

## **2006 Employer/Union-Only Non-Network Private Fee-For-Service (PFFS) Plan Service Area Waiver Guidance**

**June 23, 2005**

Employer/union-only group Private Fee-For Service (PFFS) plans are normally subject to the same service area rules as for other local MA plans. Thus, an MA organization offering employer/union-only group plans would be limited to providing coverage to an employer's or union's retirees that reside within the state where the plan is licensed and where the plan offers non-group coverage.

CMS has indicated that it would allow entities applying to sponsor employer/union-only group plans to request that we waive requirements beyond those already waived in CMS guidance, under the waiver authority outlined in section 1857(i) and 1860D-22(b) of the Social Security Act. This waiver authority states that CMS may waive or modify requirements that "hinder the design of, the offering of, or the enrollment in" an employer-sponsored group prescription drug plan. *See also* 42 CFR 422.106(d) and 42 CFR 423.458(c). Waivers apply to all similarly situated entities meeting the conditions of the waiver.

For 2006, CMS will grant a request that was received for a waiver of the service area requirements which will allow employer/union-only non-network PFFS plans to extend coverage beyond the normal service area to all retirees of a particular employer or union group, regardless of where they reside in the nation. This waiver applies when the most substantial portion of the employer's employees (or in the case of a union, participants) reside in the state where the PFFS plan is a provider of non-group coverage. This waiver only applies to non-network PFFS MA-only and PFFS MA-PD plans providing non-network MA coverage and Part D coverage (which requires networks).

By July 1, 2005, all employer/union-only group PFFS plan bids must be submitted. For non-network PFFS plans, one "national" employer PFFS Part C bid and one "national" Part D bid may be submitted. Please be aware that retirees can only be covered in areas where a corresponding bid has been submitted. No mid-year service area expansions will be allowed in 2006. Therefore, a "national" bidding approach allows non-network PFFS plans meeting the requirements of the waiver to cover retirees in any area of the country during 2006.