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CENTER FOR MEDICARE
MEDICARE PLAN PAYMENT GROUP

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TO: All Medicare Advantage, Prescription Drug Plan, Cost, PACE, and Demonstration Organizations

FROM: Cheri Rice /s/
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SUBJECT: Guidance for Reporting and Returning Medicare Advantage Organization and/or Sponsor Identified Overpayments to the Centers for Medicare & Medicaid Services (CMS)

On May 23, 2014, CMS published final regulations to implement procedures for the reporting and returning of overpayments requirement in the Affordable Care Act (ACA). These regulations, 42 CFR §§ 422.326 and 423.360, were effective beginning July 22, 2014. This document announces the process for reporting and returning overpayments in accordance with the new regulations. The process that implements these regulations is effective beginning January 1, 2015.

Pursuant to section 6402 of the Affordable Care Act (ACA), which established section 1128J(d) of the Social Security Act (the Act), every organization offering a Medicare Advantage (MA) plan and/or sponsor offering Part D benefits, including any PACE organization that is a Part D sponsor, is required to report and return to CMS any overpayment it received no later than 60 days after the date on which the organization or sponsor identified the overpayment.

The purpose of this memorandum is to provide organizations and/or sponsors with operational guidance for reporting and returning overpayments.

If you have questions about the guidance contained in this memorandum, please submit them to the appropriate contact as provided in this memorandum.

Contents

I. Overpayment Requirements

The term "overpayment" is defined in section 1128J(d)(4)(B) of the Act as, "any funds that a person receives or retains under title XVIII or XIX to which the person, after applicable reconciliations, is not entitled under such title." Failure to comply with this statutory requirement may result in potential liability under the False Claims Act (31 USC § 3729).

CMS issued regulations at 42 CFR §§ 422.326 and 423.360 which establish the process for an organization offering a Medicare Advantage (MA) plan and/or a sponsor offering Part D benefits to report and return any overpayment it received no later than 60 days after the date the organization or sponsor identifies the overpayment (79 FR 29843 at 29958). Section 423.360 applies to Part D sponsors, which include PACE organizations offering a PACE plan that includes qualified prescription drug coverage (see definition of "Part D sponsor" in 42 C.F.R. § 423.4).

An organization or sponsor has identified an overpayment when it determines that it received an overpayment due to the organization or sponsor submitting erroneous data to CMS. The following four general categories of data submissions that have the potential to result in overpayments are subject to the guidance contained in this memorandum:

- Risk Adjustment (Risk Adjustment Processing System (RAPS) data and encounter data)
- Prescription Drug Event (PDE) and Direct and Indirect Remuneration (DIR)
- Low Income Premium Subsidy (LIPS) for Employer Group Waiver Plans (EGWPs)[1]
- Other

Additional information about these categories is provided throughout this memorandum.

Enrollment-Related Overpayments: If an organization or sponsor needs to submit corrections to enrollment data to resolve an overpayment, it must follow the normal process for correcting enrollment data. See the Plan Communications User Guide for more information: http://www.cms.gov/Research-Statistics-Data-and-Systems/CMS-Information-Technology/mapdhelpdesk/Plan_Communications_User_Guide.html

II. Reporting Overpayments

A. Overpayment Categories, Applicable Reconciliation, and Look-Back Periods

MA organizations and Part D sponsors are required to report and return any overpayment that they identify within the six most recently completed payment years[2], referred to hereinafter as the "look-back period." The report and return obligation begins on the day after the applicable reconciliation for the payment year. The sections below provide more information about the look-back period and when the applicable reconciliation occurs for Part C and Part D.

- *Risk Adjustment*
  Generally, if an overpayment results from the submission of risk adjustment data (i.e., RAPS data and encounter data), the obligation to report an identified overpayment for a given payment year begins on the day after the Part C applicable reconciliation date, which is the final risk adjustment data submission deadline under § 422.310(g). That deadline generally occurs about thirteen

[1] This category of overpayment occurs when a sponsor discovers it received a Low Income Premium Subsidy payment for an enrollee from both CMS and the enrollee's Employer Group Waiver Plan.
[2] In this context, the term "completed payment year" refers to a calendar year for which the applicable reconciliation date has passed.

months after the end of the data collection year. (Note that overpayments may result from the submission of encounter data starting with 2014 dates of service.). Please note that the reporting deadline for Part D risk adjustment data is the same as the Part C risk adjustment data submission deadline, but the applicable reconciliation dates for Part C and Part D in the overpayment context are different.

- *Prescription Drug Event or Direct and Indirect Remuneration*

  If an overpayment results from the submission of incorrect PDE or DIR data, the obligation to report an identified overpayment for a given year begins on the day after the Part D applicable reconciliation date (i.e., the later of the deadlines for submitting PDE or DIR data for the applicable year). That deadline generally occurs towards the end of June in the year directly following the payment year.

- *Low Income Premium Subsidy for Employer Group Waiver Plans*

  If an overpayment arises when the total of the LIPS payment comes from CMS and the EGWP contribution for a beneficiary exceeds the amount of his or her premium, the obligation to report the overpayment (i.e., the portion of CMS's LIPS payment that exceeds the premium amount) for a given year begins on the day after the Part D applicable reconciliation date for that year (i.e., the later of the deadlines for submitting PDE or DIR data for that year).

- *Other*

  Overpayments that are a result of incorrect data submissions by MA organizations and Part D sponsors that do not fall into the Risk Adjustment, PDE, DIR, or LIPS for EGWPs categories will be classified as "Other." In addition, an overpayment that results from the submission of data that an organization or sponsor may have lost as a result of a thoroughly-documented catastrophic loss of stored data is also classified as "Other." If the "Other" overpayment falls under Part D, the obligation to report an identified overpayment for a given year begins on the day after the Part D applicable reconciliation date for that year (i.e., the later of the deadlines for submitting PDE or DIR data for that year). If the "Other" overpayment relates to Part C, the obligation to report an identified overpayment for a given year begins on the day after the Part C applicable reconciliation date, which is the final risk adjustment data submission deadline under § 422.310(g).

The following table shows the look-back periods for the 2015 through 2020 calendar years:

Calendar Year	Look-back Period **Prior** to the Applicable Reconciliation*	Look-back Period **After** the Applicable Reconciliation*
2015	2013-2008	2014-2009
2016	2014-2009	2015-2010
2017	2015-2010	2016-2011
2018	2016-2011	2017-2012
2019	2017-2012	2018-2013
2020	2018-2013	2019-2014

*Part C applicable reconciliation typically occurs around 13 months after the end of the risk adjustment data collection year. Part D applicable reconciliation typically occurs around 6 months after the end of the payment year.

B. Reporting Process

1. General

Once an organization or sponsor has identified an overpayment, it must report it to CMS no later than 60 days after the date on which it identified it received the overpayment by contacting the MAPD help desk at 1-800-927-8069 or mapdhelp@cms.hhs.gov and opening a Remedy ticket. If an organization or sponsor reports an overpayment to the help desk by email, the subject line of the email should include the phrase "Overpayment Report." Note that organizations and sponsors should not open an overpayment Remedy ticket until after the applicable reconciliation date for the applicable payment year has passed.

MA organizations and Part D sponsors must ensure confidentiality of enrollee information. Please observe HIPAA security and privacy rules, and ensure that appropriate safeguards for securing protected health information and personally identifiable information (PHI/PII) are used when submitting any materials to the MAPD helpdesk.

In order to create a Remedy ticket for the incident, the organization or sponsor must provide the help desk representative with the following information:

- Plan User Information: EUA (4 Digit) or IACS (7 digit)
- Parent Organization
- Contract Number(s)
- Overpayment Reason Category:
  - Risk Adjustment Data (RAPS and encounter data) - when corrected data is being submitted, otherwise use the "Other" category
  - PDE/DIR - when corrected data is begin submitted, otherwise use the "Other" category
  - LIPS for EGWP
  - Other (e.g., catastrophic loss of data)
- Payment Year for Overpayment
- Explanation for Inaccurate Payment Data (provide detailed explanation for why payment data are inaccurate)
- Supporting Documentation (if applicable, see Section II.B.3)

2. Remedy Ticket Creation

The process for creating Remedy tickets is slightly different depending on the type of overpayment category involved.

Risk Adjustment, LIPS for EGWP, and Other Categories

For Risk Adjustment (RAPS and encounter data), LIPS for EGWP, or Other categories, the help desk will create one Remedy ticket for each overpayment category, contract number, and payment year. For example, the help desk will create one Remedy ticket for an organization that reports a RAPS overpayment for contract H8888 for the 2011 payment year. If the organization also needs to report a RAPS overpayment for the same contract but for the 2010 payment year, the help desk will need to create a separate Remedy ticket for that incident.

PDE/DIR Category

If an overpayment falls into the PDE/DIR category, the help desk will create one Remedy ticket for each parent organization and payment year. If the sponsor needs to report PDE/DIR data that results in an overpayment for the same payment year for multiple contracts, it should do so under the same Remedy ticket number (a sponsor may subsequently revise the number of contracts by contacting the help desk and updating the original Remedy ticket). But, if a sponsor needs to report an overpayment for more than one payment year, it will need to open separate tickets for each year.

Number of Remedy Tickets to Create

Organizations and sponsors are responsible for determining how many overpayment tickets need to be created prior to contacting the help desk. The following examples may help organizations and sponsors understand how many tickets should be created:

- Example 1: An MA organization offering Part D benefits (MAPD) identified overpayments for contract H8888 and H9999 for payment year (PY) 2009. The overpayments are based on incorrect risk adjustment, PDE, and DIR data. The MAPD needs to open the following Remedy tickets:
    - Remedy ticket 1 includes risk adjustment overpayments for H8888
    - Remedy ticket 2 includes risk adjustment overpayments for H9999
    - Remedy ticket 3 includes PDE/DIR overpayments for H8888 and H9999

- Example 2: An MA organization identified risk adjustment overpayments for contracts H8888 and H9999 for PY 2008 and PY 2009. The organization needs to open the following Remedy tickets:
    - Remedy ticket 1 includes H8888 for PY 2008
    - Remedy ticket 2 includes H9999 for PY 2008
    - Remedy ticket 3 includes H8888 for PY 2009
    - Remedy ticket 4 includes H9999 for PY 2009

3. Submission of Supporting Documentation

An organization or sponsor should send supporting documentation to CMS when it is reporting an overpayment in the "Other" category. In these instances, the organization or sponsor should provide supporting documentation that addresses:

- The reason for the loss of the data (if applicable), including a catastrophic system loss;
- The reason for the overpayment; and
- An auditable estimate of the overpayment amount, including how the estimate was derived for each Remedy ticket.

The attached documentation should be in a Microsoft Word, WordPerfect, or searchable PDF format. Spreadsheets should be submitted in Microsoft Excel.

If the organization or sponsor opened the Remedy ticket by phone, or the initial email to the help desk did not include the supporting documentation, the subject line of the subsequent email should include the Remedy ticket number(s) associated with the supporting documentation.

Part D sponsors reporting an overpayment will also have to request a reopening of the payment year(s) in which the submission of inaccurate data occurred. The Part D sponsor will make the reopening request through the existing process and will not submit the reopening request as supporting documentation. See the section III.B "Overpayments Involving PDE or DIR Data" below for more information.

4. Contact Information for the "Other" Category

In addition to satisfying all of the other reporting requirements described in this section of the memorandum, an organization or sponsor that reports an overpayment in the "Other" category should provide the name, telephone number, and email address of a person who is permitted to discuss how the overpayment will be returned to CMS (i.e., by offset, electronic funds transfer, or check). The contact information may be submitted with the supporting documentation, or it may be provided to the help desk by telephone and associated with the Remedy ticket.

If the organization or plan is reporting an overpayment that is based on data that the organization or sponsor no longer has due, for example, to a catastrophic system loss, it should also provide the supporting documentation described in section II.B.3.

5. Updating Existing Remedy Tickets

An organization or sponsor may need to update an existing Remedy ticket when it discovers additional overpayments that match the description of an overpayment in an existing Remedy ticket (e.g., when an organization discovers it needs to delete additional risk-adjustment data occurring in the 2010 payment year for H8888 after it already opened a Remedy ticket for risk adjustment data for that contract number and payment year). The organization or sponsor may add that information to the existing Remedy ticket by emailing the help desk.

The subject line of the email should include the following phrase "Update Remedy ticket number" and the Remedy ticket number.

The following information should be included in the body of the email:

- Parent Organization
- Contract Number(s)
- Overpayment Error Category (Risk Adjustment, PDE/DIR, LIPS for EGWP, or Other)
- Payment Year for Overpayment

III. Returning Overpayments

Once an organization or sponsor reports an overpayment to the help desk and has obtained a Remedy ticket, it must return the associated overpayment to CMS no later than 60 days after the date on which the organization or sponsor identified the overpayment. Overpayments involving risk adjustment (i.e., RAPS and encounter data), PDE, or DIR data are returned to CMS by the process of sending the corrected data to the appropriate CMS system in accordance with the existing instructions provided by CMS for the submission of such data. The majority of this section discusses how the data are submitted to CMS.

However, there are situations where the return of an overpayment may not involve the submission of corrected data, for example, when the data are no longer available due to a catastrophic system loss. In those instances, CMS will either conduct a payment offset against the contract's prospective monthly payments, or may request that the MA organization or Part D sponsor send the funds directly to CMS in order to return the overpayment.

CMS generally expects that an organization's or sponsor's return of overpayments will be implemented with the submission of corrected data. CMS' systems will then recover the returned overpayment through routine processing according to our payment systems' schedules. See Section III.D for information on handling the rare exception when corrected data cannot be submitted to CMS.

The following sections outline how the specific categories of overpayments must be returned to CMS.

A. Overpayments Involving Risk Adjustment Data

1. General

A risk adjustment-related overpayment involves erroneously submitted diagnoses that were submitted to CMS prior to the risk adjustment data submission deadline but were not deleted by the risk adjustment data submission deadline. These diagnoses may be included in both Part C and/or Part D risk scores. The diagnoses must be deleted through an overpayment risk adjustment file submission to RAPS no earlier than the day after the organization reports the overpayment to the help desk and obtains a Remedy ticket number. If the organization attempts to submit the delete file to RAPS sooner than that, the submission will be rejected by the system.

Overpayments must be submitted to RAPS in the following format:

1. The entire RAPS file must only contain deletes;
2. Only one payment year can be submitted per file;
3. The PROD-TEST-IND in the AAA record must be populated with OPMT;
4. The assigned Remedy Ticket Number must be placed in the OVERPAYMENT-ID field in the BBB record;
5. The contract number that is in the BBB record must match the contract number that is in the assigned Remedy ticket;
6. The payment year of the deletes being processed must be populated in the PAYMENT-YEAR field on the BBB record; and
7. The DELETE-IND field in the CCC record must be populated with a 'D' for each diagnosis code on the file.

CMS updated the RAPS File Format to include the Overpayment fields described above. An organization will use the overpayment fields only when reporting overpayments to CMS.

For more information about the new RAPS file format and RAPS error codes, please see the memorandum "Announcement of the November 2014 Software Release" published by CMS through the Health Plan Management System (HPMS) on August 12, 2014, or visit http://www.csscoperations.com.

For guidance on deleting and correcting encounter data, please see the information from the August 14, 2014 Encounter Data National Technical Assistance materials, available at http://www.csscoperations.com (Medicare Encounter Data/Training Information).

2. Recovery Process

The risk adjustment-related overpayments will be addressed through our routine payment processes. CMS will announce the prior payment years for which we will rerun risk scores on an annual basis and will provide rerun-specific schedules as they become available. When CMS completes a rerun for the payment year in order to incorporate reported risk adjustment overpayments (deletes), the payment adjustments will be automatically processed by the Medicare Advantage and Prescription Drug System (MARx) and will appear on the corresponding Monthly Membership Report (MMR). CMS will announce when each completed risk score rerun will go into payment in the corresponding monthly payment letter that is sent to organizations and sponsors.

3. Contact Information

Questions regarding the return and recovery of identified RAPS-related overpayments may be sent to riskadjustment@cms.hhs.gov. Questions regarding encounter data may be sent to encounterdata@cms.hhs.gov.

B. Overpayments Involving PDE or DIR Data

1. General

PDE data or DIR data may be the source of a Part D-related overpayment. After receiving a Remedy ticket number from the help desk, the Part D sponsor will return the Part D-related overpayment to CMS in accordance with the guidance contained in this section.

The Part D sponsor will request a reopening through the Part D Payment Reconciliation Support Contractor, currently Acumen, LLC, in accordance with reopening instructions provided in the HPMS memorandum "The Part D Reopenings Process and the Part D Appeals Process" published on May 8, 2008. Pursuant to that guidance, the Part D sponsor should provide sufficient documentation of the reason(s) for the reopening request. The documentation should include the Remedy ticket number associated with the Part D-related overpayment. The Remedy ticket number should be provided in the column titled, "Reason for Reopening Request" in the reopening spreadsheet.

The Part D sponsor may submit an electronic copy of the reopening request and all applicable documentation to PartDPaymentSupport@acumenllc.com

Alternatively, the Part D sponsor may send the reopening request and all applicable documentation to:

Acumen, LLC
Attn: Part D Payment Support
500 Airport Blvd., Suite 365
Burlingame, CA 94010

2. Overpayments Involving PDE Data

If PDE data is the source of the Part D-related overpayment, the Part D sponsor will adjust, delete, or resubmit the PDE data to rectify the reported overpayment. Corrected PDE data may be submitted immediately after a Remedy ticket number is assigned for the overpayment.

As described in the HPMS memorandums "Updates to the Prescription Drug Event (PDE) layout and the Coverage Gap Discount Program (CGDP) Reconciliation Reports," published on September 4, 2014, and "Updates to the Prescription Drug Event (PDE) layout- Adjustment Reason Code and Adjustment Reason Code Qualifier," published on October 3, 2014, the Part D sponsor will use the Adjustment Reason Code

Qualifier field and the Adjustment Reason Code field on the PDE to associate the Remedy ticket number with each adjusted, deleted, or resubmitted PDE to rectify the reported overpayment. The Part D sponsor will submit the PDEs with an Adjustment Reason Code Qualifier of '1' and an Adjustment Reason Code that is the 12-digit Remedy ticket number with leading zeroes (i.e., 000001234567).

Note that the Part D sponsor should only associate the Remedy ticket number with the PDEs that are the direct cause of the overpayments. For example, a Part D sponsor finds that it paid for a National Drug Code (NDC) that is not a Part D drug, which results in the beneficiary entering into the catastrophic phase earlier than he or she should have. To correct the overpayment, the Part D sponsor will report the overpayment to the help desk, receive a Remedy ticket number, and adjust or delete the PDE associated with the non-Part D NDC in accordance with the point-of-sale claims adjustment guidance released through HPMS on July 3, 2013, for benefit years 2012 and beyond. The Part D sponsor will use the Adjustment Reason Code Qualifier field and the Adjustment Reason Code field on the PDE to associate the Remedy ticket number with the adjusted or deleted PDE. If the sponsor needs to adjust subsequent PDEs, the Adjustment Reason Code is not required on the subsequent PDE adjustments.

3. Overpayments Involving DIR Data

If DIR data is the source of the Part D-related overpayment, the Part D sponsor will modify the DIR data to rectify the reported overpayment. DIR overpayments may be returned after a Remedy ticket number is assigned to the reporting entity (i.e., the Part D sponsor may request a reopening). The Part D sponsor should submit the revised DIR data in a manner consistent with the annual Medicare Part D DIR Reporting Requirements released mid-year. The resubmission window for submitting DIR reports for previous benefit years occurs in the month of July. The Part D sponsor will satisfy the requirement to return the overpayment by submitting a reopening request to Part D Payment Reconciliation Support Contractor, which is currently Acumen, LLC, and subsequently resubmitting the DIR report for the applicable year during the next DIR resubmission window. See, for example, the HPMS memorandum "Final Medicare Part D DIR Reporting Requirements for 2013," Section G "Resubmitting Summary DIR Reports for Prior Coverage Years" published on May 28, 2014. When resubmitting the DIR report, the sponsor should report the Remedy ticket number in the "Explanation for Resubmission" text box in the DIR submission information. In this text box, the sponsor should report the Remedy ticket number and the dollar amount adjusted for each DIR column associated with the overpayment on the report. If insufficient information is reported in this text box, CMS may contact the sponsor to provide additional information in the "Explanation for Resubmission" text box.

4. Recovery Process

CMS will recover overpayments involving PDE or DIR data through the routine Part D payment processes. The reopening schedule will be developed by CMS and announced through HPMS memoranda. CMS may reopen and revise an initial or reconsidered payment determination consistent with 42 CFR § 423.346. However, CMS typically performs one global reopening each year. We anticipate being able to recover the majority of overpayments through this global reopening process but may perform targeted reopenings at our discretion consistent with § 423.346.

5. Contact Information

Questions regarding the return and recovery of identified Part D-related overpayments may be sent to pdejan2011@cms.hhs.gov.

C. Overpayments Involving LIPS for EGWP Members

1. General

An overpayment occurs when the total of the LIPS payment from CMS and the EGWP contribution for a beneficiary exceeds the premium amount. In this case, the plan sponsor must return the portion of CMS's LIPS payment that exceeds the premium amount. Since there is no automated method for determining the amount that an EGWP is paying on behalf of a member, CMS must manually collect the LIPS overpayment. Plans currently report the LIPS overpayment amounts to the CMS Regional Offices. Effective January 1, 2015, a sponsor should report a LIPS overpayment by obtaining a Remedy ticket and submitting a Microsoft Excel spreadsheet to the help desk indicating the contract numbers and associated overpayments. The submission of this spreadsheet will satisfy the requirement of returning the LIPS overpayment made to the EGWP.

2. Recovery Process

CMS will offset the LIPS overpayment amount from a future monthly payment to the plan sponsor. When the overpayment is processed, CMS will announce the adjustments in the appropriate monthly plan payment letter, and organizations or sponsors can verify the adjustments on the Plan Payment Report.

3. Contact Information

Questions regarding the return and recovery of overpayments involving LIPS for EGWP members may be addressed to the help desk.

D. Overpayments in the "Other" Category

1. General

Once an organization or sponsor has reported an overpayment in the "Other" category to the help desk, obtained a Remedy ticket, and submitted the required documentation described in section II.B.3, a CMS representative will contact the organization or sponsor to discuss how the overpayment will be returned to CMS (i.e., by offsetting a monthly payment, electronic funds transfer, or check).

2. Recovery Process

Once an overpayment return method is determined, the CMS representative will provide information about how to return the payment to CMS. If an offset is possible, the return requirement is met on the date the agreement to offset is reached. If the funds must be returned to CMS by electronic transfer or check, the return requirement is met when CMS receives the electronic transfer or check.

3. Contact Information

Questions regarding the return and recovery of identified "Other"-related overpayments may be addressed to the help desk.

IV. How Overpayments will be Processed by CMS and Closing Remedy Tickets

CMS will process overpayments differently depending on the category of overpayment that is being returned to CMS.

If an overpayment is returned to CMS by submitting revised Risk Adjustment, PDE, or DIR data to the appropriate system, CMS will use our routine processes to recover the overpayment. This will depend on

the schedule for conducting reruns/reopenings for that data type and payment year. When a rerun/reopening has been completed, the associated payment adjustments will be processed and reported in a subsequent monthly payment and MMR/plan payment report.

Overpayments returned by electronic transfer or check will be processed upon receipt. If CMS is able to offset a sponsor's monthly payment to resolve an overpayment, it will be processed in a future payment.

CMS will close the associated Remedy ticket when the overpayment has been processed. MA organizations and Part D sponsors will receive a notice from the Remedy system when tickets are closed. Once a ticket is closed, it may not be reopened for updating.

V. Risk Adjustment Data Validation (RADV)

MA organizations that are selected for a RADV audit will be subject to special procedures relating to risk adjustment data and overpayments. MA organizations that are selected for a RADV audit will receive information about these procedures at the start of the RADV audit process.