
CENTER FOR BENEFICIARY CHOICES

MEMORANDUM

Date: March 30, 2006

To: All Part D Sponsors

From: Gary Bailey, Deputy Director, Center for Beneficiary Choices

Subject: Critical Steps As Transition Period Ends

As the end of the Part D transition period approaches on March 31, we are counting on your continuing efforts to make sure that all enrollees continue receiving medically necessary prescription drugs. Two critical parts of those efforts involve the plans' ability to successfully transition their enrollees to formulary drugs and, where necessary, to make timely determination on enrollees' requests for exceptions and appeals. So far, thanks in large part to the transition policies you have in place, enrollees generally are receiving their prescription drugs and the number of exceptions and appeals requests has been quite small. However, we are concerned that for enrollees who have not yet been transitioned to formulary drugs, the end of the transition period could produce a significant increase in exceptions and appeals requests. Thus, we want to emphasize the need for plans to make sure that they meet their responsibilities in this key area.

As we indicated in our March 17 memorandum, "Next Steps on Transition Policy," there are a number of important steps to ensure a meaningful transition. These steps include, "Making arrangements to continue to provide necessary drugs to an enrollee via an extension of the transition period, on a case-by-case basis, to the extent that his or her exception request or appeal has not been processed by the end of the minimum transition period." As also noted in our March 17 guidance, it is equally vital that plans give affected enrollees clear guidance regarding how to proceed after a temporary fill is provided, so that an appropriate and meaningful transition can be effectuated by the end of the transition period. Until that transition is actually made, however, either through a switch to an appropriate formulary drug, or resolution of an exception request, continuation of drug coverage is necessary, other than for drugs not covered under Medicare Part D. Enrollees should not have to learn at the pharmacy about the need to obtain prior authorization for a drug or transition to a different drug; nor should they face delays at the pharmacy counter because needed transition actions, such as exception requests, have not been resolved. That's why we expect plans to provide enrollees who have used a transition benefit with the appropriate assistance and information to help them switch to a formulary product or, when necessary, pursue necessary prior

authorizations or formulary exceptions. Again this is covered in detail in our March 17 guidance.

Like you, we are also committed to ensuring that Medicare beneficiaries have access to an effective process for resolving exceptions and appeal requests. Your ability to meet the contractual timeliness requirements in these areas is a crucial part of this process. Thus, we are monitoring whether plans may be having difficulties meeting the processing timeframes for exceptions and appeals. In particular, we want to highlight the following possible problem areas:

- Failure to meet the decision-making time frames for coverage determinations or redeterminations.
- When these time frames are not met, failure to forward these requests in a timely manner to CMS' Part D appeal contractor (MAXIMUS).
- Extended delays in sending case files to the CMS appeals contractor when an enrollee requests a reconsideration of a plan's decision.

We recognize that the implementation of the new Part D program presents important challenges, and our primary goal is to ensure that enrollees are not adversely affected by a plan's inability to take timely action with respect to exceptions and appeals requests.

To that end, we would expect that in situations where plans are unable to meet established timeframes for decision-making or forwarding cases or files to MAXIMUS, affected enrollees should be given a temporary supply of the requested prescription drug (where not medically contraindicated) until the case is fully resolved or MAXIMUS issues a reconsideration decision. This policy is fully consistent with our general transition requirements, as discussed above.

We expect plans to carefully track their performance and to take immediate action when they identify problems in these areas. We intend to closely monitor plan performance in this regard. Where plan performance in these areas is interfering with enrollees' rights to obtain the drugs they need on a timely basis, we will take prompt action. That action could include imposing corrective action plans to achieve immediate improvements but also, when necessary, employing stronger sanctions, including civil monetary penalties. We do not anticipate the need for such sanctions as long as you use the recommended temporary supplies to mitigate short-term difficulties with processing exceptions and appeals and take immediate action to implement the needed improvements in these procedures.

Thank you for your prompt attention to this matter.