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## CORRECTIVE ACTION PLAN REQUEST

February 28, 2018

Contract ID: H1977

Legal Entity Name: UPPER PENINSULA HEALTH PLAN, LLC

Melanie Bicigo

UPHP  
853 W. Washington Street  
Marquette, MI 49855

VIA EMAIL: mlbicigo@uphp.com

RE:FAILING TO PROPERLY IMPLEMENT THE REQUIRED TRANSITION POLICY

Dear Melanie Bicigo:

The Centers for Medicare & Medicaid Services (CMS) is issuing a request for a corrective action plan (CAP) to UPPER PENINSULA HEALTH PLAN, LLC, regarding its performance under the Medicare Advantage Prescription Drug Plan (MA-PDP) sponsor contract identified above, because it failed to properly implement a formulary transition program consistent with Part D requirements, as indicated by the results of CMS' enhanced transition monitoring program, referred to as the Transition Monitoring Program Analysis (TMPA) project.

Pursuant to 42 CFR § 423.120 (b)(3), a Part D sponsor must administer an appropriate transition process for new enrollees, and in some cases current enrollees, prescribed non-formulary Part D drugs or formulary drugs subject to utilization management restrictions such as step therapy or prior authorization. Under the transition policy, to meet the immediate needs of an enrollee, Part D sponsors must provide a one-time temporary supply of drugs that are part of an enrollee's ongoing therapy when the application of a new formulary would otherwise result in a rejection of the claims because the drugs are not on the formulary or are subject to utilization management requirements. This occurs when either the enrollee elects a new plan or the sponsor adopts a new formulary.

Additionally, in a Health Plan Management System (HPMS) memo, "Part D Transition Monitoring Program", released December 29, 2016, Part D sponsors were informed that CMS would continue the transition monitoring program in 2017. The purpose of the TMPA project is to ensure that Part D sponsors are adequately administering Medicare Part D formulary transition policies consistent with Part D regulations and requirements. CMS selected a sample of Part D sponsors for the TMPA project, and those sponsors were required to submit rejected claims data to CMS for analysis. Your contract was selected to participate, and after reviewing your contract's rejected claims data, CMS determined that the contract failed to meet established performance thresholds. CMS sent an email to Part D sponsors' compliance officers, dated August 17, 2017, which contained the results of CMS's analysis of their contract's rejected claims data. Sponsors, if they disagreed with CMS' determination that claims were rejected in error, were given until August 24, 2017 to provide supporting documentation indicating that the claims were rejected correctly.

For claims involving non-protected class drugs, the number of claims rejected in error, or "failures", (numerator) was divided by the number of claims sampled (denominator) to calculate the failure rate. If the number of failures resulted

in more than a 20% failure rate, CMS determined that an overall compliance failure occurred for this area. For protected class drugs, if the number of failures resulted in more than a 10% failure rate, CMS determined that an overall compliance failure occurred for this area.

For CY 2017, your contract's failure rate exceeded both the 20% non-protected and 10% protected class drug thresholds.

Contract ID	Percent Failure of Non Protected Class Drugs	Percent Failure of Protected Class Drugs
H1977	73.3%	53.3%

As a reminder, your contract's results exceeded both the 20% non-protected and 10% protected class drug thresholds for CY2016.

Contract ID	Percent Failure of Non Protected Class Drugs	Percent Failure of Protected Class Drugs
H1977	60.0%	13.3%

The formulary transition requirements have been in place since the beginning of the Medicare Part D program and are an integral part of the protections afforded Part D beneficiaries. The continued failure of your organization's transition program during the TMPA calls into question your organization's ability to accurately implement and monitor an appropriate transition policy. Because your contract's results exceeded the thresholds in both categories for two years in a row, CMS is issuing a CAP.

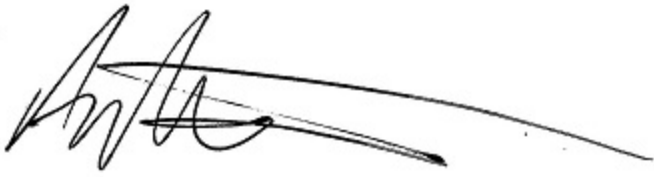
Consistent with CMS' authority in 42 C.F.R. §§ 423.507(b)(3) and 423.509(c), we request that your organization develop and implement a CAP designed to ensure that your organization will develop and implement a proper transition policy and program and come into compliance with Part D requirements discussed in this letter. CMS will continue to monitor your organization's performance and will consider the CAP closed when your organization demonstrates it has come into compliance with the identified program requirement(s).

We appreciate your organization's prompt attention to this matter. In the future, please ensure that your transition program meets CMS requirements and is properly implemented. Should your organization fail to come into compliance in a timely manner, CMS may consider taking enforcement actions in the form of immediate sanctions (e.g., the suspension of marketing and enrollment activities) or civil money penalties or the issuance of a contract termination notice pursuant to our authority under 42 C.F.R. 423, Subpart O.

Please be aware that this CAP request will be included in the record of your organization's 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. 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 questions regarding the Transition Monitoring Program Analysis, please contact the Part D Transition mailbox at [PartDTransition@cms.hhs.gov](mailto:PartDTransition@cms.hhs.gov). If you have any questions regarding the compliance implications of this warning letter, please contact Keely Ireland at 410-786-7160 or [Keely.Ireland@cms.hhs.gov](mailto:Keely.Ireland@cms.hhs.gov) and copy your account manager.

Sincerely,

A handwritten signature in black ink, appearing to read 'Amy L. Chavez-Valdez', with a long horizontal flourish extending to the right.

Amy Larrick Chavez-Valdez, Director

Medicare Drug Benefit and C&D Data Group

CC via email:

Rah-Nita Boykin, CMS

Scott Nelson, CMS