

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



MEDICARE PARTS C AND D OVERSIGHT AND ENFORCEMENT GROUP

April 3, 2025

Pooja Ika
Chief Executive Officer
EternalHealth, Inc.
31 Saint James Avenue
Suite 950
Boston, MA 02116

Re: Notice of Imposition of Intermediate Sanction (Suspension of Enrollment) for
Medicare Advantage-Prescription Drug Plan Contract Numbers: H1280 and H2694

Dear Ms. Ika:

Pursuant to 42 C.F.R. §§ 422.756 and 423.756, the Centers for Medicare & Medicaid Services (CMS) hereby informs EternalHealth, Inc. ("eternalHealth") of its determination to impose an intermediate sanction on the following Medicare Advantage-Prescription Drug Plan (MA-PD) Contracts: H1280 and H2694.

This intermediate sanction will consist of the suspension of enrollment of Medicare beneficiaries into eternalHealth's contracts (42 C.F.R. §§ 422.750(a)(1) and 423.750(a)(1)). CMS is imposing an intermediate sanction, effective at 11:59 p.m. EDT, April 3, 2025, pursuant to 42 C.F.R. §§ 422.756(c)(2) and 423.756(c)(2).

Summary of Noncompliance

On March 19, 2025, the Massachusetts Office of Consumer Affairs and Business Regulation, Division of Insurance (MA DOI) and eternalHealth entered into an Order for Administrative Supervision ("order") which stated that eternalHealth shall immediately cease all marketing of its products and services in Massachusetts and not enter into any new member agreements for insurance, until permitted to do so by the DOI. Massachusetts took this action after determining that eternalHealth failed to meet state financial solvency requirements.

Pursuant to 42 C.F.R. §§ 422.504(a)(1) and 423.505(b)(2), organizations that contract with CMS to offer MA-PD plans must agree to accept new enrollments as provided in 42 C.F.R. Parts 422 and 423, Subpart B. Because eternalHealth is not permitted to accept new enrollments under its license with the state of Massachusetts, it is non-compliant with CMS' contract requirements.

Legal Basis for the Imposition of Intermediate Sanction

As a result of MA DOI's order, eternalHealth no longer substantially meets the applicable conditions to carry out its contract with CMS (42 C.F.R. §§ 422.510(a)(3) and 423.509(a)(3)). eternalHealth's non-compliance provides a sufficient basis for the imposition of an intermediate sanction (42 C.F.R. §§ 422.752(b) and 423.752(b)).

Corrective Action Steps

Pursuant to 42 C.F.R. §§ 422.756(c)(3) and 423.756(c)(3), the sanction will remain in effect until CMS receives notification from the MA DOI that eternalHealth can successfully operate under good standing and that the order has been removed, thereby, allowing eternalHealth to accept new enrollments.

Opportunity to Respond to Notice

Pursuant to 42 C.F.R. §§ 422.756(a)(2) and 423.756(a)(2), eternalHealth has ten (10) calendar days from the date of receipt of this notice to provide a written rebuttal, or by April 14, 2025. Please note that CMS considers receipt as the day after the notice is sent by fax, email, or overnight mail or in this case April 4, 2025. If you choose to submit a rebuttal, please send it to the attention of Kevin Stansbury at the email address noted below. Note that the sanction imposed pursuant to this letter are not stayed pending a rebuttal submission.

Right to Request a Hearing

eternalHealth may also request a hearing before a CMS hearing officer in accordance with the procedures outlined in 42 C.F.R. §§ 422.641-696 and 423.650-668. Pursuant to 42 C.F.R. §§ 422.756(b) and 423.756(b), your written request for a hearing must be received by CMS within fifteen (15) calendar days from the date CMS notified you of this determination, or by April 21, 2025¹. Please note, however, a request for a hearing will not delay the effective date of the sanction.

The request for a hearing must be sent to CMS electronically to the CMS Office of Hearings (OH). OH utilizes an electronic filing and case management system, the Office of Hearings Case and Document Management System ("OH CDMS").

eternalHealth should complete the one-time OH CDMS registration process as soon as possible after receiving this Notice, even if eternalHealth is unsure whether it will appeal CMS's determination. After the registration process is complete, eternalHealth must then file its request for a hearing within the time frame set forth above.

Registration information (including how to add an outside representative/law firm to participate in the appeal), filing instructions and general information may be found on the OH webpage at <https://www.cms.gov/medicare/regulations-guidance/cms-hearing-officer/hearing-officer-electronic-filing>.

¹ Since April 19th falls on a weekend or holiday, the date reflected in the notice is the next regular business day for you to submit your request.

Follow the OH CDMS External Registration Manual for step-by-step instructions regarding registration and the OH CDMS Hearing Officer User Manual for appeal filing instructions.²

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

Kevin Stansbury
Director
Division of Compliance Enforcement
Centers for Medicare & Medicaid Services
Email: kevin.stansbury@cms.hhs.gov

CMS will consider the date the Office of Hearings receives the request via the CDMS as the date of receipt of the request(s). The request for a hearing must include the name, fax number, and email address of the contact within eternalHealth (or an attorney who has a letter of authorization to represent the organization) with whom CMS should communicate regarding the hearing request.

Please note that we are closely monitoring your organization, and eternalHealth may also be subject to other applicable remedies available under law, including the imposition of additional sanctions, penalties, or other enforcement actions as described in 42 C.F.R. Parts 422 and 423, Subparts K and O. CMS will consider taking action to immediately terminate your contract if issues that pose a serious threat to the health and safety of Medicare beneficiaries are identified or left uncorrected.

If you have any questions about this notice, please call or email the enforcement contact provided in your email notification.

Sincerely,

/s/

John A. Scott
Director
Medicare Parts C and D Oversight and Enforcement Group

cc: Kevin Stansbury, CMS/CM/MOEG/DCE
Ashley Hashem, CMS/OPOLE
Mike Taylor, CMS/OPOLE
Adele Pietrantonio, CMS/OPOLE
Edgardo Reyes, CMS/OPOLE

² If technical assistance is required, please contact the OH CDMS Help Desk at 1-833-783-8255 or by email at helpdesk_ohcdms@cms.hhs.gov. The hours of operation are Monday–Friday (excluding federal holidays) from 7:00 a.m. to 8:00 p.m. Eastern Time.