

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



CENTER FOR MEDICARE

CORRECTIVE ACTION PLAN REQUEST

February 29, 2012

Contract ID: H4155

William H. Winn
Medicare Compliance Officer
Public Health and Trust of Miami-Dade County
1801 NW 9 Avenue, Suite 700
Miami, Florida 33136

Delivered via email to William Winn at wwinn@jhsmiami.org

RE: Actuarial Compliance Issues

Dear Mr. Winn,

The Centers for Medicare & Medicaid Services (CMS) is issuing a request for a Corrective Action Plan (CAP) to Public Health and Trust of Miami-Dade County because your organization failed to meet one or more actuarial standards in submitting its 2012 Medicare Advantage and/or Part D bids. The actuarial standards were clearly set forth in the 2012 Instructions for Completing the Medicare Advantage Bid Pricing Tool and the 2012 Instructions for Completing the Prescription Drug Plan Bid Pricing Tool issued by CMS on April 8, 2011 through the Health Plan Management System (HPMS).

Pursuant to 42 CFR §422.254(b) and §423.265(c), each potential Medicare Advantage (MA) and Part D sponsor must submit a bid and supplemental information in a format to be specified by CMS for each MA and Part D plan it offers. Specifically, the regulation states that the bid must be prepared in accordance with CMS actuarial guidelines based on generally accepted actuarial principles. A qualified actuary must certify the plan's actuarial valuation (which may be prepared by others under his or her direction or review), and must be a member of the American Academy of Actuaries to be deemed qualified. Applicants may use qualified outside actuaries to prepare their bids.

CMS has determined that Public Health and Trust of Miami-Dade County's 2012 bid submissions were not prepared in compliance with CMS' instructions to sponsors related to actuarial requirements. Public Health and Trust of Miami-Dade County's bids failed to include the following:

- The provision of additional supporting documentation to CMS reviewers within 48 hours of their request. (Page 85 of the MA bid instructions).
- Supporting documentation for non-benefit expense assumptions (Page 88 of the MA bid instructions).
- Supporting documentation for bids with negative margins (Page 88 of the MA bid instructions).

CMS also notes that the deficiencies described above indicate that Public Health and Trust of Miami-Dade County did not adhere to the following general guidance from the 2012 Instructions for Completing the Medicare Advantage Bid Pricing Tool:

- In preparing supporting documentation, the actuary must consider ASOP No. 41, Actuarial Communications. In accordance with Section 3.3.3, Actuarial Report, "the materials provided must be written with sufficient clarity that another actuary qualified in the same practice area could make an objective appraisal of the reasonableness of the actuary's work." (Page 82 of the MA bid instructions).
- The sponsor's bid development process should include an adequate peer review process. (Quality Initiatives for CY2012 slides 6 and 9).

The most egregious element of Public Health and Trust of Miami-Dade County's noncompliant action concerns its decision to submit insufficiently developed bids. Public Health and Trust of Miami-Dade County revealed in meetings and email correspondence with CMS that its bids were submitted with its actuary's knowledge that more work was needed for the bids to meet CMS requirements. This instance of non-compliance is further supported by the presence of qualifying statements in Public Health and Trust of Miami-Dade's actuarial certification and the actuary's statements to CMS that the bids had only undergone limited reasonability testing and that he was concerned that undiscovered data quality issues were present.

It appears that Public Health and Trust of Miami-Dade submitted what was tantamount to an incomplete "placeholder" bid, not ready for CMS review, and intended solely to allow the sponsor to meet the 2012 bid deadline. As a result, Public Health and Trust of Miami-Dade County knowingly caused CMS to waste our resources reviewing incomplete bids. Moreover, based on the sponsor's submission of an actuarial certification containing qualifying statements and the actuary's comments to CMS analysts, CMS has determined that Public Health and Trust of Miami-Dade submitted an invalid actuarial certification that did not comply with the requirements of 42 CFR §422.254(b)(5) and §423.265(c)(3). Specifically, Public Health and Trust of Miami-Dade inappropriately used the qualification to disclose in detail the possibility that more work was needed after the bid submission deadline for these bids to meet CMS requirements.

CMS requests that your organization develop a plan for taking corrective action to come into compliance with the actuarial requirements associated with Part C and D bids. We will determine whether Public Health and Trust of Miami-Dade County has successfully completed its CAP by monitoring its performance during the contract year 2013 bid review cycle.

We appreciate your prompt attention to this matter. In the event your organization does not successfully complete its CAP, CMS will consider additional compliance and enforcement actions, including imposition of intermediate sanctions (*e.g.*, the suspension of marketing and enrollment activities).

If you have any questions, please contact Michael Neuman at (410) 786-7069 or email Michael.Neuman@cms.hhs.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Tudor', with a stylized flourish at the end.

Cynthia G. Tudor, Ph.D.
Director
Medicare Drug Benefit and C & D Data Group

CC: Brandon Bush, CMS