Department of Health & Human Services
Centers for Medicare & Medicaid Services
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CENTER FOR BENEFICIARY CHOICES

DATE: May 25, 2007

TO: Medicare Advantage Private Fee-for-Service (PFFS) Plans

FROM: Abby L. Block
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SUBJECT: Ensuring Beneficiary Understanding of Private Fee-for-Service Plans, Actions and Best Practices

Private Fee-For-Service (PFFS) plans are a growing segment of the Medicare Advantage (MA) program. These plans differ from other MA products. As more PFFS plans become available, CMS began to work with beneficiaries, providers and MA organizations to provide education and information describing this plan option.

As described in the 2008 Call Letter, CMS is providing additional model documents and requiring new outreach processes to ensure beneficiaries and providers are informed about the distinctive features of Medicare PFFS plans. MA organizations offering PFFS plans are strongly encouraged to implement these new elements and practices as quickly as possible. Several of these must be implemented immediately as indicated in the discussion below. All PFFS organizations must have these processes in place prior to marketing CY 2008 PFFS plans.

PFFS Marketing Processes

1. Sales presentation schedules
   MA organizations offering PFFS plans must provide their CMS Regional Office Plan Manager with listings of planned PFFS marketing and sales events, using the attached spreadsheet (refer to **Attachment 1**). Data for events conducted by both employed and contracted sales representatives is required. Beginning June 20, 2007, by the 20th of each month you must provide information for all events scheduled for the following month. The first report is due by June 20, 2007 and must list all events planned for July 2007. The Regional Office Plan Manager must be notified of updates to the schedule as appropriate. In addition, CMS encourages PFFS plans to maintain an up-to-date schedule of sales events on the plan's website. Each submitted spreadsheet must be accompanied by a signed and dated attestation from the organization's Medicare program vice president or director, attesting to

best knowledge, information and belief, that the information provided to CMS is accurate as of the date submitted.

2. Prohibition against implying PFFS plans function as Medicare supplements
MA organizations offering PFFS plans are prohibited from using any materials or making any presentations that imply PFFS plans function as Medicare supplement plans or use terms such as "Medicare Supplement replacement". MA organizations may not describe PFFS plans as plans that cover expenses that Original Medicare does not cover nor as plans that offer Medicare supplemental benefits. It would be permissible, however, for PFFS plans to clarify that the plan does not pay after Medicare pays its share, but rather, it pays instead of Medicare and the beneficiary pays any applicable cost-share or co-pay. Immediately discontinue use of any materials not meeting this requirement. Revised materials may be submitted through the File and Use Certification process.

3. PFFS marketing material disclaimer
MA organizations offering PFFS plans are required to prominently display the following disclaimer in all advertisements and enrollment related materials:

> *A Medicare Advantage Private Fee-for-Service plan works differently than a Medicare supplement plan. Your doctor or hospital must agree to accept the plan's terms and conditions prior to providing healthcare services to you, with the exception of emergencies. If your doctor or hospital does not agree to accept our payment terms and conditions, they may not provide healthcare services to you, except in emergencies. Providers can find the plan's terms and conditions on our website at: [insert link to PFFS terms and conditions]*.

This language is also required in sales presentations in public venues and private meetings with beneficiaries. Any statement indicating that enrollees may see any provider must also include, the phrase ". . . who agrees to accept our terms and conditions of payment." CMS approval of this language prior to use is not required. Plans should begin using the disclaimer language immediately in sales presentations and as soon as possible in printed materials.

4. Beneficiary and provider leaflet
All MA organizations must provide enrollees with a complete description of plan rules, including detailed information on a provider's choice whether to accept plan terms and conditions of payment. A model document that beneficiaries may show their health care providers has been developed for this purpose (refer to **Attachment 2**). The model is a two-sided leaflet, with information for beneficiaries on one side and information for providers on the reverse.

The leaflet must be included in all enrollment kits that prospective enrollees receive. This leaflet must be available on your website for beneficiaries who enroll online. CMS will also post a model leaflet on the Medicare.gov website. It may be helpful to provide several copies to each beneficiary so that they can give copies to their health care providers. The leaflet must be implemented as quickly as possible and submitted to CMS using the File and Use Certification process prior to marketing CY 2008 PFFS plans.

5. Outbound education and verification calls

   All MA organizations offering PFFS plans are required to conduct outbound education and verification calls to ensure beneficiaries requesting enrollment understand the plan rules. It is important for your sales staff to obtain from the beneficiary the verification phone number and provide a description of the enrollment verification process to the beneficiary during the application process. Your approved enrollment application form must accommodate this requirement.

   Outbound calls mean that calls are made to the beneficiary after the sale has occurred. Calls cannot be made at the point of sale. You must ensure that the verification calls made to beneficiaries who request enrollment through sales agents are not made directly by those sales agents and also that the sales agents are not with the beneficiaries at the time of the verification call. You will be required to conduct these calls for all new enrollments except enrollments into employer or union sponsored PFFS plans or switches from one PFFS plan to another PFFS plan offered by the same MA organization. A model script has been developed for this purpose (refer to **Attachment 3**). You may continue to use existing scripts provided the information in the attached model document is conveyed during verification calls. Your script needs to be submitted to CMS through the normal process for approval.

   Three documented attempts to contact the applicant by telephone within 10 calendar days of receiving the application are required. If you are unable to successfully complete the verification after the first attempt, you must send the applicant the model education letter (refer to **Attachment 4**). You must provide this letter in addition to any required enrollment notice, such as enrollment acknowledgement and confirmation letters (refer to **Attachments 5 and 6**, respectively). After the model education letter has been sent, you must make and document at least two additional attempts to successfully complete the verification. Be certain to document verification activities as they will be subject to compliance audit by CMS or its contractors.

   Immediate implementation of this process is recommended; however, you must have this process in place before marketing CY 2008 PFFS plans.

6. PFFS Enrollment Processing

   The special processes and marketing practices described in this memo are designed to ensure new enrollees have all required information to understand the plan in which they are enrolling. Conducting this outreach and education does not change the requirements to which all MA organizations must adhere for processing MA enrollment requests. Please refer to the CMS MA Eligibility, Enrollment and Disenrollment Guidance, available at www.cms.hhs.gov, for more information.

Best Practices

1. PFFS-specific sales presentation language

Model language is provided to incorporate into sales presentations describing the special aspects of PFFS plans which differ from supplements and other MA plans (refer to **Attachment 7**). You may submit this language with revised sales presentations using the normal marketing submission process.

2. Participation in HEDIS and HOS

   We encourage organizations offering PFFS plans to participate in HEDIS and the Health Outcomes Survey (HOS) in 2008. Submitting this information helps CMS calculate and display much of the comparative information featured in the Medicare Options Compare tool. This tool is used by beneficiaries and their representatives in making informed health care decisions. You will receive more information regarding how to take advantage of this opportunity in the future.

3. Provider education plan

   You are required to have staff available to assist providers with questions concerning plan payment and payment accuracy. Please refer to the document entitled "MA Payment Guide for Out of Network Payments" available on our web site at http://www.cms.hhs.gov/MedicareAdvtgSpecRateStats. In addition, we encourage PFFS plans to develop provider relations strategies to encourage a wide range of providers to accept PFFS enrollees. We suggest PFFS plans develop a provider education process and educational materials that includes establishing relationships with and educating providers in the PFFS plan service area.

   To further assist providers, we have posted on the CMS website all the PFFS plans' contact information concerning PFFS plan terms and conditions of payment. Also, PFFS plans are required to make their terms and conditions of payment reasonably available to U.S. providers. A provider has reasonable access to a plan's terms and conditions of payment if the plan makes this information easily accessible through electronic mail, fax, telephone, or the plan website. The contact information for all PFFS contracts is posted on http://www.cms.hhs.gov/PrivateFeeforServicePlans/. Updates to the contact information will be made on a monthly basis.

   New fields will be added in HPMS to allow PFFS plans to provide their plan terms and conditions of payment contact information for providers, which will be used to update the CMS website. CMS will inform all PFFS plans when the information may be entered in HPMS.

   You should consider sending a provider educational material packet to those providers listed on enrollment requests (if provided), and those who call or bill for services that have not already received a packet. The contents of the provider education material packet could include the updated CMS provider education letter (refer to **Attachment 8**), the provider educational information in the document described above (refer to **Attachment 2**), and the terms and conditions of payment. We may require that organizations offering PFFS plans having documented provider access problems provide data about provider education and outreach efforts.

As stated in the 2008 Call Letter, CMS remains vigilant in protecting Medicare beneficiaries. We will focus compliance oversight activities on ensuring the provision of information to beneficiaries accurately represents the access, network, and payment features of PFFS plans generally, and each organization's specific plan. CMS has the authority to impose intermediate sanctions and penalties including the freezing of all marketing and enrollment, civil money penalties and other enforcement actions as described in Federal regulations at 42 C.F.R. §422 Subpart K and O, against organizations violating Medicare program requirements. We are closely monitoring beneficiary complaints and other marketplace-based information to determine whether compliance and/or enforcement actions are warranted.

We appreciate your cooperation in implementing these important steps. Please notify your Regional Office Plan Manager as you implement each of the items described above. You may direct any questions concerning these requirements to your Regional Office Plan Manager.