

CMS Part D Audit Report

Auditing Results (Public Website Version)

Date Report Generated: 4/30/2009

Contract Number: All, Chapter: All, Element: All, Finding: Not Met, Auditor: All

Findings: Not Met
Contract Number: H3342

Audit ID: 8202
Part D Sponsor Name: EMPIRE HEALTHCHOICE ASSURANCE, INC.

Audit Guide Version: MA-PD Sponsor Part D Audit Guide Version 3
Auditing Element: ZZ95
Audit Type: Ad-Hoc Compliance Event
Audit Location: Desk Review
Date Report Issued: 1/29/2009
Date Report Due: 3/15/2009
Element Accepted Date:
Element Release Date:
Element Projected Completion Date: 5/13/2009

3 Year Reporting Cycle: 1/1/2009 - 12/31/2011
Estimated Visit Start Date: 12/31/2008
Estimated Visit End Date: 1/10/2009
Actual Visit Start Date: 12/31/2008
Actual Visit End Date: 1/10/2009
Part D Sponsor Response Received Date:
Part D Sponsor Response Due Date: 3/15/2009
CAP Release Date:
CAP Accepted Date:

Requirement:

Ad-Hoc Compliance Event 1

Deficiencies:

The Centers for Medicare and Medicaid Services (CMS) is issuing a request for a corrective action plan (CAP) to address WellPoint's non-compliance with the Part D program requirements that sponsors use DRUGDEX when making coverage determinations regarding medically accepted indications.

Corrective Action Required:

A Part D plan sponsor must establish procedures for making timely coverage determinations regarding the benefits an enrollee is entitled to receive under a Part D plan. An enrollee is entitled to receive covered Part D drugs prescribed for medically accepted indications. Pursuant to Chapter 6 of the Prescription Drug Benefit Manual, section 10.6, it is the Part D sponsor's responsibility for ensuring covered Part D drugs are prescribed for medically accepted indications. Pursuant to § 1860 D-2(e)(1)(B) of the Social Security Act, which incorporates § 1927(k)(6) of the Act by reference, a "medically accepted indication" includes any use for a covered outpatient drug that is supported by one or more citations included or approved for inclusion in any of the compendia described in § 1927(g)(1)(B)(i). The compendia listed in § 1927(g)(1)(B)(i) of the Act are the American Hospital Formulary Service Drug Information, United States Pharmacopeia-Drug Information (or its successor publications) and the DRUGDEX Information System. WellPoint failed to consult DRUGDEX when making coverage determinations regarding medically accepted indications. As such, WellPoint is out of compliance with Part D requirements. This non-compliance was brought to CMS's attention by our contracted independent review entity (IRE) for beneficiary appeals of Part D sponsor's coverage determinations. On November 5, 2008, CMS sent an email to WellPoint's Compliance Officer, Formulary contact, and Part D Appeals contact asking for an investigation of the case the IRE brought to our attention. On a compliance call with WellPoint on November 12, 2008, WellPoint's VP of Compliance, David Goodson, acknowledged that WellPoint's non-compliance with this requirement dates back to the beginning of the Part D program in 2006 and continued until November 2008. CMS is in receipt of the "WellPoint DRUGDEX Remediation Memo" from Krista Bowers, dated November 25, 2008. In that memo, WellPoint describes a three phase project to identify potentially impacted members, retrospectively review those member's cases, and implement a remediation plan for impacted members. Pursuant to the memo, the project begins with the 2008 denials and works back through the 2006 denials. Given the potentially large number of cases to review and factors complicating WellPoint's ability to ensure appropriate and complete remediation (e.g., member is no longer in need of the requested drug, member is no longer with WellPoint, member is deceased, etc.), CMS requests a modification of WellPoint's project to retrospectively address this issue. We believe the project described by WellPoint in the DRUGDEX Remediation Memo best serves the beneficiaries impacted in 2008, and CMS requests that WellPoint continue with the project for the 2008 denials. CMS recommends that WellPoint discontinue the project for the 2006 and 2007 denials. CMS also recommends that WellPoint issue letters to its 2006 and 2007 beneficiaries letting them know that in those years, WellPoint failed to use DRUGDEX when making coverage determinations regarding medically accepted indications. The letter should state that beneficiaries have the option to seek reimbursement from WellPoint if they were inappropriately denied a drug for this reason. WellPoint's CAP should include the following: 1. a timeline for the completion of each project phase, including any reimbursement, described in the DRUGDEX Remediation Memo for the 2008 denials 2. a progress report for the 2008 denials including the number of impacted beneficiaries identified as of the receipt of this letter 3. a timeline and action plan for issuing the letters to beneficiaries described above 4. the template letter WellPoint will send to the beneficiaries described above 5. a process for the review of the reimbursement requests for 2006 and 2007 a timeline for reimbursing beneficiaries impacted in 2006 and 2007