

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



MEDICARE DRUG BENEFIT AND C & D DATA GROUP

July 20, 2015

Contract ID: S5580

Mr. Michael Gaisbauer
Compliance Officer
FIRST UNITED AMERICAN LIFE INSURANCE COMPANY
3700 S. Stonebridge Drive

McKinney, TX 75070

Delivered via email to Mr. Michael Gaisbauer at mgaisbauer@torchmarkcorp.com

CORRECTIVE ACTION PLAN (CAP) REQUEST

Dear Mr. Michael Gaisbauer:

The Centers for Medicare & Medicaid Services (CMS) is issuing this compliance notice to FIRST UNITED AMERICAN LIFE INSURANCE COMPANY concerning its failure, as indicated by its most recent low star rating, to meet the administrative and management requirements that apply to Medicare Advantage organizations (MAOs) and stand-alone Medicare Prescription Drug Plan (PDP) sponsors. In particular, your organization's score(s) established it as a poor performer, and CMS is requesting that your organization develop and implement a corrective action plan designed to ensure that it will achieve at least an "average" star rating.

Medicare regulations at 42 C.F.R. § 422.503(b)(4)(ii) and §423.504(b)(4)(ii) require MAOs and PDP sponsors, respectively, to have administrative and management arrangements satisfactory to CMS, including personnel and systems sufficient for the organization to market and administer benefit plans and conduct utilization management and quality assurance activities consistent with Medicare requirements. The performance measures used to calculate an organization's Part C or D Summary Star Rating reflect a sponsor's contract performance across multiple Medicare program requirements. A contracting organization's administrative and management arrangements necessarily have a direct impact on its performance of a similarly broad range of program requirements. Therefore, CMS considers a low Part C or D Summary Star Rating to be evidence that the sponsor has in place insufficient administrative and management arrangements to meet its obligations as a Medicare plan sponsor.

CMS has previously informed Part C and D contracting organizations that we consider a rating below three stars to be out of compliance with these obligations under the Medicare

program. For example, in the preamble to our notice of proposed rulemaking published in the Federal Register on October 22, 2009, we stated that, “organizations and sponsors with less than ‘good’ ratings should expect to be the subject of our monitoring and compliance actions.” Also, in the CY 2012 Call Letter, CMS stated that we would issue compliance notices each year to those organizations that received less than three stars and that those who received such a rating for three consecutive years should expect to have their contract performance closely evaluated by CMS to determine whether we should terminate the organization’s Medicare contract. Finally, in April 2012, CMS issued regulations that establish both the maintenance of at least three-star plan ratings as a Medicare program participation requirement and the failure to achieve a three-star rating for three consecutive years as a basis for contract termination. After a phase-in period, the termination authority is now in effect, and CMS will apply it to contracts that meet the provision’s criteria with the release of the CY 2016 ratings in the fall of 2015.¹

In October 2014, CMS released the CY 2015 Part C and D star ratings on the Medicare Plan Finder tool on www.medicare.gov. CMS assigned sponsors separate Summary Star Ratings for their Part C and Part D operations. Most MAOs were assigned both C and D Summary Star Ratings. PDP sponsors received only a Part D Summary Star Rating as did a number of MAOs for which CMS could not calculate a Part C rating. Your organization received the following Summary Star Rating(s):

- Part D 2.5 Stars

Be advised that CMS treats Summary Star Ratings of below 3 stars for Part C operations and for Part D operations as two separate compliance issues even though they may be discussed in a single letter. For sponsors with low star ratings for both Part C and D operations, CMS will document the issues in our records as two separate CAP requests.

CMS advises your organization to take steps to improve its operations in the areas identified above and bring its Summary Star Rating(s) to a level that indicates at least average contract performance, compliant with Medicare requirements. Should your organization fail for three straight years to achieve at least a three-star rating, CMS may initiate action to terminate its Medicare contract.

CMS is not requiring a CAP submission from your organization. CMS will simply look at your organization’s star rating performance in the coming year to determine whether you took the necessary corrective action to achieve at least a three-star summary star rating.

¹ In the CY 2016 Call Letter, released on April 6, 2015, and through other communications to affected MAOs and Part D sponsors, CMS advised that the effective dates of terminations we conducted pursuant to the star rating-based authority would be divided into two categories. In the first category, CMS will terminate at the end of 2015 those contracts that were first eligible for termination at the end of 2014 based on the 2015 ratings and failed to take advantage of the additional year CMS afforded them to improve their performance by earning at least three stars in the 2016 ratings. In the second category, CMS will terminate at the end of 2016 those contracts that first become eligible for termination based on low star ratings with the release of the 2016 ratings in the fall of 2015.

If you have any questions about this notice, please contact **Scott Nelson** at Scott.Nelson2@cms.hhs.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Larrick', with a long horizontal line extending to the right.

Amy K. Larrick
Acting Director
Medicare Drug Benefit and
Part C & D Data Group

CC: Scott Nelson, CMS
SANDRA MASON, CMS