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CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR MEDICARE

MEDICARE DRUG & HEALTH PLAN CONTRACT ADMINISTRATION GROUP

DATE: June 10, 2015

TO: Medicare Advantage-Prescription Drug Organizations
Section 1876 Cost Contractors Providing Part D Coverage
PACE Organizations Providing Part D Coverage
Medicare-Medicaid Plans Providing Part D Coverage
Employer/Union-Sponsored Group Health Plans Providing Part C and D Coverage

FROM: Kathryn A. Coleman, Director

SUBJECT: Requirements for Part D Coverage: Prescriber Requirements

The purpose of this memo is to request that organizations offering Part D prescription drug coverage in conjunction with other Medicare coverage confirm their contracting providers are eligible to furnish Part D prescriptions when the new prescriber enrollment requirement in CMS-4159-F, as modified by CMS 6107-IFC (80 FR 25958), is enforced. This memo is applicable to all organizations offering Medicare Advantage- Prescription Drug (MA-PD) plans, Section 1876 cost plans with Part D, Program of All-Inclusive Care for the Elderly (PACE) Organizations with Part D, Medicare Advantage (MA) demonstrations with Part D, and MA employer group plans with Part D. The relevant regulatory citation is 42 CFR § 423.120(c)(6).

This regulation generally requires all organizations offering Part D to deny coverage for Part D prescriptions that are written by a physician or eligible professional who is not enrolled in Medicare in an approved status and who does not have a valid opt-out affidavit on file with an A/B Medicare Administrative Contractor (MAC). Thus, physicians or eligible professionals must either be enrolled in Medicare in an active status or have a valid opt-out affidavit on file with the applicable MAC in order for their prescriptions to be coverable under the Part D benefit, regardless of whether the prescriber is a network provider. All organizations noted above must meet these and all other Part D requirements. *See e.g.,* 42 CFR §§ 417.440(b)(2)(ii), and 422.4(c), as applicable.

While an organization may contract with a physician or other eligible professional, such as a dentist, for reimbursable services without the provider being enrolled in Medicare, any prescriptions written by a non-enrolled provider cannot be covered by the organization under the Part D benefit, except in limited circumstances (for more information, please see the June 1, 2015 HPMS memo titled “Medicare Part D Prescriber Enrollment Requirement Update”). If an organization anticipates that a contracted physician or eligible professional, such as a dentist, may write prescriptions for Part D drugs, the organization should confirm that the contracted physician or eligible professional is enrolled in Medicare in an approved status.

We encourage all organizations to ensure their enrollees have timely access to high quality care and to avoid situations in which enrollees receive services from a network physician or eligible professional, but cannot obtain Part D coverage for a medication prescribed by that physician or professional because he or she is not enrolled in Medicare.

We note that the new prescriber enrollment rule does not change existing Medicare rules that prohibit organizations from contracting with opt-out providers. Specifically, organizations may not contract with or pay for non-emergency or non-urgent services provided by a physician or other practitioner that has an opt-out affidavit on file under 42 CFR §§ 422.204(b)(4) and 422.220. *See* also 42 CFR § 417.416. Similarly, while non-contract opt-out providers - including dentists - may have their Part D prescriptions covered by an organization, the organization may not pay for any medical services furnished by the opt- out provider, unless they are emergency or urgently needed services.

In addition, MA PPO plans and HMO POS plans that allow enrollees to obtain services from non-contracted providers are required to educate their enrollees about these new requirements consistent with the disclosure requirements at 42 CFR §422.111(a), (b)(2). *See also* 42 CFR §422.111(b)(7) (requiring disclosures of certain conditions on coverage).

Organizations may determine whether a contracted physician or eligible professional has a National Provider Identifier (NPI) that is listed as "enrolled in an approved status" or whether the contracted physician or eligible professional has a valid opt-out affidavit on file at: https://data.cms.gov/dataset/Medicare-Individual-Provider-List/u8u9-2upx

Physicians and eligible professionals, including dentists, may complete the CMS-855O application to enroll in Medicare for the sole purpose of ordering, certifying, or prescribing coverable items or services (including Part D drugs) for their patients. The CMS-855O application is a short form and takes little time to complete. However, if the physician or eligible professional, including a dentist, intends to bill Medicare or Medicare beneficiaries directly (billing a Medicare Advantage plan does not constitute billing Medicare directly), they should complete the CMS-855I instead. Both the CMS-855O and CMS-855I may be completed electronically using the Internet-based Provider Enrollment, Chain, and Ownership System (PECOS) located at https://pecos.cms.hhs.gov/pecos/login.do. These applications are free of charge. Paper versions of the CMS-855I or CMS-855O applications are available at:http://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/CMS-Forms-List.html

We strongly encourage all sponsors to share this information with their network providers.

Questions concerning this guidance can be directed to PartDPolicy@cms.hhs.gov.