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DATE: December 20, 2010
TO: All Prescription Drug Plan and Medicare Advantage-
Prescription Drug Plan Sponsors
FROM: Cynthia G. Tudor, Ph.D., Director, Medicare Drug Benefit and C&D Data Group
RE: Guidance on What Constitutes Reasonable Efforts to Notify Prescribers of
Transition Fills

Effective for contracts beginning January 1, 2011, Part D sponsors must ensure that reasonable efforts are made to notify prescribers of enrollees who receive a transition notice after adjudication of a temporary fill (42 C.F.R. §423.120(b)(3)(v)). As we explained in the April 15, 2010, Federal Register (75 FR 19678, 19722) (file code CMS-4085-F), we believe this communication further strengthens beneficiary protections when dealing with formulary changes or utilization management protocols for necessary medications because the prescriber is in the best position to advise the beneficiary on the benefits or risks of switching to a different medication. This memorandum is intended to provide guidance on what constitutes “reasonable efforts,” as promised in the same final rule.

CMS believes the following examples constitute reasonable efforts on the part of Part D sponsors to notify prescribers of affected enrollees who receive a transition notice. These examples are not exclusive examples of actions that may constitute reasonable efforts:

- 1) Providing a copy of the written transition notice labeled as the “PRESCRIBER COPY” directly to the prescriber of record. Adding this label to a copy of the transition notice does not require submission of the notice for review and approval by CMS. The copy may be provided to the prescriber via mail, fax, or electronic means.*
- 2) Notifying the prescriber of record directly of the adjudication of the enrollee’s transition fill via a phone call, or individualized or batch fax/electronic notification. This separate communication to the prescriber does not need to be submitted to CMS for review and approval.*

CMS expects that plan sponsors will exercise due diligence in sending transition notices/communications to the prescriber of record’s correct address, whether that entails acquiring contractor support to identify prescribers on Part D claims, contacting the network pharmacy for information on the prescription, or other means. However, CMS does not expect plan sponsors to verify that the prescriber has received a transition notice/communication. CMS also recognizes that notification of a prescriber who would be expected to have only a transient

relationship with the beneficiary, such as a hospital-based physician, would generally not be useful.

Thank you for your attention to this memorandum. If you have any questions concerning this guidance, please contact your account manager.