

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Beneficiary Choices
7500 Security Boulevard
Baltimore, Maryland 21244-1850



MEDICARE ENROLLMENT & APPEALS GROUP

Date: April 2, 2007
To: Part D Plan Sponsors
From: Anthony Culotta, Director
Subject: CMS Ruling Establishing Own Motion Review Process for Part D Appeals

The purpose of this memo is to inform you that a Notice of CMS Ruling was published in the *Federal Register* on March 23, 2007, establishing a process for own motion review by the Medicare Appeals Council (MAC) of Part D decisions issued by administrative law judges (ALJs). The process established by this CMS Ruling is consistent with the rules on MAC own motion review under Original Medicare in title 42 of the Code of Federal Regulations, part 405, subpart I.

Under this Ruling, the MAC may decide on its own motion to review a decision or dismissal by an ALJ. In addition, CMS or the Part D independent review entity (IRE) may refer a case to the MAC for consideration under its own motion authority. Part D plan sponsors may not directly refer a case to the MAC for own motion review under this process, but Part D plan sponsors may contact the Part D IRE about cases that they believe warrant a referral to the MAC. The MAC will generally review a case if it determines that the ALJ's decision or dismissal may contain an error of law material to the outcome of the case or that the case presents a broad policy or procedural issue that may affect the general public interest.

The CMS Ruling is available at:

<http://www.cms.hhs.gov/MedPrescriptDrugApplGriev/Downloads/OwnMotionReviewRuling.pdf>

For questions about this Ruling or the own motion review process, please contact Kathryn Smith at Kathryn.McCannSmith@cms.hhs.gov or (410)786-7623.