

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C1-22-06
Baltimore, Maryland 21244-1850



PROGRAM COMPLIANCE AND OVERSIGHT GROUP

October 8, 2010

VIA FEDERAL EXPRESS DELIVERY
E-MAIL (mmccallister@humana.com)
AND FACSIMILE (502-580-3690)

Mr. Michael McCallister
Chief Executive Officer
Humana Insurance Company
500 West Main Street
Louisville, KY 40202
Phone: 502-580-2764

Re: Notice of Initial Determination to Impose a Civil Money Penalty (CMP) for:
Humana Insurance Company. - Medicare Advantage Organization
Contract Number R5826

Dear Mr. McCallister:

Pursuant to 42 C.F.R. §422.752(c)(1), §422.756(f), §422.760(b), §423.752(c)(1), §423.756(f), and §423.760(b), the Centers for Medicare & Medicaid Services (CMS) is providing notice to Humana Insurance Company (Humana) that CMS has made a determination to impose a civil money penalty (CMP) in the amount of \$55,880 for Medicare Advantage Organization (MAO) contract number R5826.

Basis for Civil Money Penalty

This action is based on your organization's failure to provide accurate beneficiary information in Contract Year 2010 Annual Notice of Change (ANOC) and Evidence of Coverage (EOC) documents, in violation of 42 C.F.R. §422.64, §422.111, §423.48, and §423.128. As a result, CMS has determined that your organization is carrying out its contract in a manner "inconsistent with the effective and efficient implementation of this part." *See* 42 C.F.R. §422.510(a)(2) and §423.509(a)(2).

Mr. Michael McCallister

October 8, 2010

Page 2 of 4

The ANOC and EOC provide vital information to Medicare beneficiaries about their plan and permit beneficiaries to make informed choices concerning Medicare health care and prescription drug options. On July 31, 2009, CMS released the standardized Annual Notice of Change (ANOC) and Evidence of Coverage (EOC) templates. In a notice dated October 20, 2009, CMS reminded each organization of its obligation to ensure timely and accurate ANOC/EOC documents to current enrollees no later than October 31, 2009. CMS stated that organizations and sponsors should clearly communicate the requirements of timeliness and accuracy to contractors and staff responsible for producing the documents. In addition, CMS reiterated that organizations and sponsors bear the full responsibility of compliance with ANOC/EOC requirements. In addition, the notice clearly stated that the failure to provide accurate documents in a timely manner may result in the imposition of civil money penalties.

On February 3, 2010, CMS issued a notice requesting information from all Medicare Advantage and Prescription Drug Plan Sponsors (except Cost Contracts, PACE organizations, SNP and Employer Plans, and Contracts with Zero Enrollment in 2009) concerning adherence to these deadlines for issuing the ANOC/EOC documents. Based on the information provided by your organization, CMS concluded that 5,588 members in Humana's contract number R5826 were not provided accurate ANOC/EOC materials. Specifically, CMS determined that the following incorrect statement was made in the ANOC/EOC documents:

- Humana stated that there was limited drug coverage in the gap. The correct statement is that the beneficiary pays the full cost for drugs in the gap. This error affected PBP 010, 013 and 073.

CMS has determined that the failure by your organization to mail accurate ANOC/EOC documents to Medicare enrollees is a deficiency which directly adversely affected or had the substantial likelihood of adversely affecting these enrollees. Humana failed to provide Medicare enrollees with vital information about changes to the benefits and cost-sharing that would have allowed them to make fully informed choices concerning their 2010 Medicare health care and prescription drug options during the Medicare Annual Open Enrollment Period.

Right to Request a Hearing

Your organization may request a hearing to appeal CMS's determination in accordance with the procedures outlined in Subpart T of 42 C.F.R. §422 and 42 C.F.R. §423. In accordance with the requirements of 42 C.F.R. §422.1006, §423.1006, §422.1020, and §423.1020, you must file your written request for a hearing to the Departmental Appeals Board office listed below, with a copy to CMS at the address listed below, within 60 calendar days from receipt of the notice of our initial determination, or by December 8, 2010. The request for hearing must identify the specific issues, the findings of fact and conclusions of law with which you disagree, and specify the basis for each contention that the finding or conclusion of law is incorrect. Your request should be sent to:

Mr. Michael McCallister

October 8, 2010

Page 3 of 4

Oliver Potts
Chief, Civil Remedies Division
Department of Health and Human Services
Departmental Appeals Board
Medicare Appeals Council, MS 6132
330 Independence Ave., S.W.
Cohen Building Room G-644
Washington, D.C. 20201

A copy of your hearing request should also be sent to CMS at the following address:

Brenda J. Tranchida
Director, Program Compliance and Oversight Group
Centers for Medicare & Medicaid Services
7500 Security Boulevard
MAIL STOP: C1-22-06
Baltimore, MD 21244
Email: brenda.tranchida@cms.hhs.gov
FAX: 410-786-6301

If you do not request an appeal in the manner and timeframe described above, the initial determination by CMS to impose a CMP will become final and due on December 9, 2010. CMS may use the Agency's debt collection procedures to collect the amount owed, including offsetting the penalty amount against your monthly Medicare payment.

Please note that any further failures by Humana Insurance Company to comply with these or any other CMS requirements may subject your organization to other applicable remedies available under law, including the imposition of sanctions, penalties, or other enforcement actions as described in 42 C.F.R. Parts 422 and 423, Subparts K and O.

If you have any questions about this notice, please contact Trish Axt at (410) 786-0095 or by email at trish.axt@cms.hhs.gov.

Sincerely,

/s/

Brenda J. Tranchida
Director
Program Compliance and Oversight Group

cc: Mr. Jonathan Blum, CMS/CM
Mr. Tim Hill, CMS/CM

Mr. Michael McCallister

October 8, 2010

Page 4 of 4

Ms. Danielle Moon, CMS/CM/MCAG
Ms. Marsha Davenport, CMS/CM/MCAG
Mr. Michael Kavouras, CMS/CM/MCAG
Ms. Cynthia Tudor, CMS/CM/MDBG
Ms. Jennifer Shapiro, CMS/CM/MDBG
Mr. Scott Nelson, CMS/CM/MDBG
Mr. Cheri Rice, CMS/CM/MPPG
Mr. Randy Brauer, CMS/CPC/MPPG
Ms. Marla Kilbourne, CMS/CPC/MPPG
Mr. Mike Crochunis, CMS/CPC/MEAG
Mr. Jon Booth, CMS/OC/WPMG
Ms. Anita Panicker, CMS/OC/WPMG
Mr. Peter Ashkenaz, CMS/OEA
Mr. Greg Jones, CMS/OL
Mr. James T. Kerr, CMS/CMHPO
Mr. Paul Collura, CMS/CMHPO
Ms. Yolanda Burge Clark, CMS/CMHPO/Region V
Ms. Candace Arnold, CMS/CMHPO/Region V
Ms. Carol Bennett, DHHS/OGC
Ms. Jill Abrams, DHHS/OGC
Ms. Trish Axt, CMS/CM/PCOG
Ms. Oliver Potts, DHHS/DAB
Ms. Nancy Brown, DHHS/OIG/OCIG
Mr. Gerald T. Walters, CMS/OFM