

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop C1-26-16  
Baltimore, Maryland 21244-1850



## **Center of Medicare**

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June 27, 2013

**VIA:**

**EMAIL** ([Johanna.Torres@bbraun.com](mailto:Johanna.Torres@bbraun.com); [Paul.Polaha@bbraun.com](mailto:Paul.Polaha@bbraun.com))

B. Braun Medical Inc.  
Ms. Johanna Torres  
Medicaid Rebate Specialist  
824 12th Avenue  
Bethlehem, PA 18017

**RE: Notice of Determination to Impose a Civil Money Penalty for Pharmaceutical Manufacturer  
Contract Number P1011**

Dear Ms. Johanna Torres:

Pursuant to 42 CFR §423.2335(d), the Centers for Medicare & Medicaid Services (CMS) is providing notice to B. Braun Medical Inc. that CMS has made a determination to impose a civil money penalty (CMP) in the amount of \$1,344.97.

**Basis for Civil Money Penalty**

This action is based on your organization's failure to pay specified Part D sponsors within 38 calendar days of receipt of the quarterly invoice from the third party administrator, in violation of 42 CFR §423.2315(b)(3) and Section II(b) of the Medicare Coverage Gap Discount Program Agreement (Discount Agreement).

Based on the payment confirmation report provided by your organization and the payment confirmations provided by Part D sponsors, CMS has determined to impose a CMP of \$1,344.97 to B. Braun Medical Inc. due to untimely payments for the 2012 fourth quarter invoices. Specifically, the following Part D sponsors did not receive payments within the requisite 38-day time period:

- 133 Part D Sponsors \$5,379.88 (Breakdown on Attachment 2)

The CMP that your company owes is equal to:

- 25% on the amount paid late, \$1,344.97

The determination by CMS to impose a CMP will become final and due no later than August 26, 2013 if you do not request a hearing to appeal in the manner and timeframe described below. Please see the required payment method below under Method to Submit CMP Payments.

Please note that any further failures by B. Braun Medical Inc. to comply with these or any other CMS requirements may subject your organization to termination as described in 42 CFR §423.2345 and section VIII of the Discount Agreement.

### **Right to Request a Hearing**

Your organization may request a hearing to appeal CMS' determination in accordance with Section VIII (c) of the Discount Agreement. You must send a written request for a hearing to the Departmental Appeals Board office listed below, and a copy to CMS at the address listed below, within 60 calendar days from receipt of this notice. Your request must be received no later than August 26, 2013. The request for a hearing must identify the specific issues, the findings of fact and conclusions of law with which you disagree, and specify the basis for each contention that the finding or conclusion of law is incorrect. Your request should be sent to:

Karen Robinson  
Civil Remedies Division  
Department of Health and Human Services  
Departmental Appeals Board  
Medicare Appeals Council, MS 6132  
330 Independence Ave., S.W.  
Cohen Building Room G-644  
Washington, D.C. 20201

A copy of your hearing request should also be sent to CMS at the following address:

Craig Miner  
Deputy Director, Division of Part D Policy  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
MAIL STOP: C1-26-16  
Baltimore, MD 21244  
Email: [Craig.miner@cms.hhs.gov](mailto:Craig.miner@cms.hhs.gov)

### **Method to Submit CMP Payments**

All CMP payments must be made using Pay.gov (See Attachment for instructions). Pay.gov provides a free service to Federal government agencies and to the entities that make online payments to a Federal government agency. The Pay.gov Collection Service collects and processes the Internet-authorized

Ms. Johanna Torres

June 27, 2013

Page 3 of 13

deductions from a checking or savings account via Automated Clearing House (ACH) debit entries processed at the Federal Reserve Bank of Cleveland (FRB-C). Your Pay.gov payment transaction will not require a Username and Password in Pay.gov.

Companies sometimes have blocks on their bank accounts that will only allow designating transactions to be processed. It may be necessary to provide your banking institute with the following two pieces of information to unblock the bank account:

- **Originating Depository Financial Institution (ODFI):** FRB-C is the payment processor for ACH payments made through Pay.gov and will appear as the ACH ODFI. FRB-C processes Pay.gov ACH transactions under the American Bankers Association (ABA) routing numbers 041036046 and 042736141.
- **Company ID:** Every ACH batch contains a company ID number in accordance with the National Automated Clearing House Association (NACHA) requirements. CMS' company ID number for Pay.gov payments is 7505008012.

For Pay.gov technical issues contact Pay.gov Customer Service at (800) 624-1373 *or* (216) 579-2112, Monday–Friday from 6:00 A.M. to 7:00 P.M. Eastern Time.

You will find it helpful to have the following information available when you complete your payment:

- P# (P#####)
- CMP payment demand letter from CMS
- Bank account and routing numbers
- Point of contact regarding the payment
- Business mailing address

Acknowledgement of this letter is required, please reply to [CGDPandManufacturers@cms.hhs.gov](mailto:CGDPandManufacturers@cms.hhs.gov). If you have any questions about this notice, please contact Sonia Eaddy at [Sonia.eaddy@cms.hhs.gov](mailto:Sonia.eaddy@cms.hhs.gov).

Sincerely,

/s/

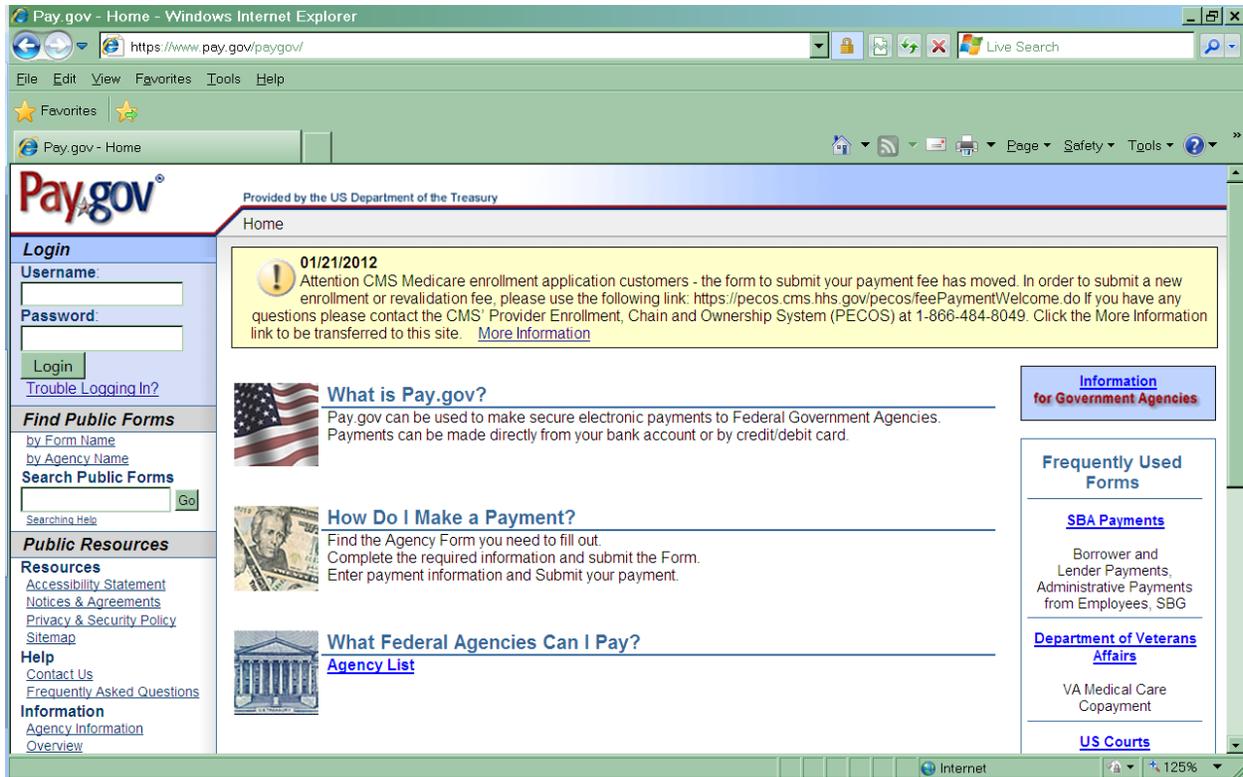
Cynthia G. Tudor, Ph.D.  
Director, Medicare Drug Benefit and C & D Data Group

cc: Ms. Cheri Rice, CMS/CM/MPPG  
Mr. John Scott, CMS/CM/MPPG  
Mr. Brian Cook, CMS/OC  
Mr. Greg Jones, CMS/OL  
Ms. Jill Abrams, DHHS/OGC  
Ms. Jennifer Garver, DHHS/OGC  
Ms. Karen Robinson, DHHS/DAB

## Attachment 1

### Step 1

Access Pay.gov at <https://www.pay.gov>



### Step 2

On the Pay.gov home page,

- In the **Search Public Forms** box (on the left side of the home page), Type: *Medicare Coverage Gap Discount (not case sensitive)*
- then click on Go

The screenshot shows an Internet Explorer browser window with the URL <https://qa.pay.gov/paygov/payments/keywordSearchForms.html?keyword=medicare+Coverage+gap+discount&f>. The search results are as follows:

- Search Results:** Your search for "medicare Coverage gap discount" returned 3 results. Results: 1-3 of 3. Sort By: **Form Name** | Form Number | OMB Number | Agency Name. [Hide Details](#)
- Item 1:**
  - CMS Data Payment Form** [View PDF](#)
  - Form Number: **CMS Data Payment**
  - Please use this form to pay your public use files, limited data sets, and research identifiable files fees. Also use this form to pay all other recovery of data processing fees from the Centers for Medicare & Medicaid Services. This form is NOT to be used for submitting the CMS 855 Application Fee. If you need to submit a new enrollment or revalidation fee, please use the following link: <https://pecos.cms.hhs.gov/pecos/feePaymentWelcome.do>.
  - [Department of Health and Human Services](#)
  - <https://qa.pay.gov/paygov/forms/formInstance.html?agencyFormId=1818891>
- Item 2:**
  - CMS Medicare Application Fee** [View PDF](#)
  - Form Number: **Medicare-app-fee-1**
  - For all questions please call: 1-866-484-8049. After December 31, 2011, you must access this url to CMS' Provider Enrollment, Chain and Ownership System (PECOS) website to pay the Medicare enrollment application fee. <https://pecos.cms.hhs.gov/pecos/feePaymentWelcome.do>.
  - [Department of Health and Human Services](#)
  - <https://qa.pay.gov/paygov/forms/formInstance.html?agencyFormId=3149023>
- Item 3:**
  - Medicare Coverage Gap Discount Program CMPs** [View PDF](#)
  - Form Number: **Medicare CGDP CMPs**
  - Please use this form to pay your Medicare Coverage Gap Discount Program Civil Monetary Penalties.
  - [Department of Health and Human Services](#)
  - <https://qa.pay.gov/paygov/forms/formInstance.html?agencyFormId=3550318>

Results: 1-3 of 3

### Step 3

Click on **Medicare Coverage Gap Discount Program CMPs** link. You will be taken to the civil money penalty collection form. Have available your payment demand letter from CMS.

The screenshot shows a web browser window titled "Pay.gov - Form Instance - Windows Internet Explorer". The address bar shows the URL: <https://www.pay.gov/paygov/forms/forminstance.html?nc=1330705111240&agencyFormId=38616929&userForm>. The browser's address bar also shows "Live Search". The browser's menu bar includes "File", "Edit", "View", "Favorites", "Tools", and "Help". The browser's status bar shows "Done" and "Internet".

The main content area of the browser displays the "Medicare Coverage Gap Discount Program" form. The form is titled "Medicare Coverage Gap Discount Program" and "Civil Money Penalty Payment". It includes a section for "Required Fields" with the following fields:

- \*Manufacturer P Number:
- \*Manufacturer Name:
- \*Address:
- \*City:
- \*State:
- \*Zip Code:
- \*Point of Contact Name:
- \*Point of Contact Phone:
- \*Point of Contact Email:
- \*Date of Demand Letter:
- Invoice Quarter for which Penalties are due:
  - \*Quarter:
  - \*Year:
- \*Payment Amount: \$   
(Note: This must be the total amount due)

At the bottom of the form, there are two buttons: "Submit Data" and "PDF Preview".

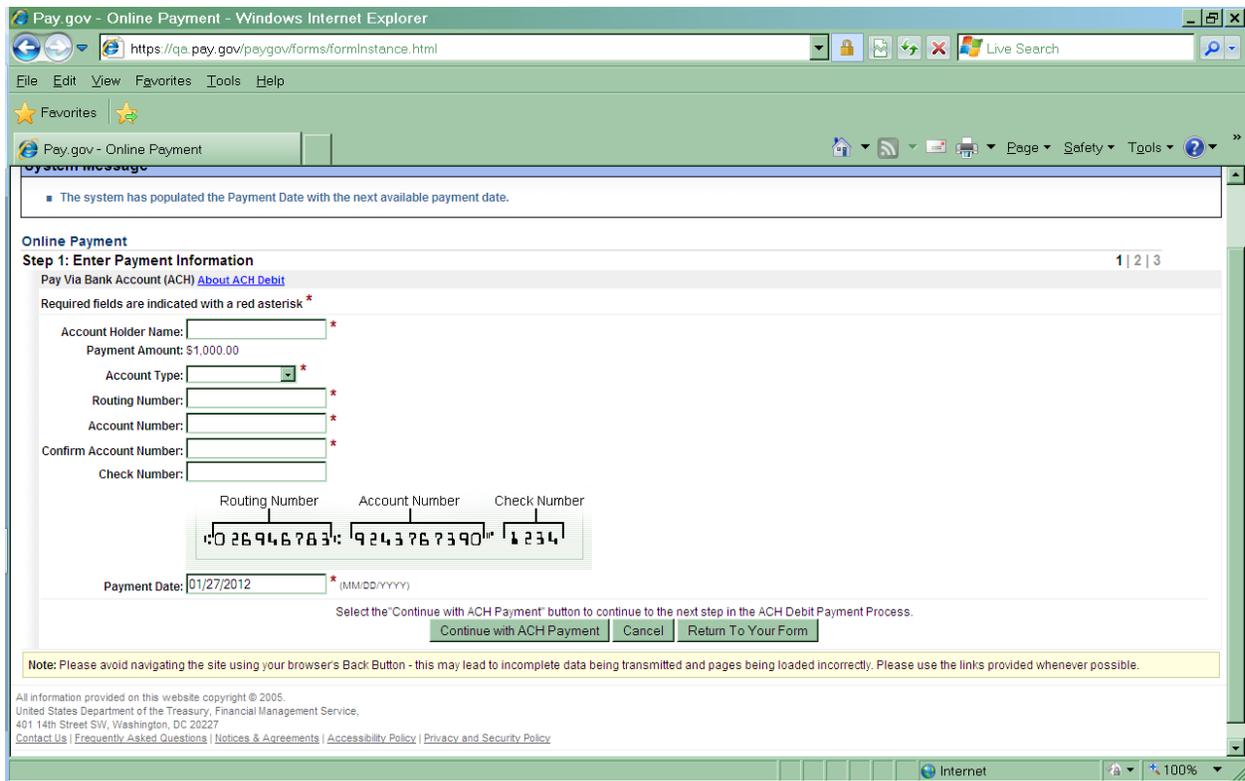
- Complete the required fields
  - **Manufacturer P Number:** (P####) must be a P followed by 4-digits
  - **Manufacturer Name:** manufacturer's complete name
  - **Point of Contact:** person authorized to make the payment
  - **Point of Contact Phone:** (\*\*\*\_\*\*\_\*\_\*\*\*\*) telephone number must include dashes
  - **Point of Contact Email:** email address
  - **Mailing address:** Street, city, state, and zip code
  - **Date of Demand Letter:** (MM/DD/YEAR) typed date on the demand letter received from CMS
  - **Quarter:** (Q1, Q2, Q3, Q4) use the drop arrow to select the calendar year quarter in which the invoice payment was late or unpaid
  - **Year:** use the drop down arrow to select the calendar year in which the invoice payment was late or unpaid
  - **Payment Amount:** the total amount indicated on the demand letter from CMS
- Review
- Click on Submit Data

NOTE: You will immediately receive a message if **any** of the required information is missing on the payment form. Click OK, complete the missing information, and click on Submit Data.



### Step 4

Have your banking information available to enter the payment information. Enter bank information, review, and print your payment confirmation to complete your Pay.gov payment.



- Enter Payment Information
  - **Account Holder Name:** name as it appears on the actual banking account

***Notice the payment amount you entered on the previous screen has populated. Click on Return To Your Form to correct the payment amount.***

- **Account Type:** (Personal Checking, Personal Savings, Business Checking, or Business Savings) use the drop down arrow to select account type
- **Routing Number:** bank routing number
- **Account Number:** bank account number
- **Confirm Account Number:** re-type your bank account number
- **Check Number:** check number used for this payment
- **Payment Date:** automatically populates the next available date in which the financial institutes can initiate the payment transaction

**Continue with ACH Payment-** will move you the next step of your payment

**Cancel-** will cancel all information entered during this session

**Return To Your Form-** will take you back to the Civil Money Penalty form

**Note: You will be redirected to the Pay.gov home page to start a new session if you click on Continue with ACH Payment before the account information is entered.**

- Review the payment summary,

Pay.gov - Online Payment - Windows Internet Explorer

https://qa.pay.gov/paygov/payments/enterACHDebitPaymentInformation.html

File Edit View Favorites Tools Help

Pay.gov - Online Payment

**Step 2: Authorize Payment**

Payment Summary [Edit this information](#)

Account Holder Name: manufacturer Inc  
Payment Amount: \$1,000.00  
Account Type: Business Checking  
Routing Number: 041000124  
Account Number: \*\*\*\*\*0424  
Check Number: 0002  
Payment Date: 01/27/2012

**Email Confirmation Receipt**  
To have a confirmation sent to you upon completion of this transaction, provide an email address and confirmation below.

Email Address:   
Confirm Email Address:   
CC:  Separate multiple email addresses with a comma

**Authorization and Disclosure**  
Required fields are indicated with a red asterisk \*

I agree to the authorization and disclosure language.  \*

The U.S. Treasury Department's Financial Management Service. As used in this document, "we" or "us" refers to the Financial Management Service and its agents and contractors operating Pay.gov. "You" refers to the end-user reading this document and agreeing to it prior to engaging in a debit transaction.

I. Consumers

A. Authorization

You acknowledge that you have read and understand the consumer disclosure language and authorize the Federal Reserve financial institution of Cleveland to debit the named financial institution account. This authorization is to remain in full force and effect until we have received notification of its termination in such time and in such manner as to afford Pay.gov a reasonable opportunity to act on it, or unless otherwise terminated for any reason by Pay.gov.

B. Disclosure

In case of errors or questions about a transaction, immediately contact the Federal agency using the Pay.gov service or contact Pay.gov directly.

Internet 100%

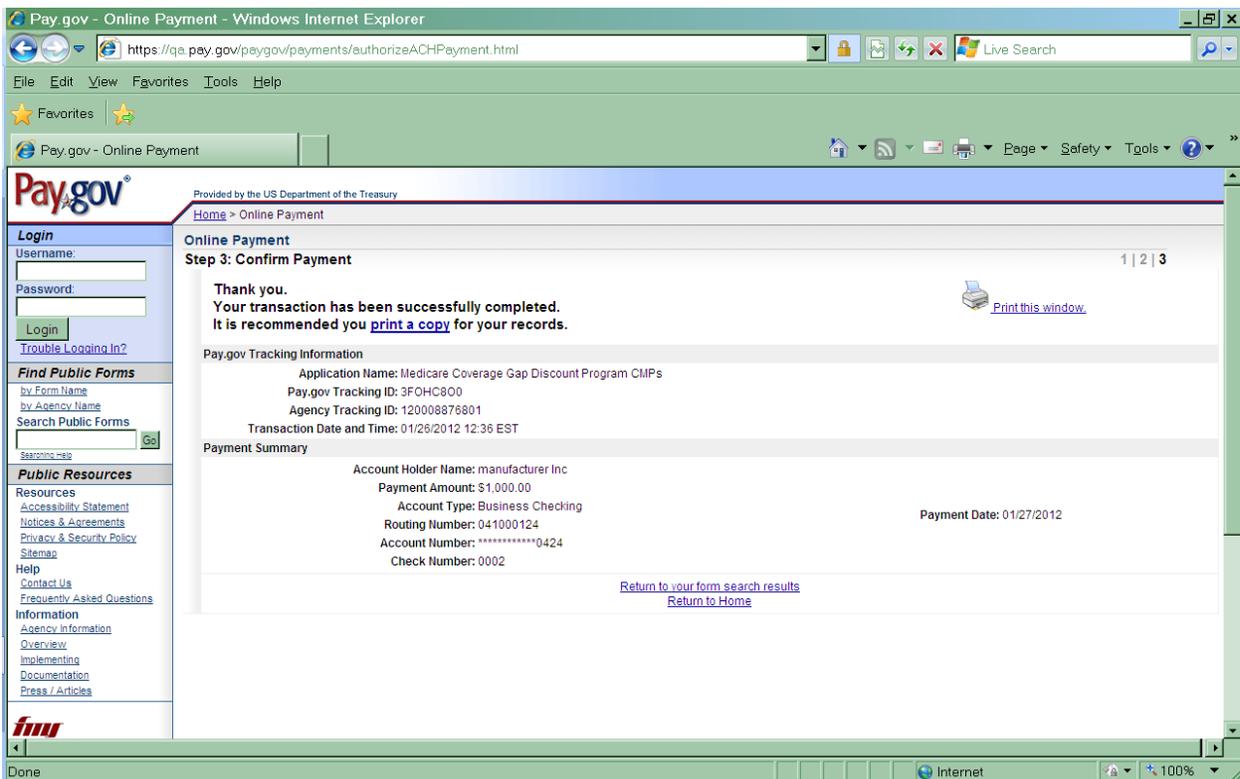
- Enter email address(es) to receive the payment confirmation
- Please add to the CC box: [cgdp\\_manufacturers@cms.hhs.gov](mailto:cgdg_manufacturers@cms.hhs.gov)
- Read and/or print the Authorization and Disclosure. If you agree, Click, *I agree to the authorization and disclosure language*

**Submit Payment-** will submit your payment and move you to the final step of your payment

**Cancel-** will cancel all information entered during this session

**Return To Your Form-** will take you back to the Civil Money Penalty form

- Print the payment confirmation.



## Attachment 2

2012 Q4 P1011			
1	E2332	NATIONAL RURAL ELECTRIC	\$ 0.86
2	E3014	PSERS HOP PROGRAM	\$ 19.06
3	E6322	KENTUCKY RETIREMENT SYS	\$ 1.28
4	E7848	OKLAHOMA STATE AND EDUC	\$ 8.84
5	H0151	UNITED HEALTHCARE OF AL	\$ 0.76
6	H0303	PACIFICARE OF ARIZONA	\$ 12.40
7	H0351	HEALTH NET OF ARIZONA	\$ 59.23
8	H0354	CIGNA HEALTHCARE OF ARI	\$ 6.94
9	H0504	CA PHYSICIANS SERV/DBA	\$ 2.90
10	H0524	KAISER FOUNDATION HP I	\$ 48.82
11	H0543	PACIFICARE OF CALIFORNI	\$ 46.33
12	H0545	INTER VALLEY HEALTH PLA	\$ 13.06
13	H0562	HEALTH NET_OF CA	\$ 8.28
14	H0913	WELLCARE HEALTH PLANS O	\$ 0.75
15	H1036	HUMANA MEDICAL PLAN IN	\$ 148.94
16	H1109	AETNA HEALTH INC.(GEORG	\$ 6.52
17	H1251	HAWAII MED. SRVC. ASSN.	\$ 5.25
18	H1350	BLUE CROSS OF IDAHO HEA	\$ 3.00
19	H1509	UNITED HEALTHCARE INSUR	\$ 15.85
20	H1903	WELLCARE OF LOUISIANA	\$ 0.79
21	H1951	HUMANA HEALTH BENEFIT P	\$ 6.50
22	H2012	HUMANA HEALTH PLAN, INC	\$ 4.05
23	H2256	TUFTS ASSOCIATED HMO I	\$ 0.94
24	H2450	MEDICA INSURANCE COMPAN	\$ 10.56
25	H2462	HEALTHPARTNERS	\$ 0.75
26	H2816	AMERICAN PROGRESSIVE LI	\$ 1.22
27	H2906	HOMETOWN HEALTH PLAN	\$ 0.55
28	H2944	HUMANA INSURANCE COMPAN	\$ 25.13
29	H3107	OXFORD HEALTH PLANS (NJ	\$ -
30	H3152	AETNA HEALTH INC.	\$ 1.43
31	H3154	HORIZON HEALTHCARE OF N	\$ 0.61
32	H3307	OXFORD HEALTH PLANS (NY	\$ 5.24
33	H3312	AETNA HEALTH INC.	\$ 0.61
34	H3327	TOUCHSTONE HEALTH PARTN	\$ 2.12
35	H3330	HIP HEALTH PLAN OF NY	\$ 50.37

36	H3335	EXCELLUS HEALTH PLAN I	\$ 23.50
37	H3342	EMPIRE HEALTHCHOICE ASS	\$ 23.25
38	H3346	PREFERRED CARE	\$ 45.72
39	H3347	ELDERPLAN INC.	\$ 1.49
40	H3351	EXCELLUS HEALTH PLAN I	\$ 1.50
41	H3361	WELLCARE OF NEW YORK I	\$ 3.88
42	H3362	INDEPENDENT HEALTH ASSO	\$ 3.27
43	H3370	EMPIRE HEALTHCHOICE HMO	\$ 46.29
44	H3388	CAPITAL DISTRICT PHYSIC	\$ 0.66
45	H3405	HUMANA INSURANCE COMPAN	\$ 9.66
46	H3449	PARTNERS NATIONAL HEALT	\$ 8.48
47	H3528	CONNECTICARE, INC.	\$ 1.61
48	H3619	HUMANA INSURANCE COMPAN	\$ 7.50
49	H3655	COMMUNITY INSURANCE COM	\$ 39.08
50	H3916	HIGHMARK INC.	\$ 6.38
51	H3923	CAPITAL ADVANTAGE INSUR	\$ 1.41
52	H3931	AETNA HEALTH INC	\$ 1.27
53	H3949	ELDER HEALTH PENNSYLVAN	\$ 2.86
54	H3952	KEYSTONE HEALTH PLAN EA	\$ 22.95
55	H3957	KEYSTONE HEALTH PLAN WE	\$ 1.50
56	H4003	MMM HEALTHCARE INC.	\$ 5.69
57	H4141	HUMANA EMPLOYERS HEALTH	\$ 10.82
58	H4346	CAREMORE HEALTH PLAN OF	\$ 33.88
59	H4454	HEALTHSPRING INC.	\$ 8.20
60	H4456	JOHN DEERE HEALTH PLAN	\$ 2.34
61	H4461	CARITEN HEALTH PLAN IN	\$ 53.04
62	H4510	HUMANA HEALTH PLAN OF T	\$ 115.63
63	H4513	TEXAS HEALTHSPRING I L	\$ 1.48
64	H4528	ELDER HEALTH TEXAS INC	\$ 5.59
65	H4590	PACIFICARE OF TEXAS IN	\$ 0.79
66	H4604	UNITEDHEALTHCARE OF UTA	\$ 41.39
67	H4606	HUMANA INSURANCE COMPAN	\$ 5.00
68	H5005	PACIFICARE OF WASHINGTO	\$ 4.60
69	H5215	NETWORK HEALTH INSURANC	\$ 13.60
70	H5216	HUMANA INSURANCE COMPAN	\$ 11.39
71	H5291	HUMANA HEALTH PLAN, INC	\$ 10.44
72	H5425	SCAN HEALTH PLAN	\$ 1.48
73	H5427	FREEDOM HEALTH INC.	\$ 15.82
74	H5434	BLUE CROSS AND BLUE SHI	\$ 10.00
75	H5520	HEALTH NET LIFE INSURAN	\$ 7.93
76	H5521	AETNA LIFE INSURANCE CO	\$ 3.57

77	H5528	GROUP HEALTH INCORPORAT	\$ 0.65
78	H5774	AMERICAN HEALTH INC.	\$ 0.77
79	H5820	UNIVERSAL HEALTH CARE I	\$ 42.70
80	H5868	HUMANA INSURANCE COMPAN	\$ 6.50
81	H5883	BLUE CARE NETWORK OF MI	\$ 3.24
82	H5943	SCAN HEALTH PLAN	\$ 5.97
83	H5970	HUMANA INSURANCE COMPAN	\$ 2.85
84	H6360	KAISER FOUNDATION HP OF	\$ 2.17
85	H6609	HUMANA INSURANCE COMPAN	\$ 55.76
86	H8145	HUMANA INSURANCE COMPAN	\$ 57.73
87	H8552	ANTHEM BLUE CROSS LIFE	\$ 42.32
88	H8707	HUMANA INSURANCE COMPAN	\$ 13.42
89	H8953	HUMANA HEALTH PLAN OF O	\$ 2.06
90	H9001	FALLON COMMUNITY HEALTH	\$ 1.83
91	H9572	BLUE CROSS BLUE SHIELD	\$ 155.28
92	H9615	MVP HEALTH PLAN, INC.	\$ 5.00
93	H9859	MVP HEALTH PLAN, INC,	\$ 3.90
94	R3332	BLUE CROSS AND BLUE SHI	\$ 1.88
95	R5287	UNITED HEALTHCARE INSUR	\$ 53.15
96	R5826	HUMANA INSURANCE COMPAN	\$ 51.67
97	R5941	ANTHEM INSURANCE COMPAN	\$ 58.50
98	S1030	BCBS OF ALABAMA AND BCB	\$ 8.70
99	S2893	BLUE CROSS BLUE SHIELD	\$ 18.10
100	S3521	EXCELLUS HEALTH PLAN I	\$ 63.13
101	S4802	STERLING LIFE INSURANCE	\$ 0.71
102	S5540	BLUE CROSS AND BLUE SHI	\$ 9.89
103	S5552	HUMANA INSURANCE COMPAN	\$ 1.25
104	S5569	CAMBRIDGE LIFE INSURANC	\$ 0.75
105	S5580	UNITED AMERICAN INSURAN	\$ 1.33
106	S5593	HIGHMARK SENIOR RESOURC	\$ 27.40
107	S5601	SILVERSCRIPT INSURANCE	\$ 71.20
108	S5617	CONNECTICUT GENERAL LIF	\$ 39.34
109	S5660	MEDCO HEALTH SOLUTIONS	\$ 204.20
110	S5670	COVENTRY HEALTH AND LIF	\$ 1.50
111	S5678	PENNSYLVANIA LIFE INSUR	\$ 88.63
112	S5715	HCSC INSURANCE SERVICES	\$ 38.37
113	S5743	BLUE CROSS BLUE SHIELD	\$ 8.52
114	S5753	WISCONSIN PHYSICIAN SER	\$ 2.24
115	S5755	UNITED AMERICAN INSURAN	\$ 25.78
116	S5766	FIRST CARE INC.	\$ 3.28
117	S5768	FIRST HEALTH LIFE & HEA	\$ 29.85

Ms. Johanna Torres

June 27, 2013

Page 13 of 13

<b>118</b>	<b>S5795</b>	<b>ARKANSAS BCBS A MUTUAL</b>	<b>\$ 1.93</b>
<b>119</b>	<b>S5805</b>	<b>UNITED HEALTHCARE INSUR</b>	<b>\$ 129.49</b>
<b>120</b>	<b>S5810</b>	<b>AETNA LIFE INSURANCE CO</b>	<b>\$ 21.41</b>
<b>121</b>	<b>S5820</b>	<b>UNITED HEALTHCARE INSUR</b>	<b>\$ 1,306.22</b>
<b>122</b>	<b>S5825</b>	<b>AMERICAN PROGRESSIVE LI</b>	<b>\$ 1.66</b>
<b>123</b>	<b>S5884</b>	<b>HUMANA INSURANCE COMPAN</b>	<b>\$ 1,123.03</b>
<b>124</b>	<b>S5904</b>	<b>BLUE CROSS AND BLUE SHI</b>	<b>\$ 12.60</b>
<b>125</b>	<b>S5921</b>	<b>PACIFICARE LIFE AND HEA</b>	<b>\$ 67.89</b>
<b>126</b>	<b>S5932</b>	<b>HEALTHSPRING INC. HEALT</b>	<b>\$ 1.58</b>
<b>127</b>	<b>S5960</b>	<b>UNICARE</b>	<b>\$ 4.52</b>
<b>128</b>	<b>S5966</b>	<b>GROUP HEALTH INCORPORAT</b>	<b>\$ 17.50</b>
<b>129</b>	<b>S5967</b>	<b>WELLCARE PRESCRIPTION I</b>	<b>\$ 141.59</b>
<b>130</b>	<b>S5975</b>	<b>ODS HEALTH PLAN</b>	<b>\$ 1.68</b>
<b>131</b>	<b>S6506</b>	<b>BLUE CROSS AND BLUE SHI</b>	<b>\$ 0.83</b>
<b>132</b>	<b>S7950</b>	<b>EXPRESS SCRIPTS INSURAN</b>	<b>\$ 199.88</b>
<b>133</b>	<b>S9579</b>	<b>STONEBRIDGE LIFE INSURA</b>	<b>\$ 1.67</b>
			<b>\$ 5,379.88</b>