

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



**CENTER FOR MEDICARE**

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**CORRECTIVE ACTION PLAN REQUEST**

October 31, 2024

Contract ID: H0876, H1426, H2225, H9414, H9861, H9876

Parent Organization Name: Commonwealth Care Alliance, Inc.

Legal Entity Name: CCA Health Michigan, Inc., CCA Health Plans of California, Inc., Commonwealth Care Alliance Massachusetts, LLC., Commonwealth Care Alliance Rhode Island, LLC, COMMONWEALTH CARE ALLIANCE, INC.

Katherine Charron  
Medicare Compliance Officer  
30 Winter Street  
Boston, MA 02108

VIA EMAIL: [KCharron@commonwealthcare.org](mailto:KCharron@commonwealthcare.org)

Subject: Corrective Action Plan for Failure to Provide Accurate Information in Enrollee Materials and Timely Submit Errata Documents

Dear Katherine Charron:

The Centers for Medicare & Medicaid Services (CMS) is issuing this request for a Corrective Action Plan (CAP) to the legal entities listed above, which operate the Medicare Advantage Prescription Drug Plan (MA-PD) Contract IDs listed above, regarding your organization's failure to provide accurate information in enrollee materials and to timely submit Evidence of Coverage (EOC) errata documents so enrollees can make fully informed health care choices.

Between December 20, 2022, and February 29, 2024, CMS issued a total of five notices of non-compliance (NONCs) and two warning letters (WLs) to your organization for non-compliance with marketing and communications regulations, as follows:

- December 20, 2022: NONC to H9861
  - Failure to submit required materials including the Annual Notice of Change (ANOC) and EOC
- December 20, 2022: NONC to H0876, H1426, H2225, H9414, H9861, and H9876
  - Failure to upload marketing materials for prospective enrollees
- April 13, 2023: NONC to H9861

- o Failure to reflect all benefit categories in your organization’s Summary of Benefits (SB)
- May 4, 2023: NONC to H9414 and H9876
  - o Failure to include the out-of-network/non-contracted provider disclaimer in your organization’s SB
- August 14, 2023: WL to H9414
  - o Failure to produce accurate enrollment materials and SB
- September 6, 2023: NONC to H0876, H2225, H9414, H9861, and H9876
  - o Failure to provide online access to SBs and to maintain enrollment functions when your organization halted in-person and telephonic enrollment for a combined 8½ hours
- February 29, 2024: WL to H0876, H1426, H2225, H9414, H9861, and H9876
  - o Failure to produce accurate SBs, ANOCs, and EOCs

As a result of your organization’s pervasive failure to meet CMS regulations, CMS directs your organization to take corrective action to address the following identified areas of non-compliance:

- 42 C.F.R. §§ 422.111 and 423.128, which require MA organizations and Part D sponsors to disclose specific information to enrollees in a clear, accurate, and standardized form.
- 42 C.F.R. §§ 422.2262(a)(1)(i) and 423.2262(a)(1)(i), which state that MA organizations and Part D sponsors may not provide information that is inaccurate or misleading.
- The Medicare Communications and Marketing Guidelines, which requires MA organizations and Part D sponsors to review all required documents for accuracy and resubmit if changes or corrections to previously submitted CMS-required materials are identified.
- The September 22, 2023, HPMS memo, “Contract Year 2024 Annual Notice of Change and Evidence of Coverage Submission Requirements and Yearly Assessment,” which outlines the process for MA organizations and Part D sponsors to notify CMS of any identified ANOC or EOC inaccuracies, and to mail standardized ANOC and EOC errata to enrollees by October 15 and November 15, respectively, to the address inaccuracies identified.

Your organization is out of compliance with Part C and D requirements because your organization issued inaccurate contract year (CY) 2024 enrollee materials, has repeatedly failed to follow marketing and communication guidelines across multiple contracts, and failed to timely submit complete and accurate EOC errata correcting those inaccuracies. The specific failures are identified below.

On October 20, 2023, your organization disclosed multiple inaccuracies in the benefit highlight sheet contained in your enrollment books. This finding led to a full review of all Annual Election Period (AEP) materials for CY 2024, which identified additional errors in the SB and EOC materials for the Contract IDs listed above. Your additional review discovered 52 errors in the enrollment books, 52 errors in the SBs, and 48 errors in the EOCs for these six contracts. Approximately 3,200 existing enrollees received incorrect information during the CY 2024 AEP. These inaccuracies also impacted prospective enrollees, from October 1, 2023, through the end of the AEP, including potentially influencing their enrollment decisions.

Examples of errors in your enrollment books, SBs, and EOCs included, but were not limited to:

- Failing to include bathroom safety devices and meals after hospitalization benefits as specified in the bid submitted for H9861-003;
- Failing to include worldwide coverage benefits as specified in the bids submitted for H2225-001 and H9414-002;
- Failing to list accurate cost sharing for acupuncture as specified in the bids submitted for H1426-001 and H9414-002;
- Failing to list accurate cost sharing for ambulatory surgery as specified in the bids submitted for H1426-001 and H1426-002;
- Failing to list accurate cost sharing for glaucoma screenings and Medicare eye exams as specified in the

bids submitted for H9876-001 and H9876-002;

- Stating non-Medicare routine hearing exams were covered out of network, contrary to the information submitted in the bids for H9414-001, H9414-002, and H9861-001;
- Stating that Tier 5 (specialty drugs) are offered at a three-month supply, contrary to the information submitted in the bid for H0876-001; and
- Failing to list the correct dual-eligibility categories for dual eligible special needs plans (D-SNPs) as specified in the bids for H0876-001, H2225-001, and H9861-003.

On November 9, 2023, your organization submitted corrected enrollment books with a corrected benefit highlight sheet via the Marketing Module in the Health Plan Management System (HPMS). However, your organization did not mark the inaccurate enrollment book material as “no longer in use” until November 27, 2023. For five of the impacted contracts, your organization replaced the SBs with corrected versions between November 4 and 7, 2023. However, for H9414-001, your organization identified an additional error in the replacement SB, which incorrectly stated that Special Supplemental Benefits for the Chronically Ill (SSBCI) covered the purchase of food in this contract. Your organization submitted a second replacement SB on January 2, 2024, to address this inaccuracy that was not identified in the preliminary review.

Between December 1 and 4, 2023, your organization submitted updated EOCs to CMS for the contract IDs listed above. However, your organization encountered several failures when submitting and mailing complete EOC errata that accurately described what was corrected in the EOCs, as further outlined in the attached addendum, *Figure 1: EOC Errata Submission in HPMS and Mailing*.

Your organization submitted the first round of EOC errata for H0876, H1426, H9414, H9876, and H9861 to HPMS between December 1 and 4, 2023, and after CMS feedback and your subsequent revisions, all EOC errata were approved between December 5 and 14, 2023. Your organization did not submit the EOC erratum for H2225 until December 28, 2023, and CMS and the state approved it on January 2, 2024. Given that they were already late, CMS expected that these EOC errata would be mailed to enrollees immediately following approval, however, there was a significant delay in your organization’s mailing. For contracts H1426, H9861-001, and H9414, your organization did not mail the EOC errata until December 21, 2023, January 26, 2024, and January 29, 2024, respectively.

Your organization identified additional inaccuracies following the previously reported comprehensive review, which required another resubmission of the EOC and EOC errata to CMS. Your organization submitted the EOC and EOC errata for H9876 on December 27 and December 28, 2023. Your organization confirmed that the previously approved EOC errata were not mailed to enrollees and that this new version was mailed on February 2, 2024.

Your organization also identified errors with the EOCs for H0876, H2225, and H9861-003, detailed in the last bullet in the above list of examples. Your organization resubmitted the EOC on January 23, 2024, and the EOC errata on January 25, 2024. CMS approved these EOC errata by January 25 and 26, 2024, however, your organization did not mail the approved EOC errata to enrollees until mid-February. Your organization mailed the EOC errata for H0876, H2225, and H9861-003 on February 12, 20, and 15, 2024, respectively. When CMS inquired about the delayed EOC errata mailings across many contracts, your organization stated the root cause of this delay was due to translation activities and fulfillment vendor availability.

CMS requests that your organization implement a detailed CAP. This CAP should address the corrective actions you will take to ensure that your CY 2025 ANOC, EOC, and SB materials are accurate and to ensure all other materials have accurate benefit and cost sharing information prior to distribution. This CAP should also include other actions your organization identifies as necessary to correct this problem and prevent it from reoccurring. Because of the complexity and sensitivity of this matter, CMS will review

materials and intermediary implementation steps throughout the process. Further, our engagement throughout this process will provide CMS with the information we need to eventually close the CAP.

By December 1, 2024, please send a timeline for implementing each element of the CAP to your CMS Account Manager. CMS is issuing this compliance notice pursuant to 42 C.F.R. §§ 422.510(c) and 423.509(c), which requires CMS to afford an organization at least 30 days to develop and implement a CAP to correct deficiencies before taking steps to terminate an organization's Medicare contract. While CMS is not obligated to grant a greater than 30-day cure period, we acknowledge that an extended period may be appropriate, depending on the nature of the correction required. CMS advises that, for any part of its timeline scheduled to be completed in more than 30 days, your organization provide a justification of the need for that additional time. CMS expects that the correction timeline will be no longer than necessary and will reflect an appropriate level of urgency in resolving this matter.

Please be aware that this letter will be included in the record of your organization's past Medicare contract performance, which CMS will consider as part of our review of any application for new or expanded Medicare contracts your organization may submit. CMS determines this instance of non-compliance a Part C and D issue. CMS considers your organization's efforts in self-reporting information concerning the non-compliant activity as a mitigating factor in determining the severity of this notice.

Your organization has been referred for enforcement action. CMS has the authority to impose sanctions, penalties, and other enforcement actions as described in federal regulations at 42 C.F.R. Part 422 Subpart O and 42 C.F.R. Part 423 Subpart O.

If you have any questions about this notice, please contact your CMS Account Manager Deborah O'Leary at: (617) 565-1282, or [Deborah.OLeary@cms.hhs.gov](mailto:Deborah.OLeary@cms.hhs.gov).

Sincerely,



Jeremy C. Willard, Director  
Division of Surveillance, Compliance & Marketing  
Medicare Drug & Health Plan Contract Administration Group  
Centers for Medicare and Medicaid Services

CC via email:

Deborah O'Leary, Emily Chapple, Lizamarie Cintron, CMS

Christine Reinhard, Michael Neuman, Theresa Wachter, Arianne Spaccarelli, CMS