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## CORRECTIVE ACTION PLAN (CAP) REQUEST

January 19, 2018

Michelle Coberly

PRIORITY HEALTH

1231 East Beltline Ave NE  
Grand Rapids, MI 49525

VIA EMAIL: MedicareCompliance@priorityhealth.com

### **Re: Request for Corrective Action Due to Medicare Plan Finder Submission Errors**

Dear Michelle Coberly:

Your organization failed to comply with Part D requirements concerning the representation of its contracted pharmacy network in reports to CMS for use in populating the Medicare Plan Finder (MPF). Consequently, the Centers for Medicare & Medicaid Services (CMS) is issuing this request for the development and implementation of a corrective action plan (CAP) to your organization, which operates H2320 through its subsidiaries the Medicare Advantage-Prescription Drug (MA-PD) and Medicare Prescription Drug Plan (PDP) sponsor contract(s) listed above.

Consistent with 42 C.F.R. §§423.48 and 423.505(f)(2), Part D sponsors must provide CMS with information necessary to facilitate a process for current and prospective beneficiaries to exercise choice in obtaining prescription drug coverage. Pursuant to that authority, CMS collects pharmacy network and drug pricing information from Part D sponsors to maintain the MPF, a searchable website where beneficiaries can find information about a Part D plan's network pharmacies in their area and the prices they can expect to pay for Part D drugs under sponsors' plans.

CMS routinely provides instructions to Part D sponsors on the requirements for submitting their pharmacy network and drug pricing information, including "Contract Year 2017 Pricing Data Requirements and Submission Calendar" issued directly to sponsors through CMS' contractor, Destination Rx (DRX) on May 19, 2016.

According to these instructions, sponsors were to begin submitting their CY 2017 network and pricing information on September 12, 2016, to allow the MPF to display the information beneficiaries needed to select a Part D plan during the annual election period (AEP) that began on October 15, 2016. CMS also instructed sponsors to continue to submit updated information on their contracted pharmacy networks every two weeks during the plan year. On page 14 of the instructions, CMS noted that sponsors' submissions were to include a full representation of their contracted Part D networks.

CMS also advised sponsors on page nine that we would review all MPF submissions and would suppress from display information about plans whose data submission was incorrect. We adopted this policy to prevent beneficiaries from relying on incorrect information in making their plan election during the AEP or during any other election period for which they may qualify during a plan year.

CMS reviews data submissions on a regular basis. A second quarter (Q2) dataset examining preferred cost-share pharmacy networks was received around July 2017 by CMS. The data reflected a consistent failure by your

organization to include at least 1,750 pharmacies in the Medicare Plan Finder data it submitted to CMS between March 13, 2017 and July 11, 2017. Your organization's network size as of March 13, 2017 was 69,079, but your organization's July 2017 MPF submission indicated that the network had shrunk by at least 2.5%. Such a large decrease in network size triggered a CMS inquiry concerning the accuracy of the July 2017 MPF submissions. Once these omissions were brought to the attention of your pharmacy benefit manager (PBM), Express Scripts, Inc., by CMS, the PBM reported that pharmacies marked in its system with open-ended termination dates of "9999" were excluded from the MPF submissions. This error was corrected with a system update effective July 11, 2017. The second error, where a subset of pharmacies associated with pharmacy services administrative organizations (PSAOs) were excluded due to their Service Type indication, was also corrected on July 11, 2017. CMS notes that both root cause issues have been corrected.

As noted above, CMS has instructed all Part D sponsors that their information will be suppressed from display on the MPF upon a determination that the submitted information is incorrect. Your organization avoided this consequence by failing to disclose to CMS the information it had concerning its inaccurate MPF submissions.

Consistent with CMS' authority at 42 C.F.R. §§423.507(b)(3) and 423.509(c), we request that your organization develop and implement a corrective action plan designed to ensure that your organization maintains compliance with Part D requirements concerning the accurate reporting of MPF data. CMS will continue to monitor your organization's performance and will consider the CAP closed when it is demonstrated that your organization has come into compliance with identified program requirements.

We appreciate your organization's prompt attention to this matter. Should your organization fail to maintain compliance with Part D requirements regarding this issue, CMS may consider taking actions in the form of intermediate sanctions (e.g., the suspension of marketing and enrollment activities) or civil money penalties pursuant to our authority under 42 C.F.R. part 423, Subpart O, or the issuance of a contract termination notice pursuant to 42 C.F.R. part 423, Subpart K.

Please be aware that this CAP request will be included in the record of your organizations' past Medicare contract performance, which CMS will consider as part of your review of any application for new or expanded Medicare contracts your organization may submit. For past performance analysis purposes, this is considered a Part D issue with beneficiary impact. In issuing this CAP, CMS considered that your organization failed to self-disclose this matter.

If you have questions about this notice, please contact Arianne Spaccarelli at [arianne.spaccarelli@cms.hhs.gov](mailto:arianne.spaccarelli@cms.hhs.gov). Please copy your account manager on all communications.

Sincerely,



Jennifer Shapiro, Acting Director

Medicare Drug Benefit and C&D Data Group

CC via email:

Lisa Foltz, CMS

Scott Nelson, CMS