

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850



MEDICARE PARTS C AND D OVERSIGHT AND ENFORCEMENT GROUP

July 13, 2015

Mrs. Ruth A. Rogers Bauman
Chief Executive Officer
ATRIO Health Plans
2270 NW Aviation Drive, Suite 3
Roseburg, OR 97470

Re: Notice of Imposition of Civil Money Penalty for Medicare Advantage-Prescription Drug
Contract Number: H6743

Dear Mrs. Bauman:

Pursuant to 42 C.F.R. § 422.752(c)(1), § 422.760(b), § 423.752(c)(1), and § 423.760(b), the Centers for Medicare & Medicaid Services (CMS) is providing notice to ATRIO Health Plans (ATRIO), that CMS has made a determination to impose a civil money penalty (CMP) in the total amount of **\$69,405** for Medicare Advantage-Prescription Drug (MA-PD) Contract Number: H6743.

CMS has determined that ATRIO failed to provide clear and accurate benefit information to its enrollees in the combined Contract Year (CY) 2015 Annual Notice of Change (ANOC) and Evidence of Coverage (EOC) documents.

Summary of Noncompliance

ATRIO reported to CMS that 2,149 of its enrollees received inaccurate information about their 2015 benefits in ATRIO's CY 2015 ANOC and EOC documents. For contract H6743-004, 581 enrollees received an ANOC that incorrectly stated enrollees would have to pay a co-payment for only 7 days for an in-patient hospital stay, when the correct information is that enrollees have to pay a co-payment for 8 days before ATRIO assumes full responsibility for the cost of the hospital stay. For contract H6743-007, 1,568 enrollees received an EOC that incorrectly stated the enrollee's maximum-out-of-pocket amount for inpatient hospital benefits as \$1,925, when the correct information is \$2,100.

ATRIO mailed errata sheets correcting the inaccurate information on 12/29/2014 and 04/08/2015 respectively. This was after the open enrollment period had ended and after enrollees could use the information to make a fully informed decision about their Medicare health care and prescription drug options for the 2015 plan benefit year.

In addition, this is not the first year ATRIO has been cited for mailing inaccurate ANOC/EOC documents to its enrollees. In 2014, ATRIO received a notice of non-compliance for failing to accurately describe benefits and/or cost sharing information to its enrollees in its CY 2014 ANOC/EOC documents.

Relevant Disclosure and Information Dissemination Requirements

Pursuant to 42 C.F.R. § 422.111(a) and § 423.128(a), MA-PD Sponsors are required to ensure that members receive clear and accurate ANOC/EOC documents by September 30th of each year. The ANOC and EOC provide vital information to Medicare beneficiaries about their plan and permit beneficiaries to make informed choices concerning Medicare health care and prescription drug options for the upcoming plan year. Organizations are required to ensure their ANOC/EOCs are accurate and mail errata sheets if inaccuracies are identified. Since 2009, CMS has clearly informed plans about the importance of providing beneficiaries with accurate ANOC/EOC documents and noted that plans would be subject to penalties for inaccuracies.

Violations Related to Disclosure and Information Dissemination Requirements

CMS identified a violation of the disclosure and information dissemination requirements that had the substantial likelihood of adversely affecting ATRIO's enrollees. ATRIO's violation includes:

1. Failure to provide clear and accurate benefit information to its enrollees for the 2015 Medicare Open Enrollment Period. As a result, enrollees did not receive accurate benefit information to make fully informed choices concerning their Medicare coverage for the 2015 plan benefit year. This is in violation of 42 C.F.R. § 422.111(a) and 42 C.F.R. § 423.128(a).

Basis for Civil Money Penalty

Pursuant to 42 C.F.R. § 422.752(c)(1), § 422.760(b), § 423.752(c)(1), and § 423.760(b), CMS has determined that ATRIO's violations of Parts C and D requirements had the substantial likelihood of adversely affecting enrollees and warrants the imposition of a CMP. ATRIO is carrying out its contract in a manner that is "inconsistent with the effective and efficient implementation of this part." *See* 42 C.F.R. §422.510(a)(2) and §423.509(a)(2).

Right to Request a Hearing

ATRIO may request a hearing to appeal CMS's determination in accordance with the procedures outlined in 42 C.F.R. Parts 422 and 423, Subpart T. ATRIO must send a written request for a hearing to the Departmental Appeals Board office listed below within 60 calendar days from receipt of this notice or by September 14, 2015. The request for hearing must identify the specific issues and the findings of fact and conclusions of law with which ATRIO disagrees. ATRIO must also specify the basis for each contention that the finding or conclusion of law is incorrect. The request should be sent to:

Civil Remedies Division
Department of Health and Human Services
Departmental Appeals Board
Medicare Appeals Council, MS 6132
330 Independence Ave., S.W.
Cohen Building Room G-644
Washington, D.C. 20201

A copy of the hearing request should also be sent to CMS at the following address:

Michael DiBella
Director, Division of Compliance Enforcement
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244
Mail Stop: C1-22-06
Email: Michael.Dibella@cms.hhs.gov

If ATRIO does not request an appeal in the manner and timeframe described above, the initial determination by CMS to impose a CMP will become final and due on September 15, 2015. ATRIO may choose to have the penalty deducted from its monthly payment, transfer the funds electronically, or mail a check to CMS. To notify CMS of your intent to make payment and for instructions on how to make payment, please call or email the enforcement contact provided in the email notification.

Please note that further failures by ATRIO may result in additional applicable remedies available under law, up to and including contract termination, the imposition of intermediate sanctions, penalties, or other enforcement actions as described in 42 C.F.R. Parts 422 and 423, Subparts K and O.

If ATRIO has any questions about this notice, please call or email the enforcement contact provided in the email notification.

Sincerely,

/s/

Gerard J. Mulcahy
Director
Medicare Parts C and D Oversight and Enforcement Group

cc: Brenda Suiter, CMS/ CMHPO/Region X
Roya Rezai, CMS/ CMHPO/Region X
Holly Robinson, CMS/ CMHPO/Region X