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**

January 17, 2025

Mr. Michael Carson
Chief Operating Officer, Medicare
Centene Corporation
7700 Forsyth Blvd
Clayton, MO 63105

Re: Notice of Imposition of Civil Money Penalty for Medicare Advantage-Prescription Drug Contract Numbers: H0074, H0111, H0174, H0270, H0351[1], H0562, H0712, H0913, H1032, H1112, H1416, H1914, H2162, H2491, H2775, H2816, H3047, H3561, H3975, H4506, H4847, H4868, H5087, H5439, H5475, H5779, H5965, H6713, H7323, H7326, H7518, H8553, H8711, H9364, and H9730

Dear Mr. Carson:

Pursuant to 42 C.F.R. §§ 422.752(c)(1), 422.760(c), 423.752(c)(1), and 423.760(c), the Centers for Medicare & Medicaid Services (CMS) is providing notice to Centene Corporation (Centene), that CMS has made a determination to impose a civil money penalty (CMP) in the amount of **$2,000,000** for Medicare Advantage-Prescription Drug (MA-PD) Contract Numbers H0074, H0111, H0174, H0270, H0351, H0562, H0712, H0913, H1032, H1112, H1416, H1914, H2162, H2491, H2775, H2816, H3047, H3561, H3975, H4506, H4847, H4868, H5087, H5439, H5475, H5779, H5965, H6713, H7323, H7326, H7518, H8553, H8711, H9364, and H9730.

An MA-PD organization's[2] primary responsibility is to provide Medicare enrollees with medical services and prescription drug benefits in accordance with Medicare requirements. CMS has determined that Centene failed to meet that responsibility.

**Summary of Noncompliance**

In 2023, CMS conducted an audit of Centene's 2021 Medicare financial information. In financial audit reports issued on July 7, 2023, CMS auditors reported that Centene failed to comply with Medicare requirements related Part C maximum out-of-pocket (MOOP) limit requirements in violation of 42 C.F.R. Part 422, Subpart C. More specifically, auditors found that in 2021, Centene charged enrollees more than the annual Part C MOOP limit. Centene's failure to comply

[1] Contract H6439 was impacted, however, it was consolidated into H0351 in CY 2022.
[2] Referenced collectively as "plan sponsor".

with Medicare Part C requirements adversely affected (or had the substantial likelihood of adversely affecting) enrollees because they may have experienced increased out-of-pocket costs.

**Part C Maximum Out-of-Pocket Limit Requirements** *(42 C.F.R. §§ 422.100(f)(4) and (5) and Health Plan Management System (HPMS) Memo, Final Contract Year 2021 Part C Benefits Review and Evaluation, April 8, 2020)*

Medicare Advantage (MA) organizations must have an enrollee in-network MOOP amount for basic benefits that is no greater than the annual limit calculated by CMS. In addition, MA Preferred Provider Organization (PPO) plans must also establish a combined MOOP amount for basic benefits that are provided in-network and out-of-network. MA organizations are responsible for tracking out-of-pocket spending accrued by their enrollees and must alert enrollees and contracted providers when the plan's MOOP amounts are reached. MA organizations must not charge an enrollee in excess of MOOP limits.

**Violation Related to Part C Maximum Out-of-Pocket Limit Requirements**

CMS determined that Centene failed to comply with MOOP requirements by failing to track enrollee out-of-pocket spending and charging enrollees more than annual MOOP limits. More specifically, Centene systems caused an error to occur when claims for the same member were processed at the same time for the same benefit and the member was close to reaching their MOOP limit. As a result, these claims were auto-processed simultaneously by the system, causing them to process independently of one another without recognizing the cost sharing being applied to claims processing at the same time. As a result, enrollees were charged amounts in excess of their annual MOOP limit. Centene's failure to comply with MOOP limit requirements violates 42 C.F.R. §§ 422.100(f)(4) and (5).

**Basis for Civil Money Penalty**

Pursuant to 42 C.F.R. § 422.752(c)(1)(i), CMS may impose a CMP for any determination made under 42 C.F.R. § 422.510(a)(1). Specifically, CMS may issue a CMP if a MA-PD has failed substantially to carry out its contract. Pursuant to 42 C.F.R. § 422.760(b)(2), a penalty may be imposed for each enrollee directly adversely affected (or with the substantial likelihood of being adversely affected) by the deficiency.

CMS has determined that Centene failed substantially to carry out the terms of its contract (42 C.F.R.§ 422.510(a)(1)) by substantially failing to comply with requirements at 42 C.F.R. Part 422, Subpart C. Centene's violations of Part C requirements directly adversely affected (or had the substantial likelihood of adversely affecting) enrollees and warrant the imposition of a CMP.

**Right to Request a Hearing**

Centene may request a hearing to appeal CMS's determination in accordance with the procedures outlined in 42 C.F.R. Parts 422 and 423, Subpart T. Centene must send a request for a

hearing to the Departmental Appeals Board (DAB) office listed below by March 19, 2025.[3] The request for hearing must identify the specific issues and the findings of fact and conclusions of law with which Centene disagrees. Centene must also specify the basis for each contention that the finding or conclusion of law is incorrect.

The request should be filed through the DAB E-File System (https://dab.efile.hhs.gov) unless the party is not able to file the documents electronically. If a party is unable to use DAB E-File, it must send appeal-related documents to the Civil Remedies Division using a postal or commercial delivery service at the following address:

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

Please see https://dab.efile.hhs.gov/appeals/to_crd_instructions for additional guidance on filing the appeal.

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

Kevin Stansbury
Director, Division of Compliance Enforcement
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244
Mail Stop: C1-22-06
Email: kevin.stansbury@cms.hhs.gov

If Centene does 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 March 20, 2025. Centene may choose to have the penalty deducted from its monthly payment or transfer the funds electronically. To notify CMS of your intent to make payment and for instructions on how to make payment, please call or email the enforcement contact provided in the email notification.

**Impact of CMP**

Further failures by Centene to provide its enrollees with Medicare benefits in accordance with CMS requirements may result in CMS imposing additional remedies available under law, including contract termination, intermediate sanctions, penalties, or other enforcement actions as described in 42 C.F.R. Parts 422 and 423, Subparts K and O.

[3] Pursuant to 42 C.F.R. §§ 422.1020(a)(2) and 423.1020(a)(2), the plan sponsor must file an appeal within 60 calendar days of receiving the CMP notice.

If Centene has any questions about this notice, please call or email the enforcement contact provided in the email notification.

Sincerely,

/s/
John A. Scott
Director
Medicare Parts C and D Oversight and Enforcement Group

cc: Ashley Hashem, CMS/ OPOLE
Verna Hicks, CMS/OPOLE
Kirsten DuVal, CMS/OPOLE
Kevin Stansbury, CMS/CM/MOEG/DCE