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

MEDICARE PARTS C AND D OVERSIGHT AND ENFORCEMENT GROUP

February 28, 2014

VIA EMAIL: david.gallitano@wellcare.com

David Gallitano, CEO
WellCare Health Plans, Inc.
8735 Henderson Rd.
Tampa, FL 33634

Re: 2012 Program Audit – Notice of Audit Closure for Medicare Advantage and/or Standalone Prescription Drug Plan Contract: H5087

Dear Mr. Gallitano:

On November 5, 2012, the Centers for Medicare & Medicaid Services (CMS) issued the final audit report to your organization for the above-referenced Medicare Advantage and/or Prescription Drug Plan contracts. The audit evaluated your organization's compliance with CMS requirements in the following areas:

1. Part D Formulary and Benefit Administration
2. Part D Coverage Determinations and Appeals
3. Part D Grievances
4. Part C Organization Determinations and Appeals
5. Part C Grievances
6. Part C Access to Care
7. Parts C & D Agent/Broker Oversight
8. Parts C & D Compliance Program Effectiveness
9. Enrollment and Disenrollment
10. Late Enrollment Penalty (LEP)

Your organization was afforded 90 calendar days from the report date to provide data and documents to CMS to demonstrate and attest that all of the deficiencies in the audit report were sufficiently corrected and not likely to recur. CMS reviewed your evidence of correction submission and also conducted a review to validate the implementation of required corrective actions and immediate corrective actions.

This notice is to inform you that based on the evidence provided by your organization and the validations conducted; you have corrected all conditions except:

The following conditions still remain from the audit report:

1. **Part C Organization Determinations and Appeals, Effectuation Timeliness, Condition i.** – In 1 case reviewed during the audit, WellCare (Easy Choice) did not notify the beneficiary of the determination for the organization determination for pre-service authorization within 14 days of receipt. This condition could not be validated as corrected because this condition was observed in 3 out of 5 cases (ALT ET2, CDM2 and CDM4) reviewed during the validation. WellCare (Easy Choice) has multiple Independent Practice Associations (IPAs) responsible for processing organization determinations and the IPAs are not consistently following CMS guidelines. WellCare (Easy Choice) does not have an effective delegation oversight process in place for its IPAs.
2. **Part C Organization Determinations and Appeals, Effectuation Timeliness, Condition iv.** – In 4 cases reviewed during the audit, WellCare (Easy Choice) did not provide the enrollee with a written notice when it decided to deny payment in whole or in part. This condition was not validated as corrected because this condition was observed in 3 of 5 cases (CDM6, CDM9 and CDM10) reviewed during the validation.
3. **Part C Organization Determinations and Appeals, Effectuation Timeliness, Condition viii.** – In 1 case reviewed during the audit, WellCare (Easy Choice) did not issue the reconsideration for service and effectuate it within 30 calendar days from the date it received the request for a standard reconsideration upon making a completely favorable determination. The reason this condition was not validated as corrected is because the same issue was observed in 5 of 5 cases (ET13, ET15, ALT ET9, CDM6 and CDM10) reviewed during the validation.
4. **Part C Organization Determinations and Appeals, Appropriateness of Clinical Decision-Making, Condition i.** - WellCare (Easy Choice) must give the enrollee written notice of the determination if they decide to deny service or payment in whole or in part, or if an enrollee disagrees with an MA organization's decision to discontinue or reduce the level of care for an ongoing course of treatment. WellCare (Easy Choice) did not adhere to this requirement for 7 cases reviewed during the audit. The reason this condition was not validated as corrected is because this condition was noted in 3 out of 5 cases (CDM6, CDM9 and CDM10) reviewed during the validation. WellCare (Easy Choice) does not have an effective process in place to provide the enrollee with a written notice of the determination if it decides to deny service or payment, in whole or in part, or if an enrollee disagrees with an MA organization's decision to discontinue or reduce the level of care for an ongoing course of treatment.
5. **Part C Organization Determinations and Appeals, Effectuation Timeliness, Condition xi. and Appropriateness of Clinical Decision-Making, Condition vi.** - WellCare (Easy Choice) cannot accept a request for reconsideration from a non-contracted provider prior to receiving a completed Waiver of Liability (WOL) form. This occurred in 9 Effectuation Timeliness cases and 1 Appropriateness of Clinical Decision Making case reviewed during the audit. The reason this condition was not validated as corrected is because this condition was observed in the validation for the only related case (CDM6) in the universe. WellCare (Easy Choice) does not have adequate procedures in place to ensure they obtain a completed Waiver of Liability when they receive a reconsideration request from a non-participating provider.

The following condition has not yet been validated related to Formulary Administration – Transition:

1. **Part D Formulary and Benefit Administration, Transition, Condition iv.** - Easy Choice failed to pay the maximum allowable transition fill quantity due to the application of an incorrect fill limit. This condition could not be validated until 2014.

   The reason this condition could not be validated is because CMS has to wait across plan years (i.e. from 2013 to 2014) in order for a universe to have an appropriate number of transition beneficiaries (new and continuing) to yield a suitable sample size.

   Applicable transition findings, if any, were covered by Medicare Drug Benefit and C & D Data Group's (MDBG) Transition Monitoring Program Analysis (TMPA). The results of that analysis and any resulting actions will be followed up with by MDBG and your account manager.

The following observations:

1. **Part C Organization Determinations and Appeals, Effectuation Timeliness -** WellCare (Easy Choice) is not including the CMS Marketing ID or CMS approval on notices sent to beneficiaries. WellCare (Easy Choice) must include the CMS Marketing ID and CMS approval on all beneficiary notices.
2. **Part C Grievances, Grievances -** WellCare's (Easy Choice's) grievance resolution letter did not include a description of the enrollee's right to file a written complaint with the Quality Improvement Organization (QIO) nor did it adequately address the concerns of the beneficiary.

Your validation provided CMS with a reasonable assurance you are in compliance with program requirements tested during the audit. However, CMS will require heightened monitoring of the conditions and/or observations noted above to ensure Sponsor continues to implement effective correction. Your Account Manager will contact you to address these issues.

CMS is closing your audit.

CMS considers your compliance program's effectiveness to be essential in preventing, detecting and responding to potential non-compliance and fraud, waste, and abuse. Therefore, CMS expects your organization to continue monitoring the effectiveness of the corrective actions you have implemented and to continue to measure and improve the effectiveness of your compliance program. In addition, your Account Manager will continue to monitor and oversee your operations and compliance program to ensure that your organization is in compliance with all CMS requirements.

If you have any questions concerning this notice, please contact Mr. Darryl Brookins at 410-786-7542 or via email at Darryl.Brookins@cms.hhs.gov.

Sincerely,

/s/

Tawanda Holmes
Director, Division of Audit Operations
Medicare Part C and D Oversight and Enforcement Group

cc:
Michelle Turano, CMS/CM/MOEG
Jessica Robinson, Audit Lead, CMS/CM/MOEG
Lorraine Williams, Account Manager, CMS/CMHPO/Region IV
Laura Collins, Account Manager, CMS/CMHPO/Region IV
Colleen Carpenter, Branch Manager, CMS/CMHPO/Region IV
Gloria Parker, Associate Regional Administrator, CMS/CMHPO/Region IV
Lucinda Baily, Chief Compliance Officer (Lucinda.Baily@wellcare.com)
Julie Uebersax, CMS/CM/MPPG
Robert Ahern, CMS/CM/MDBG
Tyler Whitaker, CMS/CM/MEAG
Kimberly August, CMS/CM/MCAG
Tanette Downs, CMS/CPI
Elizabeth Brady, CMS/CPI