

Department of Health & Human Services  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, Maryland 21244-1850



Center for Medicare

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April 12, 2016

Dr. Juan Estevez  
Chief Executive Officer  
Cuatro LLC  
93-20a Roosevelt Avenue, Suite 3C  
Jackson Heights, New York 11372

*Delivered by electronic mail to [jestevez@accessmedicareny.com](mailto:jestevez@accessmedicareny.com)*

Dear Dr. Estevez:

The Centers for Medicare & Medicaid Services (CMS) hereby notifies you of its decision to non-renew (effective 11:59:59 PM EST on December 31, 2016) Cuatro LLC's ("Cuatro") Medicare Advantage Prescription Drug (MA-PD) contract H4866 pursuant to section 1857(c)(2) of the Social Security Act (the Act) and 42 C.F.R. §§422.506(b)(1)(ii) and 422.510(a)(4)(xi). CMS has determined that the failure of Cuatro's contract H4866 to achieve a Part C summary rating of at least three stars in at least one of the three most recent star rating periods constitutes a substantial failure to carry out the terms of its MA-PD contract.

**I. Medicare Advantage Program Requirement – Achieve Performance Rating of At Least Three Stars**

Since 2007, CMS has developed and published annual performance ratings for all stand-alone Medicare prescription drug plan (PDP) contracts. In 2008, CMS began issuing ratings for Medicare Advantage (MA) contracts as well. The ratings are based on measures that address a range of health and drug plan performance categories, including access to care, communication with members, and clinical quality of care. The scores in each performance category are based on data reported by MA organizations and PDP sponsors, member satisfaction, and monitoring conducted by CMS and its contractors. The contracts receive a score for each performance measure, a summary score each for Part C and Part D, as well as an overall rating. Under the methodology adopted by CMS for its star rating process, a rating of three or more stars is an indication of contracts with "average" or better performance.

To qualify for an MA contract, organizations must demonstrate that they have administrative and management arrangements satisfactory to CMS, including personnel and systems sufficient for the organization to implement, control, and evaluate the activities associated with the delivery of Part C benefits. 42 C.F.R. §422.503(b)(4)(ii). Once under contract with CMS, MA organizations remain obligated to maintain satisfactory administrative and management

arrangements. §422.504(a)(17). Because the star ratings are a direct indicator of the ongoing effectiveness of a contracting organization's administrative and management arrangements, to demonstrate compliance with this requirement, MA organizations are required to achieve a Part C summary rating of at least three stars each year. 42 C.F.R. §422.504(a)(18).

## **II. Legal Basis for Non-Renewal**

CMS has the authority, under section 1857(c)(2) of the Act, to terminate CMS's contract with an MA organization when we determine that the organization has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the Part C program. A summary rating of less than three stars can be achieved only when an organization demonstrates poor performance across a range of measures, and organizations that consistently achieve poor plan ratings have demonstrated a substantial failure to comply with the terms of its Medicare contract. Accordingly, CMS has established that an MA contract that fails to achieve a Part C summary rating of at least three stars in at least one out of three consecutive years has failed in a significant way to meet its obligations as an MA organization and is therefore eligible for termination by CMS. 42 C.F.R. §422.510(a)(4)(xi).

In October 2015, CMS released the Part C and Part D star ratings for 2016. Cuatro's contract H4866 earned a Part C summary rating of 2 stars, which, when combined with its rating of two stars in the 2015 set of ratings and 2.5 stars in the 2014 set of ratings, constituted the third consecutive year in which it failed to achieve a Part C summary rating of at least 3 stars. As a result, CMS has made the determination to non-renew contract H4866, pursuant to 42 C.F.R. §§422.506(b)(1)(ii) and 422.510(a)(4)(xi).

## **III. Right to Request a Hearing**

This contract determination is effective at 11:59:59 PM EST on December 31, 2016. Cuatro does not have any additional opportunity to take corrective action prior to termination as CMS has already informed Cuatro of the need to take corrective action with respect to its star ratings through notices issued on April 17, 2014, and July 20, 2015. The contract determination may be appealed by an authorized official of Cuatro timely requesting a hearing pursuant to the procedures outlined in 42 C.F.R. Part 422 Subpart N. In the event that Cuatro makes timely hearing request, the effective date of the contract determination will be postponed pursuant to 42 C.F.R. §422.664. Pursuant to 42 C.F.R. §422.662, your written request for a hearing must be received by CMS within 15 calendar days from the date CMS notified you of this determination, or no later than April 27, 2016. CMS considers receipt of notice as the day after notice is sent by fax, e-mail, or overnight mail (i.e., April 13, 2016). Your hearing request will be considered officially filed on the date that it is mailed; accordingly, we recommend using an overnight traceable mail carrier.

The request for a hearing must be sent to the CMS Hearing Officer at the following address:

Benjamin Cohen  
CMS Hearing Officer  
Office of Hearings  
ATTN: HEARING REQUEST  
Centers for Medicare and Medicaid Services  
2520 Lord Baltimore Drive  
Suite L  
Mail Stop LB-01-22  
Baltimore, MD 20244-2670  
Phone: (410) 786-3169  
E-Mail: [Benjamin.Cohen@cms.hhs.gov](mailto:Benjamin.Cohen@cms.hhs.gov)

A courtesy copy of the hearing request should also be sent by e-mail to CMS at the following address:

John Scott  
Director, Division of Compliance Enforcement  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244  
MAIL STOP: C1-22-06  
Email: [john.scott@cms.hhs.gov](mailto:john.scott@cms.hhs.gov)

CMS will consider the date the Office of Hearings receives the e-mail or the date it receives the fax or traceable mail document, whichever is earlier, as the date of receipt of the request. The request for a hearing must include the name, fax number and e-mail address of the contact within your organization (or an attorney who has a letter of authorization to represent your organization) with whom you wish us to communicate regarding the hearing request.

CMS will continue to monitor Cuatro's Medicare contract performance throughout the remainder of 2016. In the event that CMS determines that Cuatro's performance warrants termination of contract H4866 before December 31, 2016 (e.g., financial distress, failure to provide health or drug benefit services to enrollees), CMS reserves the right to issue a notice of termination with an earlier effective date that would supersede the determination described in this notice.

If you have any questions about this determination, please contact John Scott at [john.scott@cms.hhs.gov](mailto:john.scott@cms.hhs.gov).

Sincerely,



Sean Cavanaugh  
Director  
Center for Medicare