

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

CORRECTIVE ACTION PLAN REQUEST

May 2, 2013

Contract IDs: **H0108, H0317, H0623, H1019, H1036, H1038, H1266, H1406, H1716, H1951, H2012, H2029, H2038, H2649, H2676, H2911, H2944, H2949, H4007, H4125, H4141, H4510, H4606, H5291, H5416, H5426, H5868, H6609, H6972, H7188, H7811, H8145, H8644, R5826, S2874**

Brooks Newman
Medicare Compliance Officer
500 West Main Street
Louisville, Kentucky 40202

Delivered via email to Brooks Newman at HumanaMCO@humana.com

RE: Actuarial Compliance Issues

Dear Mr. Newman,

The Centers for Medicare & Medicaid Services (CMS) is issuing a request for a Corrective Action Plan (CAP) to Humana, Inc. (hereinafter "Humana"), which operates the Medicare Advantage (MA) and Prescription Drug Plan (PDP) sponsor contracts listed above through its subsidiaries, because it failed to meet one or more actuarial standards in submitting its 2013 Medicare Advantage and/or Part D bids. The actuarial standards were clearly set forth in the 2013 Instructions for Completing the Medicare Advantage Bid Pricing Tool and the 2013 Instructions for Completing the Prescription Drug Plan Bid Pricing Tool issued by CMS on April 6, 2012, through the Health Plan Management System (HPMS).

Pursuant to 42 CFR §422.254(b) and 423.265(c), each potential MA and Part D sponsor must submit a bid and supplemental information in a format to be specified by CMS for each MA and Part D plan it offers. Specifically, the regulation states that the bid must be prepared in accordance with CMS actuarial guidelines based on generally accepted actuarial principles. A qualified actuary must certify the plan's actuarial valuation (which may be prepared by others under his or her direction or review), and must be a member of the American Academy of Actuaries to be deemed qualified. Applicants may use qualified actuaries from outside their organization to prepare their bids.

As stated in CMS' bid instructions, MA and Part D bids are comprised of two basic components, the plan benefit package (or, PBP - a set of benefits for a defined Medicare Advantage or PDP service area) and BPT (a financial proposal for the prescription drug plan that a sponsor intends to offer Medicare beneficiaries in a format required by CMS). The CMS Office of the Actuary (OACT) reviews the BPT to make sure that it conforms to actuarial standards.

During an audit of Humana's bids conducted by CMS contractors following the 2012 Medicare Part C and D bid submission cycle, CMS discovered that Humana had made multiple errors and oversights in the submission of its CY2012 Medicare Part C and D bids. Through the final bid audit report, issued on April 26, 2012, CMS conveyed to Humana the need to correct the enumerated errors and demonstrate these corrections during its CY2013 Medicare Part C and D bid submissions.

The following specific deficiencies, originally documented in the CY 2012 bid audit report, were not corrected for Humana's CY2013 bid submission as required (Page 97 of the CY2013 MA bid instructions):

1. Humana failed to provide an adequate explanation of and detailed support for how it addressed a CY2012 bid audit observation concerning the details surrounding a related party relationship that was pointed out in the final bid audit report
2. Humana failed to provide an adequate explanation of and detailed support for how it addressed CY2012 bid audit observations related to incorrect special needs plan (SNP) non-benefit expense allocations between MA and PD bids.

In addition to the audit-based issues described above, CMS has determined that Humana's 2013 bid submissions were out of compliance with the following CMS actuarial requirements stated in the CY2013 Bid Instructions and CMS Bidder Trainings:

3. *Organizations must conduct adequate peer review to avoid errors and carelessness (e.g. uploading the incorrect files repeatedly)* – Several erroneous resubmissions were uploaded to HPMS with changes that had to be corrected in subsequent resubmissions late in the process (Industry Training, Quality Initiatives for 2013, Slides 7 and 14).
4. *Organizations must provide adequate responses during bid review* - A related party issue was corrected via resubmission for several bids without notifying the desk reviewer, which led to confusion and additional time spent reviewing revised bids (Industry Training, Quality Initiatives for 2013, Slide 7).
5. *Organizations must provide supporting documentation that may be easily understood by CMS reviewers and must include the following: Values that match entries in the current BPT and tie to the PBP* (Page 97 of the 2013 MA bid instructions). Several Humana bids contained supporting documentation for MA projection factors that were inconsistent with bid pricing tool values.
6. *Organizations must conduct adequate peer review to avoid errors and carelessness*– Several bids required resubmission due to incorrect Worksheet 1 Crosswalk (the formal process in HPMS whereby members are moved from one plan to another) mappings or because the required crosswalk exception requests were not formally made of CMS prior to bid submission (Industry Training, Quality Initiatives for 2013, Slides 7 and 14).

7. *Organizations must ensure that the drugs in their specialty tier are not sorted by type of drug status and are not reported as a component of the generic, preferred brand and non-preferred brand drugs in the non-specialty tiers.* (Page 25 of the CY2013 Part D bid instructions). Several Humana bids incorrectly allocated specialty drugs to non-specialty tiers in the BPT.
8. *Organizations must conduct adequate peer review to avoid errors and carelessness* Humana did not correctly enter non-LI (low income) generic cost sharing amounts into Worksheet 6A of the BPT
9. *Organizations must also upload additional substantiation provided in e-mail correspondence during bid review and supporting documentation consistent with the final certified bid.* (Page 72 of the CY2013 Part D bid instructions). Humana notified CMS after the bid review season that additional bid review correspondence needed to be uploaded for several bids.

CMS requests that your organization take corrective action to come into compliance. The first opportunity for Humana to demonstrate that it has taken the necessary corrective action will be the 2014 bid cycle. Therefore, CMS requests that Humana address these areas of noncompliance in the spring of 2013 leading up to the 2014 bid cycle. CMS will rely on Humana's 2014 bid submission to determine whether the corrective action plan has been successfully implemented. CMS will consider the CAP closed once OACT has determined that Humana's 2014 bid submission demonstrates that it has effectively resolved the issues described above.

We appreciate your prompt attention to this matter. In the event your organization does not successfully complete its CAP, CMS will consider additional compliance and enforcement actions, including imposition of intermediate sanctions (*e.g.*, the suspension of marketing and enrollment activities).

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 is considered a Part C and D issue without 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 the sponsor's own self-disclosure.

If you have any questions, please contact Michael Neuman at (410) 786-7069 or email Michael.Neuman@cms.hhs.gov.

Sincerely,



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

CC via email:

Jennifer Shapiro, CMS
Scott Nelson, CMS
Michael Neuman, CMS
Uvonda Meinholdt, CMS