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**DATE:** November 9, 2006

**TO:** Prescription Drug Plans and Medicare Advantage Organizations Offering Employer/Union-Only Group Waiver Plans (EGWPs)

**FROM:** Brenda Tranchida  
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Employer Policy and Operations Group

**SUBJECT:** 2007 Employer Group Waiver – Permitting Certain Public Employer/Union Sponsors to Enroll Beneficiaries in Both an “800 series” MA-Only Plan and an “800 series” Standalone PDP

This memorandum provides that CMS has granted a limited waiver of enrollment requirements for entities that offer “800 series” employer/union-only group waiver plans (EGWPs), under the conditions described below.

Subject to certain exceptions, a Part D eligible individual who is enrolled in an MA plan may not be simultaneously enrolled in a standalone PDP. *See* Section 1860D-1(a)(1)(B)(ii) of the Social Security Act, and 42 CFR 423.30(b).

A PDP sponsor (on behalf of itself and a state public retirement system) requested a waiver of this prohibition under Sections 1857(i) and 1860D-22(b) of the Social Security Act (SSA), which allow CMS to waive or modify requirements that “hinder the design of, the offering of, or the enrollment in” employer or union-sponsored group plans. The requester stated that the waiver was needed so that this employer could offer MA coordinated care plans and a drug benefit via separate vendors that had a longstanding history of working closely with the public employer and each other in providing coordinated services. The PDP sponsor stated that the waiver would prevent disruption of services to beneficiaries that would be caused if the employer was otherwise required to change vendors, would allow the employer to continue offering coordinated care and a national drug benefit, and would allow the employer to continue exercising control over one uniform pharmacy network and benefit design.

CMS has decided to grant the waiver under the circumstances provided in the waiver request. Thus, beginning with the 2007 contract year, a public employer (i.e., governmental entity) will be allowed to enroll its members in both an “800 series” coordinated care MA-only plan (i.e., HMO, HMO/POS or PPO plan) and an “800 series” standalone PDP if the public employer has longstanding, pre-existing partnerships with separate vendors (one of which offers an MA plan and the other of which offers a PDP), and the vendors are working closely with the public employer to provide coordinated care

and disease management services between the MA and PD portions of the benefit. This coordination is similar to the kind that would be offered if the employer purchased the medical coverage and the drug coverage from a single MA-PD vendor. We believe this waiver is particularly necessary to facilitate the offering of coverage for public employers that may have less flexibility to modify vendor relationships and the coverage offered because of contractual or procedural requirements (e.g., the public sector collective bargaining and/or procurement process).

System software changes have been implemented to allow this waiver to be effective for enrollments beginning January 1, 2007. Please note that the waiver is only available under the circumstances described in this memorandum. The prohibition of a beneficiary simultaneously enrolling in a MA-only plan and a standalone PDP will continue to apply to all beneficiaries of employer groups that do not meet the conditions of this specific waiver.

Please direct any questions concerning this waiver to Brenda Tranchida, Deputy Director, Employer Policy and Operations Group, at (410) 786-2001 or via email at: [Brenda.Tranchida@cms.hhs.gov](mailto:Brenda.Tranchida@cms.hhs.gov).