

United States Senate

SPECIAL COMMITTEE ON AGING

WASHINGTON, DC 20510-6400

(202) 224-5364

June 29, 2007

VIA FACSIMILE 202-690-6262

Leslie V. Norwalk, Esq.
Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
200 Independence Ave., SW
Washington, DC 20201

Dear Acting Administrator Norwalk:

As Ranking Member of the Senate Special Committee on Aging (Committee), it is my duty to conduct oversight of any and all matters pertaining to problems and opportunities of older Americans, including issues relating to healthcare services and benefits. As part of the Committee's ongoing review of the Medicare Advantage program, I write today regarding four issues of concern: 1) the processing of beneficiary disenrollment requests; 2) information provided by 1-800-MEDICARE customer service representatives (CSRs) regarding the disenrollment process, as well as the wait times in contacting 1-800-MEDICARE; 3) recapturing of payments made to providers on behalf of retroactively disenrolled beneficiaries, and 4) oversight of sales agent recruitment materials.

Disenrollment Backlog

It has come to my attention that plans are reporting multi-month backlogs in the processing of retroactive disenrollment requests. During briefings with Committee staff, CMS staff have denied that a backlog exists. However, plans currently participating in the private fee for service (PFFS) marketing moratorium have provided my staff with data indicating otherwise. The delay is of particular concern, because as with the systemic problems relating Part D premium withholding, it appears that beneficiaries are once again bearing the brunt of CMS' administrative inefficiencies.

Based on the foregoing, I ask that you respond in writing to the following questions:

- 1) Please provide a thorough written explanation of the administrative procedure for processing prospective and retroactive enrollments and disenrollments. As part of this explanation, please describe the different processes that apply to requests made by a beneficiary contacting a plan, versus a beneficiary calling 1-800-MEDICARE or switching plans through <http://www.medicare.gov/>, versus beneficiary files processed as retroactive due to untimely filings.

- 2) Please explain the circumstances under which an enrollment or disenrollment is processed as prospective; please further explain the circumstances under which an enrollment or disenrollment is processed as retrospective.
- 3) Please explain the procedure by which CMS determines whether a beneficiary is entitled to a retroactive disenrollment based on marketing misrepresentations. Please further explain the process by which a beneficiary may appeal the denial of a retroactive disenrollment.
- 4) Please explain the differences between automated batch processing and manual processing. As part of this response, please set forth the types of enrollments and disenrollments processed by CSC, IntegriGuard, CMS' regional offices (ROs), and CMS' central office.
- 5) For the dates January 2006 through July 2007, please account for all periods during which CMS has instructed plans not to submit disenrollment files for processing. In your response, please list the relevant dates, plans to which the blackout period(s) relate(s), and the reason for imposition of the blackout period.

As part of your explanation to questions (1) through (5) above:

- A) Please set forth each step in the process in which information is collected and/or data is entered, accessed by, or transferred between entities (beneficiary, plans, CSRs, CTM, MARx, IntegriGuard, etc.).
- B) Please cite all relevant guidance, letters, manuals and other relevant reference materials provided by CMS to plans, beneficiaries and contractors.
- C) Please set forth all filing and processing deadlines and timeframes.

In addition, please provide the Committee with all Statements of Work relating to IntegriGuard and CSC – the two CMS contractors that process enrollments and disenrollments. Please also provide the Committee with copies of all guidance issued by CMS since January 2006 pertaining to prospective and retroactive enrollments and disenrollments.

1-800-MEDICARE

In response to numerous complaints regarding inconsistent and inaccurate disenrollment information being provided by 1-800-MEDICARE, I directed my staff to make a series of calls to 1-800-MEDICARE to request general information about the disenrollment process. I am concerned by the dizzying array of responses my staff received in response to those calls. And I am troubled that for twenty-three attempted calls placed on June 17, 2007 between 12:05 pm and 12:30 pm, my staff could not even complete the calls because they received a busy signal or “all circuits are busy” message. Moreover, the average wait time for calls successfully completed was 12 minutes – an unacceptable length of time for beneficiaries to wait for service. Based on the foregoing concerns, I would ask that you report to the Committee regarding the training providing to CSRs on the topic of disenrollment, as well as the process by which CMS makes

staffing determinations for peak call times at the 1-800-MEDICARE call centers. Please also provide a copy of all call center scripts relating to the topic of prospective and retroactive disenrollments from Medicare Advantage and Medicare Part D plans, as well as all guidance, advisories, alerts and other instruction letters issued by CMS on the topics.

Recapturing Payments

Several plans in contact with my office have expressed concern and confusion regarding the process by which they are to recapture payments made to providers for beneficiaries that have been retroactively disenrolled from their plans. Please provide a written explanation of this process, as well as a copy of all guidance issued by CMS on the matter.

Agent Recruitment Materials

As a final matter, I would ask that CMS report to the Committee regarding its oversight of agent recruitment materials. It is my understanding that seven private fee for service (PFFS) plans comprising 90 percent of the PFFS market have agreed to participate in a marketing moratorium until such time as CMS certifies that these plans have implemented various safeguards designed to protect beneficiaries from unscrupulous sales practices. It has come to my attention that plans that are not part of the marketing moratorium are using their non-participation in the moratorium as a gimmick in recruiting sales agents. I have attached to this letter a promotional flyer obtained by my office. I am concerned that promotions such as this not only convey misleading information regarding the scope of the moratorium, but also juxtapose non-participating plans as problem free in comparison to the plans that are participating in the moratorium. I would ask that you report to the Committee regarding what steps, if any, CMS undertakes to review materials used in the recruitment of sales agents.

Thank you in advance for your cooperation in this matter. I ask that you provide the requested information by July 13, 2007. Please have a representative contact Chris Hinkle of my staff at (202) 224-5364 with any questions.

Sincerely,



Gordon H. Smith
Ranking Member