



National Senior Citizens Law Center

PROTECTING THE RIGHTS OF LOW-INCOME OLDER ADULTS

November 29, 2013

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Administration Group
Department of Health and Human Services
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850

Re: 2015 Application Cycle Past Performance Review Methodology Update-Request for
Comments

Dear Dr. Tudor and Ms. Moon,

The National Senior Citizens Law Center appreciates the opportunity to comment on the 2015 Application Cycle Past Performance Review Methodology Update. NSCLC is a non-profit organization whose principal mission is to protect the rights of low-income older adults through advocacy, litigation, and the education and counseling of local advocates.

We commend you for establishing a method for past performance review and appreciate your effort to protect Medicare beneficiaries from plans that are not in compliance with review requirements.

NSCLC works closely with state consumer representatives working on the Financial Alignment Initiative for dual eligible individuals. The January 9, 2013 HPM guidance memoranda on past performance review methods offered consumer advocates helpful information to better understand the enrollment and plan improvement process. We understand the past performance review methodology is applied differently for Medicare-Medicaid plans than Medicare Advantage Organizations (MAOs), Medicare Prescription Drug Plan (PDP) Sponsors and Cost Plans. As the MAO and PDP review methodology will be used on plans that may elect to participate in future demonstration states, we wish to share brief comments on this methodology.

As a general matter, we absolutely support that policy that plans with a Low Performance Icon or that fail the Past Performance Review are not eligible for passive enrollment under the Financial Alignment Initiative. It is essential that dual eligibles – among the most vulnerable Medicare beneficiaries – only be passively enrolled into high quality plans that can demonstrate a proven record of meeting beneficiary needs.

Low Performance Icon LPI Status

CMS has the authority to terminate MAO and PDP contracts that have received fewer than 3 stars for three consecutive years (§423.509(a)(13) and §422.510(a)(14)). In the absence of terminating these low performing plans, we appreciate CMS alerting beneficiaries about these plans through icons on Medicare.gov and other Medicare materials. This is a critical beneficiary protection, and we appreciate CMS' upholding this principle in the information it shares with beneficiaries. In addition to the information, we support the update to give these plans 3 negative past performance points in the Outstanding Concerns category.

Review Period

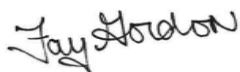
We support the decision to include non-compliance that occurred or was identified (original emphasis) during the 14 month period. This decision ensures that non-compliance that occurred in prior years but was not revealed until the current review period is included in the review.

Public Posting of Past Performance Results

CMS' publication of past performance results helps consumers make informed enrollment decisions and provides plans with information needed to improve performance. It also provides state policymakers with information they need to determine the value of partnerships with plans on projects like the Financial Alignment Initiative. We appreciate this level of transparency.

Thank you for sharing this draft. We appreciate Medicare's commitment to review plan performance and provide information about review methodology. Please let us know if we can provide additional information.

Sincerely,



Staff Attorney
National Senior Citizens Law Center