

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 21, 2014

Contract IDs: H0028, H0108, H0248, H0317, H1019, H1036, H1291, H1406, H1418, H1468, H1510, H1681, H1716, H1906, H1951, H2012, H2029, H2486, H2542, H2649, H2944, H2949, H3405, H3533, H4007, H4141, H4145, H4408, H4461, H4510, H4520, H4606, H4956, H5041, H5214, H5216, H5291, H5415, H5416, H5525, H5619, H5868, H5970, H6411, H6609, H6622, H6859, H7002, H7188, H8145, H8644, H8707, H8908, H8953, H9503, R5826, S2874, S5552, S5884

Brooks Newman
Medicare Compliance Officer
Humana, Inc.
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 2014 Medicare Advantage and/or Part D bids. The actuarial standards were set forth in the 2014 Instructions for Completing the Medicare Advantage Bid Pricing Tool and the 2014 Instructions for Completing the Prescription Drug Plan Bid Pricing Tool issued by CMS on April 5, 2013, 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 health or 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.

CMS has determined that Humana's 2014 bid submissions were out of compliance with the following CMS actuarial requirements stated in the CY2014 Bid Instructions and CMS Bidder Trainings:

1. *Documentation must not be uploaded to plans to which it does not pertain. It is not acceptable to upload to multiple plans materials specific to a single Part D plan, MA plan or certain contract ID.*— Humana uploaded several erroneous bid specific substantiation files to HPMS that did not correspond to the appropriate bid (Page 99 of the 2014 MA bid instructions and Page 73 of the 2014 Part D bid instructions).
2. *Organizations must provide supporting documentation that includes Excel spreadsheets with working formulas* – Original substantiation included a significant number of files that were comprised of hard-coded numbers and lacked sufficient detail and formulas. Additionally, several original substantiation files were uploaded as Word document narratives. (Page 98 of the 2014 MA bid instructions and Page 72 of the 2014 Part D bid instructions).
3. *Organizations must provide additional supporting documentation, if requested, within 48 hours, as required by these instructions.* (Page 98 of the 2014 MA bid instructions and Page 72 of the 2014 Part D bid instructions). Several Humana responses to Round 2 of CMS questioning were not provided within the prescribed 48 hour window. Humana had a similar issue with its responses to Round 8 questions as it again did not provide answers within the prescribed 48 hour window. Humana also requested extensions to the deadline for responses to CMS questions on several other occasions.
4. *Organizations must conduct adequate peer review to avoid errors and carelessness. Peer review and documentation are paramount to compliance.* (Industry Training, Points of Emphasis for MA and PD CY2014 Slide 17). The following errors could have been identified and corrected with adequate peer review.
 - a. 420 bids required resubmission due to Utilization projection factors incorrectly applying Unit Cost adjustment for both experience rated and manually rated bids.
 - b. Base period experience on Worksheet 1 for Medicare Non-Covered services was sourced from an incorrect version (i.e. an earlier iteration) of Humana's source file, requiring the resubmission of approximately 400 bids.
 - c. The Worksheet 3 PBP-BPT Mapping was incorrect for all Humana MA bids, requiring resubmission of all bids. This issue was discovered in Round 4, Question 93 of Desk Review.
 - d. Humana had several errors in bids that it submitted during the rebate reallocation period. Humana had to resubmit these bids following rebate reallocation to correct them.

- e. 11 bids required resubmission due to incorrect Worksheet 1 Crosswalk mappings (the formal process in HPMS whereby members are moved from one plan to another).
- 5. *Organizations must ensure the accuracy of every upload and avoid carelessness (e.g. uploading incorrect files repeatedly).* (Industry Training, Points of Emphasis for MA and PD CY2014 Slide 23). There were several instances where Humana inadvertently uploaded the incorrect BPTs to HPMS during bid resubmission. For example, CMS was notified on 7/17/2013 by Humana that it had inadvertently uploaded the original BPTs rather than the revised BPTs for 70 PDP bids.
- 6. *A Part D sponsor in a related-party agreement must provide a disclosure of every related-party agreement with a sufficient level of detail as stated in the BPT instructions* (Page 78-79 of the 2014 Part D bid instructions). Humana's original documentation did not provide sufficient information regarding the related-party agreements for its Part D business. For example, Humana provided market survey results and stated that their related-party contracts were "similar" but they did not provide specific details to support the related-party agreements or contracts as required in the BPT instructions.

The above-mentioned actuarial bid deficiencies are of particular concern to CMS given that Humana received a CAP for similar deficiencies in its CY2013 bids. In specific, the following deficiencies have not been corrected: Providing adequate support surrounding related-party disclosures, providing adequate peer review to avoid errors and carelessness.

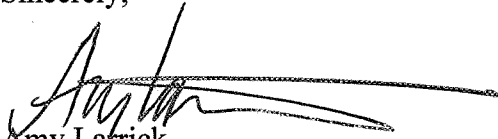
CMS requests that your organization take corrective action to come into compliance. The first opportunity for Humana to demonstrate that it has taken the necessary corrective action will be the 2015 bid cycle. Therefore, CMS requests that Humana address these areas of noncompliance in the spring of 2014 leading up to the 2015 bid cycle. CMS will rely on Humana's 2015 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 2015 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,

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

Amy Larrick
Acting Director

Medicare Drug Benefit and C & D Data Group

CC via email:

Linda Anders, CMS

Scott Nelson, CMS

Michael Neuman, CMS

Uvonda Meinholdt, CMS