

Part D, Medicare Advantage, and FEHBP Update

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Part D Reconciliation – An Added (Discordant) Note

- **Plan-to-Plan Reconciliations Continue...Indefinitely**
 - CMS issued “guidance” on May 25, 2007 stating that plan-to-plan reconciliations of retroactive enrollments and claims payments must be effected without regard to the March 31, 2007 deadline for 2006 plan year claims payments or the May 31, 2007 deadline for PDE data
 - SPAPs, in particular, have been slow to reconcile
 - CMS silent with respect to any adjustments for post-deadline enrollment reconciliation and claims payments

MA-PD and PDP Audits

- **CMS posts 636 page summary of MA, MA-PD, PDP Audit Guide findings and corrective action plan items from June 2006 through August 2007 (“Ad Hoc Compliance Events” also reported)**
 - Recurring Themes
 - Appeals, Coverage Determinations, and Appeals – Failure to observe 72 hour and 24 hour requirements
 - Marketing – Using unlicensed personnel, misleading marketing, inadequate oversight of sales personnel
 - Contracts – Incomplete or inadequate “flow-downs”
 - Formularies - Inadequate notice of changes

MA, MA-PD and PDP Developments

- **Initiatives Aimed at Offshoring Medicare Work**
 - GAO Report, “Domestic and Offshore Outsourcing of Personal Information in Medicare, Medicaid, and TRICARE,” GAO-06-676 (September 2006), noted surprisingly widespread offshoring
 - CMS modified 2008 Call Letter to require data and attestations about offshoring
 - CMS guidance issued July 23, 2007
 - CMS Q&A issued September 30, 2007

MA, MA-PD and PDP Developments

- **Another GAO Report, “Medicare Advantage – Required Audits of Limited Value” GAO-07-945 (July 2007) could result in over-reaction**
- **Ongoing Congressional hearings**
 - Ways and Means - Stark
 - House Oversight - Waxman
- **Remember what Congress does best!**

FEHBP Experience Rated Plan Developments

- **Seemingly minor changes to the Standard Contract “Payment of Benefits” clause**
 - Addition of phrase “notwithstanding application of carrier’s operating procedures” eliminates a critical defense against audit findings of erroneous payments.
 - Addition of subparagraph (g)(7)(iii) “The carrier shall return...an amount equal to the uncollected erroneous payment...” intended to underscore the fact that FEHBP plans, in exchange for 1% or so service charge, are liable for erroneous payments.
- **Change – “Coordination of Benefits” clause eliminates contractual authority to “pay then chase”**
 - Most COB problems are with Medicare and stem from OPM’s own untimely and inaccurate enrollment data.