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January 11, 2023

**Corrective Action Plan**

Contract ID: H5211

Formulary ID(s): 23426, 23427

Parent Organization Name: Marshfield Clinic Health System, Inc.

Legal Entity Name: SECURITY HEALTH PLAN OF WISCONSIN, INC.

Kelly Wilson  
Medicare Compliance Officer  
1515 Saint Joseph Avenue  
Marshfield, WI 54449

VIA EMAIL: [wilson.kelly@securityhealth.org](mailto:wilson.kelly@securityhealth.org)

**RE: FAILURE TO MEET CY 2023 FORMULARY REQUIREMENTS**

Dear Kelly Wilson:

The Centers for Medicare & Medicaid Services (CMS) is issuing a request for SECURITY HEALTH PLAN OF WISCONSIN, INC., which operates Medicare Part D Contract ID H5211, to develop and implement a corrective action plan (CAP) to address the organization's failure to comply with the Part D program requirements concerning formulary submissions. Specifically, your organization failed to submit all required information described in 42 C.F.R. 423, Subpart F, concerning its future year's bid (of which the formulary is an element), [1] according to requirements established by CMS. We are issuing this request because your organization has had repeated noncompliance with formulary requirements, including a request for CAP for its failure to comply with similar submission requirements for contract year (CY) 2022.

Part D sponsors may offer only those benefit plans, including formularies, that they have submitted according to the instructions CMS issued pursuant to 42 C.F.R. § 423.265 and which CMS has reviewed and approved pursuant to 42 C.F.R. § 423.272. To ensure the timely review of thousands of bid submissions each year, CMS established a process by which we conduct the formulary review process in stages. Corrections to the formulary requested by CMS during each stage review must be made in order for the formulary to be eligible for the Summer Limited Update Window.

During the annual formulary review process, Part D sponsors must be certain to comply with requirements related to deadlines for re-submission and with limitations on the scope of changes sponsors may make to a formulary during a re-submission. CMS has made clear to sponsors the fact that their failure to meet submission deadlines adversely impacts CMS's review of all sponsors' submitted formularies and, therefore, missed re-submission deadlines may place CMS's approval of a proposed

formulary at risk. For the CY 2023 Stage 1 Review, CMS communicated issues to sponsors on June 13, 2022, and allowed them to justify or correct the identified formulary issues and resubmit by June 16, 2022. For the Stage 2 Review, CMS communicated issues to sponsors on July 1, 2022, and allowed them time to justify or correct and resubmit by July 8, 2022. For the Stage 3 Review, CMS communicated issues to sponsors on July 20, 2022, and allowed them time to resubmit by July 22, 2022.

At each stage of the formulary review process, unless otherwise instructed, sponsors must limit the revisions made to a formulary during re-submission to those necessary to address the issues identified by CMS. Sponsors that use re-submission opportunities to make changes to their formulary beyond the scope necessary to address CMS-raised issues (i.e., “non-allowable” changes) are out of compliance with Part D formulary submission and review requirements.

According to the HPMS Memo entitled “Summer Update Window for CY 2023 Formularies” (dated July 22, 2022), Part D sponsors had the opportunity to make limited updates to their conditionally approved CY 2023 formulary submissions from 12:00 a.m. EDT August 4, 2022 through 5:00 p.m. EDT August 8, 2022. The summer update window cannot be used to make significant enhancements or significant negative changes to existing formulary drugs, since the formulary version that was initially submitted to CMS for review was considered in the bid and Part D benefits review. CMS also offered a final CY 2023 formulary submission window between 12:00 a.m. EDT September 21, 2022 and 5:00 p.m. EDT on September 23, 2022, as outlined in the HPMS Memo entitled “CY 2023 September Formulary Enhancement Submission Window” (dated August 26, 2022).

CMS is issuing this compliance notice to your organization because it failed to comply with the CY 2023 Part D formulary submission and review requirements when:

**The plan submitted their stage 2 formulary resubmission with non-allowable/unsolicited changes in that they changed the QL type for 3 RXCUIs (2279847, 2550713, and 311369).**

Consistent with CMS’s authority under 42 C.F.R. § 423.505(n)(3)(iii), we request that your organization take corrective action to come into compliance. The first opportunity for your organization to demonstrate that it has taken the necessary corrective action will be the 2024 bid cycle. Therefore, CMS requests that these areas of noncompliance be addressed in the spring of 2023 leading up to the 2024 bid cycle. CMS will rely on H5211’s 2024 formulary submission to determine whether the corrective action plan has been successfully implemented. CMS will consider the CAP closed once the Division of Formulary and Benefit Operations has determined that H5211’s 2024 formulary submission demonstrates that it has effectively resolved the issues described above.

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 deems this instance of non-compliance a Part D issue. CMS notes that we are issuing this compliance notice based on information that we obtained from sources other than the sponsor’s own self-disclosure.

In the future, please ensure that your organization’s formulary is updated and approved within CMS’s specified timeframes. For questions regarding your formulary submission, please contact the Part D Formulary mailbox at [PartDFormularies@cms.hhs.gov](mailto:PartDFormularies@cms.hhs.gov). If you have questions related to the compliance implications of this notice, please contact Christine Hill at [Christine.Hill@cms.hhs.gov](mailto:Christine.Hill@cms.hhs.gov) and copy your account manager.

Sincerely,



Amy Larrick Chavez-Valdez, Director

Medicare Drug Benefit and C&D Data Group

CC via email:

KIRSTEN DUVAL, CMS

Linda Anders, CMS

Arianne Spaccarelli, CMS

Brian Martin, CMS

Christine Hill, CMS

[1] As discussed in the preamble of Final Rule CMS-4068-F, “information that would accompany the bid submission would, at a minimum, include...the plan’s formulary.” See p.4294 at <https://www.govinfo.gov/content/pkg/FR-2005-01-28/pdf/05-1321.pdf>