

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 14, 2015

Mr. James T. Parker
Chief Executive Officer
Indiana University Health Plans, Inc.
950 N. Meridian Street, Suite 200
Indianapolis, IN 46204

Re: Notice of Imposition of Civil Money Penalty for Medicare Advantage-Prescription Drug
Contract Number: H7220

Dear Mr. Parker:

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 Indiana University Health Plans, Inc. (IUHP), that CMS has made a determination to impose a Civil Money Penalty (CMP) in the total amount of **\$101,675** for Medicare Advantage-Prescription Drug (MA-PD) Contract Number: H7220.

CMS has determined that IUHP 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

IUHP reported to CMS that 4,067 of its enrollees received inaccurate information about their 2015 benefits in IUHP's CY 2015 EOC documents. More specifically, these enrollees received an EOC that incorrectly stated that enrollees could use out-of network providers when outside the service area, also known as a Point of Service Option. However, the Select Plus plan did not offer a Point of Service Option except in limited circumstances (i.e. emergencies, urgently needed care, and out-of-area dialysis services).

IUHP mailed errata sheets correcting the inaccurate information on December 23, 2015. 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 the third year in which IUHP has provided inaccurate information to its enrollees. IUHP received a notice of non-compliance and warning letter for issuing inaccurate ANOC/EOC documents to Medicare enrollees for Contract Years 2013 and 2014.

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 IUHP's enrollees. IUHP'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 IUHP's violations of Parts C and D requirements had the substantial likelihood of adversely affecting enrollees and warrants the imposition of a CMP. IUHP 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

IUHP 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. IUHP 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 IUHP disagrees. IUHP 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 IUHP 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. IUHP 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 IUHP 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 IUHP 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: Heather Lang, CMS/ CMHPO/Region V
Raymond Swisher, CMS/ CMHPO/Region V
Daniel Roewe, CMS/ CMHPO/Region V