

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



MEDICARE DRUG & HEALTH PLAN CONTRACT ADMINISTRATION GROUP

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**CORRECTIVE ACTION PLAN**

February 1, 2024

H5945

Michael von Arx  
Medicare Compliance Officer  
1510 Meadow Wood Lane  
Reno, NV 89502

VIA EMAIL: Michael.vonArx@uhsinc.com

**RE: Failure to be Properly Licensed**

Dear Mr. von Arx:

The Centers for Medicare & Medicaid Services (CMS) is issuing this request for a Corrective Action Plan (CAP) to Prominence HealthFirst (contract number H5945) for failure to comply with Medicare Advantage (MA) requirements regarding state licensure. Based on the failure identified below, CMS is requiring that Prominence HealthFirst take corrective action to correct the deficiency.

Pursuant to 42 C.F.R. § 422.400, MA organizations must be licensed or authorized under state law to operate a risk bearing entity eligible to offer health insurance in each state in which the MA organization operates. In addition, 42 C.F.R. § 422.107 requires that MA organizations seeking to offer a dual eligible special needs plan (D-SNP) must have a contract with the State Medicaid agency.

Prominence HealthFirst began operating in Nevada on January 1, 2015, licensed to operate only in the state of Nevada. In February 2020, Prominence HealthFirst submitted a service area expansion application for Contract Year (CY) 2021 to CMS to operate a D-SNP in Palm Beach County, Florida, under their legal entity of Prominence HealthFirst. While CMS approved that service area application, effective January 1, 2021, Prominence HealthFirst has been operating this D-SNP (current enrollment of 2,958 members) with a license only applicable to Nevada. Prominence HealthFirst of Florida, which is the appropriately licensed entity in Florida, failed to submit an initial application. Further, Prominence HealthFirst

submitted its state Medicaid agency contract (SMAC) for its D-SNP to CMS on June 29, 2023. While CMS did not cite Prominence HealthFirst with a deficiency at the time, CMS subsequently discovered that the submitted SMAC with the Florida Agency for Health Care Administration (AHCA) was executed with the incorrect legal entity. CMS requested a corrected SMAC from Prominence HealthFirst on October 5, 2023.

Because Prominence HealthFirst does not hold an HMO license/appointment in the state of Florida and does not have an executed SMAC with the correct legal entity, they have failed to meet CMS' requirements at 42 C.F.R. §§ 422.400 and 422.107. In order for Prominence HealthFirst to continue operating in Florida, they must be appropriately licensed and update their existing SMAC. The state of Florida has stated to CMS during a conference call, that there is not a path forward for Prominence HealthFirst because the entity must be domiciled in their state. In addition, at this time, Prominence HealthFirst of Florida has missed the opportunity to apply for a contract for CY 2024.

At this time, CMS is providing Prominence HealthFirst an extension through 12/31/2024 to correct the deficiencies. Prominence HealthFirst must either:

- **Obtain Licensure for Prominence HealthFirst:**  
Prominence HealthFirst can obtain licensure in the state of Florida to continue operations with its current contract, **OR**
- **Operate under Prominence HealthFirst of Florida:**  
Submit an application for CY 2025 to operate in Florida under Prominence HealthFirst of Florida. If the new application is approved, Prominence HealthFirst must request a Service Area Reduction, effective 12/31/2024.

Prominence HealthFirst must also:

- **Amend the SMAC to reflect the correct legal entity:**  
Prominence HealthFirst must work with the Florida AHCA to amend the existing SMAC so that a fully executed updated SMAC is in place with the correct legal entity.

If Prominence HealthFirst fails to either obtain a license for Prominence HealthFirst or fails to secure a contract under Prominence HealthFirst of Florida, CMS will request Prominence HealthFirst reduce their service area in Florida by the deadline effective 11:59:59 December 31, 2024. The deadline for non-renewals and service area reductions will be announced to all organizations in the future.

CMS requests that you submit and implement a detailed CAP addressing how and when your organization will correct the deficiencies discussed in this letter. This CAP should include a draft timeline for coming into compliance.

CMS is issuing this compliance notice pursuant to 42 C.F.R. § 422.510(c), which requires CMS to afford a plan at least 30 days to develop and implement a corrective action plan to correct deficiencies before taking steps to terminate an organization's Medicare contract. While CMS is not obligated to grant a greater than 30-day cure period, we acknowledge that an extended period may be appropriate, depending on the nature of the correction required.

CMS advises that, for any part of its timeline scheduled to be completed in more than 30 days, Prominence HealthFirst provide a justification of the need for that additional time. CMS expects that the correction timeline will be no longer than absolutely necessary and will reflect an appropriate level of urgency in resolving this matter.

CMS has the authority to impose sanctions, penalties and other enforcement actions as described in Federal regulations at 42 CFR 422 Subpart O. Should your organization fail to develop, implement or complete its CAP, CMS may consider the imposition of intermediate sanctions (e.g., suspension of marketing and enrollment activities) or civil money penalties. If you have any questions about this letter, please contact Kelli McDermott ([kelli.mcdermott@cms.hhs.gov](mailto:kelli.mcdermott@cms.hhs.gov)).

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Rudo", with a long horizontal flourish extending to the right.

Heather Rudo

Acting Director, Division of Surveillance, Compliance, and Marketing

CC via email:

Celia Xu, CMS San Francisco  
Theresa Wachter, CMS Baltimore  
Erica Sontag, CMS Baltimore  
Kelli McDermott, CMS Baltimore  
Marla Rothouse, CMS Baltimore