

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
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CENTER FOR BENEFICIARY CHOICES

DATE: March 23, 2007

TO: All Part D Plan Sponsors, Medicare Advantage (MA) Organizations, Cost Plans, PACE Organizations and Demonstrations

FROM: Abby L. Block, Director
Center for Beneficiary Choices

SUBJECT: Clarification of Involuntary Disenrollment Policy for Beneficiaries Who Elect Social Security Premium Withholding

The purpose of this memorandum is to clarify our policy regarding the involuntary disenrollment of members who have selected Social Security withholding or whose premium is paid by another entity.

Under our existing guidance, plans **may not** disenroll members for failure to pay premiums (or notify them of impending disenrollment) in cases where the member has requested that premiums be withheld from his/her Social Security benefit check until the organization receives a reply from CMS indicating that the member's request has been rejected. The organization or sponsor must then notify the member of the premium owed, provide the appropriate grace period, and comply with other applicable requirements prior to disenrolling the member. (See section 40.3.1 of the PDP Eligibility, Enrollment, and Disenrollment Guidance and, for MA organizations, section 50.3.2 of Chapter 2 of the Medicare Managed Care Manual and our memorandum to MA organizations dated October 25, 2005.)

In this memorandum, we are clarifying that plans may not involuntarily disenroll any individuals who are considered to be in premium withhold status by CMS. Individuals who have requested premium withhold are considered to remain in premium withhold status until either (1) CMS notifies the organization that the premium-withhold request has rejected, failed, or been unsuccessful; or (2) the member requests that he/she be billed directly. Only after one of these actions occurs may a member's status be changed to "direct bill." Once the member is considered to be in "direct bill" status, the organization must notify the member of the premium owed and provide the appropriate grace period, as currently outlined in CMS guidance. Plans must always provide members the opportunity to pay premiums owed before initiating any disenrollment action.

However, even if a member's premium payment status has been changed to "direct bill," if the member can demonstrate that the Social Security Administration (SSA) has withheld Part C

and/or Part D premiums during the coverage month(s) in question, the member will be considered to remain in premium withhold status. Such a member **cannot** be disenrolled for failure to pay his/her premium(s), whether or not the plan actually receives these premiums on a timely basis.

Example 1 – Incorrect Continuation of Premium Withhold: Individual was enrolled in Plan A and selected premium withhold. Individual subsequently enrolls in Plan B and does not select premium withhold. Upon receiving a direct bill from Plan B, the individual provides Plan B with proof that a premium deduction continues from his SSA benefit check. Since the member provided Plan B with evidence that a premium amount is currently being deducted from his check, Plan B cannot initiate the process to disenroll the individual for failure to pay premiums. Plan B must work with CMS to obtain appropriate premium reimbursement.

Further, an individual will continue to be considered in premium withhold status if a plan is notified by CMS that the member's request for premium withholding is not successful as a result of systems/fund transfer issues between CMS and SSA, or between CMS and the plan. CMS recognizes that in some instances plans have not received premium amounts in their monthly CMS plan payment for members who have elected Social Security withholding; however, organizations and sponsors cannot hold their members responsible for such issues, nor penalize them by attempting to disenroll them from their plan. Therefore, the plan **may not** initiate the billing (and subsequent disenrollment process, if necessary) until a member is in "direct bill" status.

Example 2: An individual requests premium withhold and Plan A correctly submits the request to CMS. The transaction request is submitted successfully by CMS to SSA and the appropriate premium amount is deducted from the individual's SSA benefit check. However, due to a systems issue between CMS and SSA, the premium withhold data is not correctly reflected in CMS systems. Thus, CMS does not pay the correct premium amount to Plan A. Plan A must work with CMS to obtain appropriate premium reimbursement and may **not** initiate the disenrollment process for the individual for failure to pay premiums while the deduction is still being withheld.

Finally, CMS reminds organizations and sponsors that they **may not** disenroll a member or initiate the disenrollment process if the plan has been notified that a State Pharmaceutical Assistance Program (SPAP) or other payer intends to pay the entire Part D premium on behalf of an individual. CMS has provided specific guidance on this issue. (See memorandum to all Part D sponsors dated April 4, 2006 and section 50.6 of Chapter 14 of the PDP Manual.)

It is our highest priority that Medicare beneficiaries receive their entitled benefits and that Medicare plans receive their appropriate payments. We urge organizations and sponsors to continue working with us to resolve any premium payment issues caused by withholding errors. For additional information, contact Mark Newsom at (410) 786-3198 (for questions regarding premium withhold policy and procedures) or Lynn Orlosky at (410) 786-9064 (for questions regarding involuntary disenrollment policy and procedures).