

Inside CMS

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BENEFICIARIES CHOOSING MA PLAN THIS SUMMER MAY LOSE PART D COVERAGE

A coalition of advocates wants CMS to retract plans to automatically cancel Part D coverage for beneficiaries that switch from traditional Medicare to a managed care benefit outside this year's open enrollment periods. Last year's tax-extendors bill allowed the switch, but stressed that drug coverage should not be affected, the advocates argue.

CMS notified insurers in a Feb. 7 memo that it will allow beneficiaries to switch once between April 1 and Nov. 15, the time between this year's main enrollment periods, from traditional Medicare to a Medicare Advantage (MA) plan that does not cover prescription drugs. But CMS also clarified that if a beneficiary enrolled in a stand-alone prescription drug plan switches from traditional Medicare to an HMO, PPO or regional PPO, CMS will automatically cancel Part D coverage.

The California Health Advocates, Medicare Rights Center, National Senior Citizens Law Center, **Center for Medicare Advocacy** and Families USA are challenging CMS' interpretation of the Medicare law, noting that the tax-extendors bill stresses the one-time MA switch should not affect drug coverage. The five groups asked CMS to reconsider its policy in a Feb. 20 letter, and CMS has indicated it will respond shortly.

Many observers expected the tax-extendors bill provision to become a boon to MA private-fee-for-service (PFFS) plans that do not offer Part D coverage, since the Medicare law specifies that beneficiaries may only be enrolled in the Part D and MA programs at the same time if they chose a PFFS Medicare Advantage option. But CMS' Feb. 7 memo apparently seeks to level the playing field by setting up a process that allows beneficiaries with Part D to enter HMOs and PPOs throughout the year as well, although they would lose their Part D coverage.

The advocacy coalition argues that by doing so, CMS violates Medicare law.

The advocates opposed the tax-extendors bill provision in the first place and have criticized the MA program, and PFFS plans in particular, repeatedly for misleading marketing tactics (see Inside CMS, Feb. 8).

These concerns remain, even though CMS stresses in its Feb. 7 memo that MA plans must inform potential customers by phone or mail that they may lose their Part D coverage if they sign up during the year. Beneficiaries would have 30 days to confirm their enrollment request under CMS' new policy, and insurers would have to keep the confirmation on file.

One advocate expressed doubt insurers will follow these steps. "What would a plan say: 'Are you sure you want to join? You're going to lose your Part D coverage!'"

The Medicare Modernization Act allowed beneficiaries to switch in and out of the MA program between Jan. 1 and March 31 if they do not add or drop Part D coverage altogether.

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