

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



MEDICARE DRUG BENEFIT AND C & D DATA GROUP

February 26, 2013

Contract ID: S0064

Mr. Pritpal Virdee
Chief Executive Officer
Smart Insurance Company
1435 Lake Cook Road, Suite C4152
Deerfield, IL 60015

Delivered via email: pritpal.virdee@smartdrx.com

RE: Request for Corrective Action Plan (CAP) for Failure to Provide Call Center Services

Dear Mr. Virdee:

The Centers for Medicare & Medicaid Services (CMS) is issuing this request for a corrective action plan (CAP) to Smart Insurance Company, which operates Medicare Prescription Drug Plan (PDP) contract ID S0064, for failing to operate a toll-free customer call center that provides customer telephone service as well as failing to exercise oversight and control of the call center in a manner that is satisfactory to CMS.

Failure to Provide Customer Service via Call Center

As stated in 42 C.F.R. § 423.128(d)(1), a Part D plan must have mechanisms for providing specific information on a timely basis to current and prospective enrollees upon request. These mechanisms must include a toll-free customer service call center. In addition, Chapter 2 of the Prescription Drug Benefit Manual, Medicare Marketing Guidelines, Section 80.1, specifies that the customer service call center have an average hold time of two minutes or less. CMS reminded all Part D sponsors of these standards in a December 9, 2012 Health Plan Management System (HPMS) memo entitled *2013 Part C and Part D Call Center Monitoring and Guidance for Providing Services to Limited English Proficient Beneficiaries*.

CMS contacted your organization on January 3, 2013 in regard to an inordinately large number of complaints in the HPMS Complaints Tracking Module (CTM). The complaints were from beneficiaries who were unable to speak with a live customer service representative (CSR) between January 1-January 3, 2013.¹ CMS attempted to call 855-976-2781, which was the current enrollee customer service number identified on the SmartD Rx website and in the HPMS

¹ For example, see CTM complaint ID C1302224704.

contacts, and we found that the number was not functional, thereby confirming the complaints by beneficiaries. This lack of a properly working customer service phone number presented a direct threat of harm to beneficiaries who could not access needed information about their benefits from a CSR in a timely manner. When CMS was ultimately able to reach a CSR, the hold time exceeded 13 minutes. This level of customer service is unacceptable to CMS, as it expects sponsors to have systems and procedures in place to provide timely quality customer service within the specified timeframes.

Failure to Exercise Oversight and Control

42 C.F.R. § 423.504(b)(4) requires Part D sponsors to “have administrative and management arrangements satisfactory to CMS.” Per 42 C.F.R. § 423.504(b)(4)(ii), these arrangements include “personnel and systems sufficient for the Part D plan sponsor to organize, implement, control, and evaluate... the furnishing of prescription drug services, the quality assurance... and the administrative and management aspects of the organization.”

On January 3, 2013, driven by the large number of CTM complaints and CMS test calls that confirmed beneficiaries were unable to speak with a CSR at your organization’s customer service call center, CMS contacted your organization’s Compliance Officer, Stephanie Bayer. Despite the large number of complaints and non-operational phone number, Ms. Bayer was unaware of the issue with the non-working phone number and responded that she would investigate. Upon learning the compliance officer was unaware of such a significant problem, Cynthia Tudor, Ph.D., Director of the Medicare Drug Benefit Group, immediately contacted you, the CEO, and you also stated you were unaware of the situation. Given that senior management had no knowledge of a significant ongoing issue for three days, while all of the CTM complaints were responded to and identified as resolved by Smart Insurance Company’s employees or contractors, shows a lack of oversight and quality assurance that is not satisfactory to CMS.

Corrective Action Request

As a result of your organization’s significant non-compliance issues in regard to call center customer service and the related administrative and management failures, CMS, pursuant to its authority at 42 C.F.R. § 423.509(c)(i), requests your organization to develop and implement a CAP that will result in your organization coming into compliance with call center requirements. Please ensure that the CAP discusses how you will ensure that beneficiaries are able to reach a representative at your call center in a timely manner as well as administrative processes and procedures that you will implement to ensure proper oversight of call center operations. Additionally, your CAP should describe how you are improving your organization’s oversight and management approach such that complaints are not merely treated as a series of individual problems to solve for particular beneficiaries, but are evaluated for trends, considered in the context of potential systemic problems, and appropriately escalated to management. CMS will determine whether your organization successfully completes its CAP by monitoring its performance over the next few months. Submit the CAP to Greg Bottiani via email at Gregory.Bottiani@cms.hhs.gov no later than March 30, 2013.

We appreciate your prompt attention to this matter. Should your organization fail to come into compliance in a timely manner, CMS may consider taking additional compliance actions, including enforcement actions in the form of the imposition of intermediate sanctions (e.g., the suspension of marketing and enrollment activities) or civil money penalties.

Please be aware that this letter will be included in the record of your organization's past Medicare contract performance, which CMS will consider as part of our review of any application for new or expanded Medicare contracts your organization may submit. This letter will be considered a Part D issue with beneficiary impact for past performance purposes. CMS notes that we are issuing this compliance notice based exclusively on information that we obtained from sources other than your organization's own self-disclosure.

If you have any questions regarding this letter please contact Gregory.Bottiani@cms.hhs.gov or (410) 786-6920 and copy your Account Manager, Pam Conroy, at Pamela.Conroy@cms.hhs.gov on all communications.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Tudor', with a stylized flourish at the end.

Cynthia G. Tudor, Ph.D.
Director
Medicare Drug Benefit and C & D Data Group

cc: Jennifer Shapiro, CMS
Scott Nelson, CMS
Greg Bottiani, CMS
Pamela Conroy, CMS