

## **CMS Cracks Down On Medicare Advantage, Part D Compliance**

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CMS is jacking up its enforcement of Medicare Advantage and Part D plan requirements, including coverage determinations for Part D plans and accurate provider directories for MA plans, but the agency is suspending its punitive star ratings policy for those plans that don't comply.

The draft 2017 Medicare Advantage and Part D call letter states that CMS increased enforcement of penalties against plans because CMS audits found “substantial and systemic violations” of Part C and Part D Medicare requirements. The audits found that plans inappropriately delayed or denied coverage of medical services and drugs, which led to unnecessary out-of-pocket costs.

The call letter states that many drug plans aren't notifying beneficiaries about coverage determinations and redeterminations within the required timeframes, which for coverage determinations is no more than 72 hours. CMS says it established a shorter timeframe for Part D decisions than MA coverage decisions because “coverage requests involve prescription drugs an enrollee has not yet received, which increases the risk of adverse clinical outcomes if access to the drug is denied.” When Part D plans do not hit the deadline, the case has to be automatically forwarded to the Part D Independent Review Entity (IRE).

In response to Part D plans' noncompliance, CMS said it will step up its enforcement in 2017.

“[We] will continue to increase the level and severity of the compliance and enforcement actions imposed on plans that substantially fail to comply with adjudication requirements for coverage determinations and redeterminations. CMS will use data to determine which plan sponsors are outliers with respect to untimely decisions and the corresponding rate at which cases are auto-forwarded to the Part D IRE,” the agency said.

**CMS also proposed increased monitoring and enforcement efforts with provider directories.** The Medicare Parts C & D Oversight and Enforcement Group (MOEG), along with the Medicare Parts C & D Contract Administration Group (MCAG), will oversee audit compliance with provider directory requirements. Organizations that do not comply are subject to fines or enrollment sanctions.

But America's Health Insurance Plans (AHIP) is concerned CMS has not provided enough details about the monitoring activities for plans to improve their monitoring and compliance. AHIP is concerned CMS intends to institute compliance and enforcement actions for a program that is still in pilot testing.

“We urge CMS to refrain from pursuing enforcement actions during this time period and not penalize plans that can demonstrate good faith efforts to update provider directory data,” AHIP said.

One analyst says an increase in CMS audits may already be underway. Ted Quesnette, chief operating officer of Cody Consulting, said there has been an uptick in Medicare Advantage audits of appeals and grievance processes and Part D compliance in the past six months.

Medicare Rights Center (MRC) supports increased enforcement on Part D sponsors who fail to comply with coverage determinations and redeterminations and would like CMS to publish enforcement actions for noncompliance on plan websites, Medicare Plan Finder and other areas.

David Lipschutz, senior policy attorney for the Center for Medicare Advocacy, said CMS already posts enforcement letters but they are difficult to locate. He said plans should be required to alert beneficiaries when they have been sanctioned and also suggested requiring plans to announce their sanctions via press release.

Enforcement actions against MA plans and Medicare drug plans tripled between 2012 and 2013, according to the CMS publication 'The 2013 Part C and Part D Program Audit and Enforcement Report'. CMS said it imposed \$9,130,650 in civil money penalties (CMPs) and fines in its 2015 program audits. The agency says this is the highest amount in CMPs imposed for a single program audit year to date. In 2014, the total amount of CMPs for audit violations was \$3,747,100, according to CMS.

**Although CMS is cranking up its enforcement, it is backing down on its punitive policy of reducing plans' star ratings following sanctions.**

Since 2012, CMS has knocked down the star ratings of Medicare Advantage or Part D plans after imposing sanctions. If a plan had more than 2.5 stars, sanctions would cause its ratings to drop to 2.5 stars. Plans at or below 2.5 stars would see ratings fall by one star. CMS displays the change in star ratings on the Medicare Plan Finder, but not the reason those plans' ratings were reduced.

The agency suspended its star ratings policy as of March 8, according to an agency letter sent to all MA and Part D plans. CMS said it received many comments on its proposed 2017 call letter asking the agency to change its star ratings policy because high-rated plans may receive a harsher penalty than low-rated plans since high-rated plans can see a bigger drop in ratings. The agency agreed it needs to reassess the policy.

The agency noted the suspension does not affect 2016 payments. The agency says its policy will be suspended through 2017 and any new policy would be announced in the draft 2018 call letter, according to CMS.

However, Stacy Sanders, federal policy director from the Medicare Rights Center, does not think this policy should be suspended. She said CMS did not need to completely toss the policy and could have found middle ground. Sanders also said there needs to be more transparency when plans are under sanction. -- *Erin Raftery*([eraftery@iwpress.com](mailto:eraftery@iwpress.com))