



## **CMS Guidance on Mid-Year Benefit Enhancements (MYBEs) for Contract Year (CY) 2006**

The following rules will serve to notify MA organizations of the CMS policy for CY 2006 MYBEs. They are designed to protect the integrity of the annual competitive bidding process while allowing enrollees to benefit from unexpected CY 2006 plan gains or profits.

### **1. General Rules**

(a) CMS will allow one MYBE per plan to be submitted by a Medicare Advantage Organization (MAO) for the enhancement of only mandatory supplemental non-prescription drug benefits. No changes to the Part D prescription drug benefit are allowed mid-year. Enhancements can be effective only on September 1, 2006, and will be in effect for the remainder of the calendar year. Due to systems considerations, Part B premium reductions will not be permitted under an MYBE.

(b) An MAO can only submit an MYBE proposal between June 1, and June 30, 2006, for any MA plan. (Please note the distinction between the effective date and submission dates.) June 30<sup>th</sup> is the cut-off date for receipt of proposals in order for CMS to review them prior to a September 1 effective date.

(c) MAOs will be required to submit to CMS an MYBE proposal – consisting of: an MYBE Tool presenting the enhanced benefits and their actuarial value, Supporting documentation, and actuarial certification. CMS will provide the MYBE Tool and other information on submission requirements in forthcoming guidance.

(d) For plans with bids below the benchmark, 25 percent of the approved pmpm value of the MYBE will be retained by the government by way of an offset to the MAO's monthly payment for each month that the MYBE is effective. (Plans with bids at or above the benchmark may be, in part, subject to the 25% payment retention offset.)

(e) CMS will negotiate with MAOs regarding the effects of an MYBE on risk sharing on A/B benefits for MA regional plans. This negotiation will be part of the MYBE approval process for regional plans.

(f) No plan corrections to approved MYBEs will be allowed.

## 2. Claims Experience Required for MYBE Submission

The purpose of an MYBE is to return unexpected gains to plan members in the same plan and year in which those gains arose. Thus, CMS must be able to compare the retention projected in the CY 2006 approved bid to the credibility-weighted actual experience in CY 2006. Further, to ensure it is supported by documented favorable experience, MA organizations may only submit an MYBE that is based on a minimum of 50 percent partial credibility, based on the guidelines on page 13 of the 2006 MA BPT instructions. Using this formula for partial credibility, which is the square root of (member months / 24,000), CMS will only consider MYBE submissions based on 6,000 member months of actual 2006 experience  $[(6,000/24,000)^{.5} = 50 \text{ percent partial credibility}]$ .

The experience period supporting an MYBE proposal will be January through March 2006, with claims paid through May 31, 2006. Exact standards will be provided in forthcoming guidance.

## 3. Marketing of MYBEs to Non-Members

Marketing of MYBEs is not allowed. In the context of competitive bidding, the only purpose of an MYBE is to pass on unexpected gains to current members. Therefore, MAOs are prohibited from producing and disseminating marketing materials mentioning any aspect of an approved MYBE to the general public. Marketing materials are defined at 42 CFR §422.80(b). To market MYBEs to non-enrolled individuals would undermine the annual competitive bidding process, creating an incentive to overbid in June. CMS cannot permit this.

CMS considers the approved plan benefit package to be the only package the organization may publicize for purposes of soliciting enrollment in an MA plan. After approval of an MYBE for a plan, the MAO will only be permitted to market the newly approved package to non-members. However, the organization cannot publicize that the premiums, benefits, or cost sharing have been enhanced or that there has been an improvement over what had been in place prior to MYBE approval. The prohibition on marketing of the MYBE extends to any communications with prospective members in their Initial Coverage Election Period (ICEP) (beneficiaries aging-in to Medicare) or in a Special Election Period (SEPs), such as dual eligibles and institutionalized beneficiaries.

Changes to the annual benefit package due to an MYBE will not appear in the Medicare Personal Plan Finder (MPPF). However, member materials such as the Summary of Benefits or Evidence of Coverage must be manually updated or corrected through addenda.

Finally, in marketing materials for CY 2007 MA plans, MA organizations may not mention that the plan benefit package was enhanced in the prior year through an MYBE.

CMS takes very seriously the prohibition on marketing MYBEs, since it is integral to protecting the integrity of a competitive annual bidding environment. CMS will consider any marketing of an MYBE to be misrepresentation of information furnished to an individual, per 42 CFR §422.752(a)(5)(ii). Such misrepresentation of the annual benefit

package to non-members could be the basis for imposing intermediate sanctions under 42 CFR §422.750.

#### 4. Notification of Enrolled Members

Upon CMS' approval of an MYBE, the MA organization must send a CMS-approved letter of notification to enrolled members within 30 days, explaining the additional benefits, reduced premiums, or reduced cost sharing available to them (as appropriate) effective September 1, 2006. CMS will develop model language and provide separate guidance on the process for submitting draft enrollee MYBE notification letters to CMS' for approval.

#### 5. Submittal Process for 2006 MYBEs

In the forthcoming guidance, CMS will provide information on how to submit MYBE proposals.