http://www.cms.hhs.gov/ManagedCareMarketing/09_MarketngModelsStandardDocumentsandEducationalMaterial.asp).

We expect the script and the verification letter will inform beneficiaries that they must notify the plan sponsor of their intent to cancel the processing of their enrollment within seven (7) calendar days of the date of the letter or call or by the last day of the month in which the enrollment request was received, whichever is later.

We remind plan sponsors that they must document enrollment verification activities. We also note that we intend to update our contract year 2011 audit protocol to oversee compliance with the outbound enrollment verification requirements. For 2010, our monitoring strategy will focus on collecting data and ensuring appropriate outcomes – i.e., that beneficiaries are enrolled in plans consistent with their wishes and with an understanding of those plans' rules.

We hope this memorandum provides useful guidance to plan sponsors as they prepare to implement their outbound enrollment verification processes for 2010. Plan sponsors should contact their CMS Regional Office Account Manager or Marketing Reviewer with any questions about these requirements.

Attachment 1 – Replacement language for section 70.6 of the Medicare Marketing Guidelines
Attachment 2 – Model enrollment verification letter
Attachment 3 – Model script for outbound enrollment verification calls