CMS Part D Audit Report

Auditing Results (Public Website Version)

Date Report Generated: 9/30/2008

Contract Number: All, Chapter: All, Element: All, Finding: Not Met, Auditor: All

Findings: Not Met
Audit ID: 821
Contract Number: H3328
Part D Sponsor Name: NEW YORK STATE CATHOLIC HLTH PLAN INC

Audit Guide Version: PDP Sponsor Part D Audit Guide Version 1
Auditing Element: MR06
Audit Type: Routine
Audit Location: Onsite
Date Report Issued: 9/10/2007
Date Report Due: 10/25/2007
Element Accepted Date: 10/22/2007
Element Release Date: 12/20/2007
Element Projected Completion Date: 10/31/2007

3 Year Reporting Cycle: 1/1/2006 - 12/31/2008
Estimated Visit Start Date: 7/25/2007
Estimated Visit Start Date: 7/27/2007
Actual Visit Start Date: 7/25/2007
Actual Visit End Date: 7/27/2007
Part D Sponsor Response Received Date: 10/18/2007
Part D Sponsor Response Due Date: 10/25/2007
CAP Release Date: 1/3/2008
CAP Accepted Date: 10/22/2007

Requirement:

Plan Responsibility for Persons Employed or Contracted to Perform Marketing - The Part D sponsor must have a compensation structure that meets CMS requirements for any person directly employed or contracted to market the plan. The Part D sponsor must utilize only state licensed, certified, or registered individuals to perform marketing on behalf of the Part D sponsor, whether as an employee or under contract directly or downstream, if a state has such a marketing requirement, and it must conduct monitoring activities to ensure that individuals marketing on behalf of the Part D sponsor comply with all applicable Part D laws, all other Federal health care laws, and CMS policies, including CMS marketing guidelines, to ensure that beneficiaries receive truthful and accurate information.

Reference:

Medicare Marketing Guidelines for MAs, MA-PDs, PDPs, and 1876 Cost Plans

Deficiencies:

Medicare Marketing Guidelines for MAs, MA-PDs, PDPs, and 1876 Cost Plans The requirement: Plan Responsibility for Persons Employed or Contracted to Perform Marketing - The Part D sponsor must have a compensation structure that meets CMS requirements for any person directly employed or contracted to market the plan. The Part D sponsor must utilize only state licensed, certified, or registered individuals to perform marketing on behalf of the Part D sponsor, whether as an employee or under contract directly or downstream, if a state has such a marketing requirement, and it must conduct monitoring activities to ensure that individuals marketing on behalf of the Part D sponsor comply with all applicable Part D laws, all other Federal health care laws, and CMS policies, including CMS marketing guidelines, to ensure that beneficiaries receive truthful and accurate information. The requirement is not met. During the audit we reviewed a sample of ten marketing representatives' files. Of these ten files reviewed, five were found to be deficient in the area of licensing. Of the remaining five, three were found to have expired licenses. The files did not contain information regarding the required disclosure of compensation requirements of the marketing representatives. Also, the files lacked details on the type of Medicare products that the marketing representatives will be discussing prior to marketing to the potential enrollee. The New York State Catholic Health Plan's policies and procedures concerning licensed and non-licensed marketing representatives were not specific and detailed in regards to the commission payments. The policies and procedures do not reflect guidelines for commission payments to non-licensed marketing representatives.

Corrective Action Required:

As a result of an internal Audit of their Marketing Representative files, prior to CMS's site visit, the New York State Catholic Health Plan/dba/Fidelis submitted on July 26,2007 during the site visit a Corrective Action Plan detailing the steps that they will take to cure the deficiencies that they had discovered during their review of their files. The deficiences identified by Fidelis were confirmed by the CMS's review of July 26, 2007. CMS reviewed Fidelis's Corrective Action Plan and accepts it as written with the following exclusion: Fidelis must provide CMS with payroll information, regarding the identified personnel in the sample, for licensure and non-licensure to ensure compliance with compensatory commission guidelines. The actions that the New York State Catholic Health Plan will implement to cure the deficiences identified are as follows: As per disclosure requirements for employees of Fidelis Medicare Advantage, Fidelis Care New York will institute a policy which states a licensed marketing representative must disclose to a potential enrollee that he/she may receive compensation for enrolling a prospect into a Fidelis Medicare Advantage Plan. If a marketing representative is meeting with a potential enrollee, in compliance with marketing guidelines, the organization must require that the marketing representative clearly identify the types of products the marketing representative will be discussing, before the marketing representative markets to the potential enrollee. An organization must require that the person performing marketing make the following disclosure, prior to enrollment or at the time of enrollment, in writing, to a potential enrollee: The person that is discussing plan options with you is a licensed employee of Fidelis Medicare Advantage, this person may be compensated based on your enrollment in the plan. Supporting documentation is referenced in the Memorandum of Understanding, located in the Marketing Guidelines Policies and Procedures. The Director of Medicare Marketing will ensure compliance with this procedure and implement it with immediate effect. All Medicare marketing representatives from all three regions, GMRO, NERO and CRO were informed of this procedural change, in a specially convened session on July 27, 2007. Appropriate sign-in sheets and acknowledgements of training will be filed accordingly.

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Audit ID: 821
Contract Number: H3328
Part D Sponsor Name: NEW YORK STATE CATHOLIC HLTH PLAN INC

Audit Guide Version: PDP Sponsor Part D Audit Guide Version 1
Auditing Element: MR09
Audit Type: Routine
Audit Location: Onsite
Date Report Issued: 9/10/2007
Date Report Due: 10/25/2007
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Requirement:

Provision of Notices Regarding Formulary Changes - Prior to removing a covered Part D drug from its formulary or making any changes to the preferred or tiered cost-sharing status of a covered Part D drug, the Part D sponsor must provide a written notice to affected enrollees at least 60 days prior to the date the change becomes effective, or provide such enrollee with a 60 day supply of the Part D drug under the same terms as previously allowed, and written notice of the formulary change at the time an affected enrollee requests a refill of the Part D drug. If the change involves immediate removal of a Part D drug deemed unsafe by the Food and Drug Administration (FDA) or removed from the market by the manufacturer, the Part D sponsor must provide retrospective notice to the affected enrollees.

Reference:

42 CFR § 423.120(b)(5)(i-iii); § 423.120(b)(7); § 423.578(d); Medicare Marketing Guidelines for MAs, MA-PDs, PDPs, and 1876 Cost Plans

Deficiencies:

42CFR 423.120(b)(5)(i-iii) 423.120(b(7) 423.57 (d) The New York State Catholic Health Plan must have consistent written policies and procedures to meet the CMS requirement for providing notices for formulary maintenance changes. The notice must be compliant with CMS requirements, CMS Marketing Guidelines, and with Chapter 18 of the Prescription Drug Benefit Manual. Our findings show that out of the ten cases reviewed, we found three cases misclassified, and two were not compliant with the audit element MR09(Provision of Notices Regarding Formulary Changes Part D). In the misclassified cases, we found two to be ANOCs and the other, as per the Plan's instructions was not eligible for review. The two cases we found as not compliant were due to the beneficiaries not receiving notices within the required 60 day time frame. Therefore, the New York State Catholic Health Plan and / or its PBM have not used consistent written policies and procedures. The samples we reviewed in the audit varied and included EOB's and ANOC's. We did not see during the audit that the samples were clear / consistent and met the CMS Marketing Guidelines and the criteria from Model 10 from Chapter 18 of the Prescription Drug Benefit Manual.

Corrective Action Required:

42CFR 423.120(b)(5)(i-iii) 423.120(b(7) 423.57 (d) The New York State Catholic Health Plan and / or its PBM must submit a policy and procedure to CMS that is consistent. The notice must be provided to the beneficiary at least 60 days prior to the date the formulary change becomes effective. The New York State Catholic Health Plan and /or its PBM should submit through HPMS within 60 days a notice that is consistent with the CMS Marketing Guidelines and with the PDP Guidance - Eligibility, Enrollment and Disenrollment. Please submit the 60 day notice to the attention of Janis R. Remer and Allan Auguste. A sample of this notice is located in Appendix 10 - Model Notice of Formulary or Cost - Sharing Change. The New York State Catholic Health Plan and /or its PBM must submit the title of the person who will monitor this for compliance. Based on the CMS audit performed on July 25, 26 and 27, 2007, CMS found that the New York State Catholic Health Plan is not in compliance with CMS requirements for notice of formulary maintenance changes. The samples audited do not indicate that a consistent and clear notice was used. Instead a variety of unclear notices including EOB's and ANOC's were found in the review folders. It is required that The N.Y. State Catholic Health Plan provide a notice of formulary maintenance changes to be compliant with CMS Marketing Guidelines, CMS requirements or Model 10 from Chapter 18 of the Prescription Drug Benefit Manual. The notice should include the following information: a. The name of the part D drug that is affected. b. Details on whether the covered Part D drug is being removed from the formulary or changing its preferred or tier or cost-sharing status. c. The reason why the covered Part D drug is being removed or changing its preferred or cost sharing status. d. A description of alternative drugs in the same therapeutic class or cost sharing tier, and the anticipated cost sharing for those drugs. e. A description of the means by which the enrollee may obtain an updated coverage determination or an exception to a coverage determination.