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MEMORANDUM

DATE: July 23, 2007

TO: All Prescription Drug Plan Sponsors (PDP) and Medicare Advantage (MA)
Organizations Offering Employer/Union-Only Group Waiver Plans (EGWPs)

FROM: Brenda J. Tranchida
Director
Employer Policy and Operations Group

SUBJECT: 2009 Employer Group Waiver Policy – Permitting Employer/Union Sponsors to Enroll
Beneficiaries in Both an “800 Series” Local MA-Only Coordinated Care Plan and an
“800 Series” Standalone PDP

Subject to certain exceptions, a Part D eligible person who is enrolled in a Medicare Advantage (MA) plan may not be simultaneously enrolled in a standalone Prescription Drug Plan (PDP). *See* Section 1860D-1(a)(1)(B)(ii) of the Social Security Act, and 42 CFR 423.30(b). CMS has authority under Section 1857(i) and Section 1860D-22(b) of the Social Security Act to waive or modify requirements that hinder the design of, the offering of, or the enrollment in employment-based Medicare plans offered by employers and unions. As described below, this memorandum provides that CMS has granted a modification of the previously issued 2007 waiver policy permitting certain public employer/union sponsors to enroll beneficiaries in both an employer/union-only group waiver (i.e., “800 series”) Local MA-Only plan and an “800 series” standalone PDP.

On November 9, 2006, CMS granted a limited waiver beginning with the 2007 contract year for certain public employers to simultaneously enroll their members in an “800 series” Local coordinated care MA-Only plan and an “800 series” standalone PDP under certain circumstances. In order to be eligible for the waiver, the public employer was required to have a longstanding, pre-existing partnership with separate vendors. Also, the vendors were required to have been working closely with the employer to provide coordinated care and disease management services between the medical and prescription drug portions of the benefit similar to the kind of coordination that would be offered if the employer purchased the medical coverage and drug coverage from a single MA-PD vendor. *See 2008 Employer Group Waiver Policy - Permitting Certain Public Employer/Union Sponsors to Enroll Beneficiaries in Both and “800 series” MA-Only Plan and an “800 series” Standalone PDP, November 9, 2006.*

A PDP sponsor (on behalf of itself and an employer group plan sponsor) requested that the above-mentioned waiver be modified to allow all employers/unions the option to offer to their retirees a uniform prescription drug coverage through a single standalone PDP and employer-

sponsored medical benefits through Local coordinated care MA plans. The PDP sponsor acknowledged that these arrangements, like the conditions of the previous waiver, would require coordination of care between the Local MA organization and the PDP sponsor. The requestor also stated that the current limitation hinders the design of, the offering of, or the enrollment in employer-sponsored MA plans because it requires employer sponsors seeking to establish or maintain uniform prescription drug coverage and offer coordinated care choices to its retirees to negotiate with several different Local MA organizations, each with unique operations, networks, pharmacy benefit managers and funding requirements.

CMS has decided to grant a waiver of the requirement for all employer and union sponsors. Thus, beginning with the 2009 contract year, all employer and union group plan sponsors will be allowed to enroll their members in both an “800 series” Local coordinated care MA-Only plan (i.e., HMO, HMO/POS, Local PPO) and an “800 series” standalone PDP. Like the previous waiver, as a condition of this expanded waiver, CMS will require the separate medical and prescription drug vendors to work closely together with the employer sponsor to provide coordinated care and disease management services between the MA and PD portions of the benefit. This coordination is similar to the kind that would be offered if the employer purchased the medical coverage and the drug coverage from a single Local MA-PD vendor. CMS is issuing this waiver to afford entities and employer/union sponsors with sufficient advance notice and time to prepare to take advantage of these options for the 2009 contracting cycle.

If there are any questions about this policy, please contact Brenda Tranchida, Director, Employer Policy and Operations Group, via phone (410-786-2001) or via email at Brenda.Tranchida@cms.hhs.gov.