

## November 2021 Actuarial User Group Call

Thursday, November 18, 2021  
11:00AM - 12:00PM ET



To be able to ask questions during the call, join online at—

- <https://cms.zoomgov.com/j/1612635852?pwd=dGRjZXB0SnNrRllyRTdkN3UxZzA2QT09>
- Meeting ID: 161 263 5852
- Passcode: 812516

To participate in listen-only mode, join by phone at—

- Participant Dial-In Number: 1-669-254-5252 or 1-646-828-7666
  - Meeting ID: 161 263 5852
  - Passcode: 812516
- 
- Welcome
    - Reminder that an agenda for this call has been posted to the CMS webpage at:  
[www.cms.gov](http://www.cms.gov) > Medicare > Medicare Advantage Rates & Statistics (under the Health Plans header) > Actuarial Bid Questions
  - CY2022 Bid Review: Lessons Learned
  - CY2023 Bid Pricing Tools (BPTs)
    - Draft MA Bid Pricing Tool Changes
      - Removing insurer fee cell from MA Worksheet 1 Section 5 (old Line 7e)
        - Similar change made to ESRD-SNP BPT
      - Removing corporate margin requirement cells from MA Worksheet 4 (old lines z1, z2, z3)
        - Similar change made to MSA and ESRD-SNP BPTs
    - Draft Part D Bid Pricing Tool Changes
      - Removing insurer fee cell from PD Worksheet 1 Section 4 (old line 5)
      - Removing corporate margin requirement cells from PD Worksheet 3 Section 4 (old lines 8, 9, 10)
    - More detail regarding these changes is provided below in the Bid Instructions section
    - Please submit any comments regarding the draft bid pricing tool changes by 11:59 PM Pacific Standard Time on **Friday, December 3, 2021** to: [actuarial-bids@cms.hhs.gov](mailto:actuarial-bids@cms.hhs.gov)
    - OACT plans to release BPTs for Industry Beta testing in February.

- CY2023 Bid Instructions – Proposed Changes
  - Credibility
    - We do not intend to revise the CMS credibility guidelines for CY2023.
  - Gain/Loss Margin
    - Bid-Level Requirements
      - High Margin – CMS is requesting feedback on the supporting documentation required for bids with a high gain/loss margin.
      - Anti-competitive Practices – There are no changes planned to the pricing considerations for anti-competitive practices; however, the support for how the pricing of the bid is not anti-competitive will be clarified to state that upon request the support must include a comparison of the bid benefits and premium to the benefits and premium of competitors.
      - See Appendix 1 for more information.
    - Aggregate Requirements
      - Taking into consideration questions and feedback about the aggregate gain/loss margin requirement, we are proposing to replace the previous aggregate gain/loss margin requirement with a requirement to support an aggregate gain/loss margin that falls outside of a specified range.
      - As background, the aggregate gain/loss margin requirement was introduced to allow flexibility with bid-level gain/loss margin yet provide a means for establishing what is considered a reasonable gain/loss margin level in aggregate.
      - We do not intend to make changes to the requirements for PD bids that are part of an MA-PD Plan. We do however, intend to make similar changes to the PDP requirements as are shown in Appendix 1 for MA.
      - See Appendix 1 for more information.
  - Projection Factors
    - We plan to clarify that on Worksheet 1 Section IV all of the columns j through q may all be used for new or removed benefits. Thus, the projected cost of a benefit may be estimated using the multiplicative factors in columns j through o or using the additive adjustments in columns p and q.
    - We intend to remove the request to describe on Worksheet 1 the reason for any values in Column m, Utilization Adjustment-Other Factor of that Worksheet. The dialogue boxes were removed from the BPT a few years ago.
  - Related Party
    - In an effort to reduce the reporting burden on bid sponsors, beginning in CY2023, we propose to require that all related party data be submitted to CMS as supporting documentation for the bid as outlined in Appendix B. We expect that this change will significantly reduce the reporting burden on bid sponsors and improve the integrity of the bid data for bid sponsors and CMS, while providing uninterrupted flexibility for bid sponsors to use one of many options for support of a related party relationship.

- We intend to require that benefit costs and non-benefit expenses for related parties must be reported in the BPT consistent with the contractual arrangement with the related party, and that sponsors report all related party data in supporting documentation as required in Appendix B.
    - We plan to clarify that although providers with the same tax identification number (TIN) are not defined to be related parties, input field “Related-Party Benefit Expense PMPM” should include the total allowed PMPM for both related parties and for providers with the same TIN. Note that the input field “Related-Party Non-Benefit Expense PMPM” must be reported for related parties only and should not include the cost of services provided by entities with the same TIN.
    - See Appendix 2 for more information.
  - Please submit comments regarding these proposed bid instruction topics by 11:59 PM Pacific Standard Time on **Friday, December 10, 2021** to: [actuarial-bids@cms.hhs.gov](mailto:actuarial-bids@cms.hhs.gov)
- Other Bidding Topics/Announcements
  - Bid Improvement Initiative Program
  - The Cumulative User Group Call Q&A File has been updated with questions and answers from CY2007 to CY2022 and can be found at: [www.cms.gov](http://www.cms.gov) > Medicare > Medicare Advantage Rates & Statistics (under the Health Plans header) > Actuarial Bid Questions
  - DSNP Benefits –
    - We want to bring your attention to the FAQ released May 28, 2021 regarding Frequently Asked Questions on Coordinating Medicaid Benefits and Dual Eligible Special Needs Plans Supplemental Benefits. Please review this FAQ to become familiar with the ways in which MAOs may offer Medicaid-covered benefits.
- Live Q&A
- Conclusion

**Appendix 1**  
**Proposed Changes to the CY2023 Bid Instructions for Gain/Loss Margin**

Medicare Advantage (MA)

**II. Pricing Considerations**

**Gain/Loss Margin**

Gain/loss margin refers to the additional revenue requirement beyond benefit expenses and non-benefit expenses.

By statute, the bid must represent the revenue requirement of the expected population; therefore, the gain/loss margin requirements must be met with the gain/loss margin entered in the BPT.

Do not combine gain/loss margins for the MA and Part D components of MA-PD bids to satisfy these Instructions.

Do not combine gain/loss margin for bids in segmented plans to satisfy these Instructions.

See the “Instructions for Completing the Prescription Drug Plan Bid Pricing Tool for Contract Year 2023” for gain/loss margin requirements that are specific to Part D bids.

The gain/loss margin entered in the BPT must be determined in consideration of other CMS instructions such as Total Beneficiary Cost (TBC). If there is a conflict between satisfying gain/loss margin requirements and other CMS instructions, flexibility will be given to the gain/loss margin requirements only to the extent necessary to meet the other CMS instructions. Such exceptions to the gain/loss margin requirements must be disclosed, be fully explained and supported, and ultimately be approved by CMS.

When some benefits offered by the MAO are funded by an outside source (such as a state Medicaid program), the gain/loss margin must be consistent between the Medicare benefits and benefits funded by other sources. Gain/loss margin requirements apply at two levels—the bid level and an aggregate level; both sets of requirements must be met in the initial bid submission and upon bid resubmission or withdrawal.

***Definitions***

In the BPT and these Instructions, the term—

- “Aggregate MA gain/loss margin” refers to the projected enrollment-weighted average BPT PMPM gain/loss margin for all MA BPTs, including general enrollment plans; SNPs; MSA plans; and ESRD-SNPs.

***Bid-Level Requirements***

The gain/loss margin entered in the BPT is allocated to Medicare-covered services and A/B mandatory supplemental benefits based on the distribution of total medical expenses between these benefits (excluding the impact of the ESRD subsidy).

There is flexibility in setting the gain/loss margin at the bid level provided that—

- The bid offers benefit value in relation to the gain/loss margin level;
- Anti-competitive practices are not used; and
- All aggregate-level gain/loss margin requirements described below are met.

✓ **Benefit Value**

The bid must provide benefit value in relation to the gain/loss margin level.

For a bid with a high gain/loss margin, consideration must be given to—

- All possible benefits that the expected population can utilize, including rebates applied to the Part B premium buydown; and
- Benefit and premium changes that can be made in CY2023 to reduce gain/loss margin.

✓ **Anti-competitive Practices**

Anti-competitive practices will not be accepted. For example, significantly low or negative gain/loss margins for bids that have substantial enrollment and stable experience, or “bait and switch” approaches to specific bid margin buildup, will be rejected, absent sufficient support that such pricing is consistent with these Instructions.

**Aggregate-Level Requirements**

✓ **Year-to-Year Consistency**

Although actual gain/loss margin may vary from year to year, CMS expects certifying actuaries to price bids such that actual MA aggregate gain/loss margins over the long term are consistent with (that is, follow) the gain/loss margin assumptions used for pricing. That is, actual aggregate MA gain/loss margin is to be consistent with the aggregate MA gain/loss margin used in pricing, as a percentage of revenue.

✓ **Requirements for MA Plans**

For MA plans, the aggregate MA gain/loss margin must be calculated at the parent organization level as a percentage of revenue and must be disclosed. If the aggregate MA gain/loss margin is less than 0% or greater than 5.5%, then this condition must be fully explained and supported, and ultimately be approved by CMS for CY2023.

**MA-PD Gain/Loss Margin Requirements**

See the “Instructions for Completing the Prescription Drug Plan Bid Pricing Tool for Contract Year 2023” for gain/loss margin requirements that affect MA-PD bids.

**Exclusions**

The BPT must exclude: non-insurance revenues pertaining to investments; fee-based activities designed to influence state or federal legislation, such as the cost of lobbying activities; the costs of value-added items and services (VAIS); and capital and infrastructure costs and investments directly incurred or paid by the MA plan relating to additional telehealth benefits.

See the announcement about lobbying activities released via an HPMS memorandum dated October 16, 2009 and Chapter 4 of the *Medicare Managed Care Manual* for more information about VAIS.

## **Appendix B – Supporting Documentation**

8. Justification of the MA gain/loss margin (Worksheet 4). The required elements include—
  - 8.1. Disclosure of the aggregate MA margin at the time of the initial bid submission.
  - 8.2. Support for the aggregate gain/loss margin if the aggregate gain/loss margin is below 0% or above 5.5%. The required elements include—
    - 8.2.1. A description of the reasons supporting aggregate gain/loss margin.
    - 8.2.2. An aggregate-margin numeric (non-PDF) business plan showing the current bid submission and next year. The required elements include—
      - a. Projected member months, risk scores, CMS revenue, MA premium, Medicare-covered and A/B mandatory supplemental benefit medical expenses, non-benefit expenses, and gain/loss margin.
      - b. Projected gain/loss margin as a percentage of revenue from all previous years' business plan(s), if applicable.
  - 8.3. A demonstration of consistency between the projected aggregate gain/loss margins for MA and the actual aggregate gain/loss margins over the long term, including—
    - 8.3.1. An explanation of how that knowledge was incorporated into the current bid submission, if the gain/loss margins have been inconsistent historically.
  - 8.4. A detailed justification of the need for flexibility in the gain/loss margin requirements in order to satisfy other CMS instructions such as TBC evaluations.
  - 8.5. Support for how the aggregate MA margin does not jeopardize financial solvency, if the MA aggregate gain/loss margin is negative.
  - 8.6. Justification of benefit value in relation to the gain/loss margin, if the gain/loss margin at the bid level is greater than 11% of revenue. The required elements include—
    - 8.6.1. A comparison of A/B mandatory supplemental benefits for CY2023 and CY2022, if applicable. Describe how the changes in these benefits increase, decrease, or do not change benefit value in aggregate.
    - 8.6.2. A comparison of premiums for CY2023 and CY2022, if applicable. Include the rounded MA premium, Part D basic premium after MA rebates, Part D supplemental premium after MA rebates, total plan premium, and MA rebate allocation for the Part B premium.
    - 8.6.3. An explanation for why A/B mandatory supplemental benefits were not increased and why premiums, including Part B, MA, and Part D, were not reduced further than what is provided in the initial bid submission.

[see item 38 below for additional support upon request]

The following items will be listed as Upon Request:

34. Support for how the pricing of the bid is not anti-competitive, including a comparison of the bid benefits and premium to the benefits and premiums of competitors.
38. Support for changes in A/B mandatory supplemental benefits. Provide a recalculation of Worksheet 4, Section IIC, lines a through u. Use the following assumptions: A/B mandatory supplemental benefits identical to CY2022, Medicare-covered benefits for CY2023, and the same projected population in the initial bid submission for CY2023. Explain the differences in results from the initial bid submission.

**Appendix 2**  
**Proposed Changes to the CY2023 Bid Instructions for Related Party**

Medicare Advantage (MA)

**II. Pricing Considerations**

**Related-Party Arrangements**

Medical costs and non-benefit expenses for related parties must be reported in the BPT consistent with the contractual arrangement with the related party.

The related-party requirements apply to all MAOs that enter into any type of arrangement with or receive services from an entity with a different tax identification number than that of the MAO, but is associated with the MAO by any form of common, privately held ownership, control, or investment. This includes any arrangement where the MAO does business with a related party through one or more unrelated parties.

The objective of the requirements for related-party arrangements is to ensure that financial arrangements between the MAO and related parties (i) are not significantly different from the financial arrangements that would have been achieved in the absence of the relationship, and (ii) do not provide the opportunity to over- or under- subsidize the bid.

CMS requires all MAOs to disclose whether or not they are in a business arrangement with a related party. MAOs in a business arrangement with a related party must disclose and support each and every related-party arrangement at the time of the initial bid submission and prepare the bid and documentation in accord with the requirements in this section and Appendix B for each related party.

**MA Worksheet 4 – MA Projected Revenue Requirement PMPM**

**Lines z1 through z2 – Related Party Expenses**

See the “Related-Party Arrangements” pricing consideration for more information regarding related-party requirements.

✓ **Line z1 – Related-Party and Same Tax Identification Number Benefit Expense PMPM**

Enter the best estimate of the plan sponsor’s total allowed PMPM cost for the sum of the following:

- 1) All related-party medical services in the bid, and
- 2) Services provided by entities with the same tax identification number reported in the bid.

This entry must reflect the expected allowed costs consistent with actual contracts, capitation and risk arrangements, and financial reporting.

✓ **Line z2 – Related-Party Non-Benefit Expense PMPM**

Enter the best estimate of the plan sponsor’s total PMPM cost for all related-party non-benefit expenses reported in the bid. This entry must reflect the expected non-benefit expenses for all related parties, consistent with actual contracts and financial reporting.

## **Appendix B – Supporting Documentation**

13. Detailed support for related-party medical and administrative service arrangements in CY2023. An MAO in a related-party arrangement must provide the following:
  - 13.1. Declaration of every related-party arrangement.
  - 13.2. Disclosure of all services provided in every related-party arrangement.
  - 13.3. A summary that explains the relationship of the parties involved and common ownership, control and investment.
  - 13.4. A summary of the contractual terms of each relationship that includes a description of the services provided and money exchanged.
  - 13.5. For each related party declared in the bid, provide—
    - 13.5.1. The PMPM cost of services or benefits consistent with the contractual arrangement and the number of beneficiaries affected by each contract, and
    - 13.5.2. A comparison for each contractual arrangement to the cost of the services or benefits in the absence of a related party or to actual cost. Acceptable forms of comparison are:
      - a. Market Comparison for Administrative Services
        - Demonstrate through analysis and contract terms, how the fees associated with the MAO’s related-party arrangement are comparable to the fees for providing similar services in an administrative arrangement between the following entities:
          - The MAO and an unrelated party, or
          - The related-party organization and an unrelated party.
      - To meet this requirement, the MAO must demonstrate at the time of bid submission that—
        - The contract with the unrelated party is associated with sufficient costs of services to be considered a valid contract.
        - The fees associated with such arrangements are within 5 percent.
        - For a related-party administrative arrangement between the related-party organization and an unrelated party, provide a signed attestation from the related party stating that the actual contract will be available for review upon request by CMS.
      - b. Actual Cost for Administrative Services

Show the actual cost of the non-benefit services provided by the related party, excluding the gain/loss margin of the related party, compared to the cost in the bid, and provide a qualitative and quantitative summary of the development of the related party’s expenses to provide the administrative services.
      - c. Market Comparison for Medical Services

Either demonstrate through analysis and contract terms, that the fee associated with each service category in the MAO’s related-party arrangement is comparable to the fee for providing the same service to a Medicare population in a medical arrangement between the following entities:

        - The related-party organization and an unrelated entity with an arrangement that covers Medicare beneficiaries, or
        - The MAO and an unrelated party in the bid’s service area.

- Global capitation arrangements that are contracted as a percentage of revenue may be compared across different service areas.
- o To meet this requirement, the MAO must demonstrate at the time of bid submission that—
  - o The contract with the unrelated party is associated with sufficient costs of services to be considered a valid comparison.
  - o The service categories included in the unrelated-party arrangement must be similar to the service categories in the related-party arrangement.
    - Global capitation arrangements are considered to be sufficiently similar even when there are some minor differences as long as the MAO is able to demonstrate through analysis that the fees are comparable.
  - o The fees associated with such arrangements are within 5 percent or \$2 PMPM—whichever is greater,

Or demonstrate by pricing the utilization of the related party through the unrelated-party arrangement that the financial results are comparable for a Medicare population in a medical arrangement between the following entities:

- o The related party organization and an unrelated entity with an arrangement that covers Medicare beneficiaries, or
- o The MAO and an unrelated party in the bid’s service area.
- o To meet this requirement, the MAO must demonstrate at the time of bid submission that—
  - o The contract with the unrelated party is associated with sufficient costs of services to be considered a valid comparison.
  - o The service categories included in the unrelated-party arrangement must be similar to the service categories in the related-party arrangement.
  - o The utilization being priced is either aggregated for all the bids that utilize the related-party agreement or is compared at the bid level.
  - o The results of pricing the utilization associated with such arrangements are within 5 percent or \$2 PMPM—whichever is greater.

d. Fee-For-Service Comparison for Medical Services

Either demonstrate at the time of bid submission that the fees associated with the related-party arrangement are comparable to 100% FFS costs, that is, within 5 percent or \$2 PMPM—whichever is greater, or

Demonstrate by pricing the utilization of the related party through the FFS fee schedules that the financial results are comparable to the FFS reimbursements, that is, within 5 percent or \$2 PMPM—whichever is greater.

- o To meet this requirement, the MAO must demonstrate at the time of bid submission that—
  - o The utilization being priced is either aggregated for all the bids that utilize the related-party agreement or is compared at the bid level, or

If the fees or utilization associated with the related-party arrangement are not within 5 percent or \$2 PMPM—whichever is greater of 100% of the FFS amounts then show the difference between either—

- o The fees associated with the related-party arrangement and FFS fee schedule, or

- The pricing of the utilization of the related party through the related-party arrangement and the pricing of the utilization of the related party through the FFS fee schedule.
- e. Actual Cost for Medical Services

Show the actual cost of the related party to provide the medical services, excluding the gain/loss margin of the related party, compared to the cost in the bid, and provide a qualitative and quantitative summary of the development of the related party's expenses to provide the medical services.

## Prescription Drug (Part D)

## **II. Pricing Considerations**

### **Related-Party Arrangements**

Benefit costs and non-benefit expenses for related parties must be reported in the BPT consistent with the contractual arrangement with the related party.

The related-party requirements apply to all Part D sponsors that enter into any type of arrangement with or receive services from an entity with a different tax identification number than that of the Part D sponsor, but is associated with the Part D sponsor by any form of common, privately-held ownership, control or investment. This includes any arrangement where the Part D sponsor does business with a related party entity through a contract with one or more unrelated parties, such as a pharmacy benefit manager.

The related party pricing consideration does not apply to Part D sponsors' arrangements with parties within the Part D sponsors' own tax identification number. When a Part D sponsor has an arrangement for benefit services within their tax ID number, they may 1) submit PDE data that matches the reporting of these internal transactions in their financial statements, 2) establish the pharmacy under a new tax identification number and follow the related party instructions, or 3) submit supporting documentation, like that for the related-party actual cost method, that explains and compares how these costs are reflected in the bid versus the Part D sponsor's financial statements.

The objective of the requirements for related-party arrangements is to ensure that financial arrangements between the Part D sponsor and related parties (i) are not significantly different from the financial arrangements that would have been achieved in the absence of the relationship and (ii) do not provide the opportunity to over- or under- subsidize the bid.

CMS requires all Part D sponsors to disclose whether or not they are in a business arrangement with a related party. Part D sponsors in a business arrangement with a related party must disclose and support each and every related-party arrangement at the time of the initial bid submission and prepare the bid and documentation in accord with the requirements in this section and Appendix B for each identified related party.

### **PD Worksheet 3 – Rx Contract Period Projection for Defined Standard Coverage**

#### **Line 8 – Related-Party Benefit Expense PMPM**

Enter the best estimate of the plan sponsor's total allowed PMPM cost for the sum of the following:

- 1) All related-party benefit services in the bid, and
- 2) Services provided by entities with the same tax identification number reported in the bid.

This entry must reflect the expected allowed costs consistent with actual contracts, capitation and risk arrangements, and financial reporting.

### **Line 9 – Related-Party Non-Benefit Expense PMPM**

Enter the best estimate of the plan sponsor’s total PMPM cost for all related-party non-benefit expenses reported in the bid. This entry must reflect the expected non-benefit expenses for all related parties, consistent with actual contracts and financial reporting.

## **Appendix B – Supporting Documentation**

### **Initial June Bid Submission**

13. Detailed support for related-party arrangements in CY2023. A Part D sponsor in a related-party arrangement must provide the following:
  - 13.1. Declaration of every related-party arrangement.
  - 13.2. Disclosure of all services provided in every related-party arrangement.
  - 13.3. A summary that explains the relationship of the parties involved and common ownership, control and investment.
  - 13.4. A summary of the contractual terms of each relationship that includes a description of the services provided and money exchanged.
  - 13.5. For each related party entity declared in the bid provide:
    - 13.5.1. The PMPM cost of services or benefits consistent with the contractual arrangement and the number of beneficiaries affected by the contract, and
    - 13.5.2. A comparison for each contractual arrangement to the cost of the services or benefits in the absence of a related party or to actual cost. Acceptable forms of comparison are:
      - a. Actual Cost Method for Administrative Services  
Show the actual cost of the non-benefit services provided by the related party excluding the gain/loss margin of the related party and provide a qualitative and quantitative summary of the development of the related party’s expenses to provide the administrative services.
      - b. Actual Cost for Benefit Costs  
Show the actual cost of the related party to provide the benefit services excluding the gain/loss margin of the related party and provide a qualitative and quantitative summary of the development of the related party’s expenses to provide the benefit services.
      - c. Market Comparison through Part D Sponsor Method  
Demonstrate through analysis and contract terms, that the fee associated with the benefit or administrative services from the Part D Sponsor’s related party arrangement is comparable to the fee for providing the same service to a Medicare population in an arrangement between the Part D Sponsor and an unrelated entity.
      - d. Market Comparison through Related Party Method  
Demonstrate through analysis and contract terms, that the fee associated with the benefit or administrative services from the Part D Sponsor’s related party arrangement is comparable to the fee for providing the same service to a Medicare population in an arrangement between the Part D Sponsor’s related party and an unrelated entity.

- 13.6. A Part D sponsor that chooses the Actual Cost Method for Administrative Services must provide a qualitative and quantitative summary of the development of the expenses for the related party to provide the administrative services, excluding the gain/loss margin of the related party, compared to the cost in the bid.
- 13.7. A Part D sponsor that chooses the Actual Cost Method for Benefit Costs must—
  - 13.7.1. Provide a qualitative and quantitative analysis of the development of the related party's gain/loss margin reflected in the benefit costs, where the related party's gain/loss margin is defined as the allowed amount of the related party entered in the BPT less the cost of purchasing pharmaceuticals and dispensing prescriptions. The gain/loss margin must be reconcilable to the related party's audited financial statements.
  - 13.7.2. Provide the related party's gain/loss margin as i) the allowed amount of the related party entered in the BPT less the cost of purchasing pharmaceuticals and dispensing prescriptions divided by the total member months in the BPT and ii) the allowed amount of the related party entered in the BPT less the cost of pharmaceuticals and dispensing prescriptions divided by the allowed amount of the related party.
- 13.8. A Part D sponsor that chooses the Market Comparison through Part D Sponsor Method must—
  - 13.8.1. Provide an analysis that clearly explains the terms of each contract in the comparison and how the financial results are not significantly different from what is achieved in the absence of the related-party relationship.
  - 13.8.2. Show that results of pricing at least two quarters of the Part D plan's experience through the related and unrelated party contracts are within plus or minus five percent. All terms of each of the contracts must be included when pricing the plan's experience.
  - 13.8.3. Show that both contracts in the comparison are associated with sufficient costs to be considered valid contracts.
- 13.9. A Part D sponsor that chooses the Market Comparison through Related Party Method must—
  - 13.9.1. Provide an analysis that clearly explains the terms of each contract in the comparison and how the financial results are not significantly different from what is achieved in the absence of the related-party relationship.
  - 13.9.2. Show that results of pricing at least two quarters of the Part D plan's experience through the related and unrelated party contracts are within plus or minus five percent. All terms of each of the contracts must be included when pricing the plan's experience.
  - 13.9.3. Show that both contracts in the comparison are associated with sufficient costs to be considered valid contracts.
  - 13.9.4. Provide a signed attestation from the related party stating that the actual contracts will be available for review upon request by CMS.
- 13.10. The following requirements apply to support for related party:
  - 13.10.1. Benefit and administrative services must be supported in a separate and independent demonstration for all methods used.
  - 13.10.2. Only one method may be used to support the benefit or administrative component of each related party arrangement.
  - 13.10.3. Two arrangements under comparison are recognized as comparable when the terms are identical.
  - 13.10.4. When demonstrating that the fees for each service for a related and unrelated-party arrangement are within 5 percent, all of the services in the related-party arrangement must also be included in the unrelated-party arrangement. The unrelated-party arrangement may also include services that are not in the related-party arrangement but are similar to those services.

13.10.5. When demonstrating that results from the same utilization priced through a related and unrelated-party arrangement are comparable, all of the services in the related-party arrangement must also be included in the unrelated-party arrangement. The unrelated-party arrangement may also include services that are not in the related-party arrangement but are similar to those services.