

Part D Advisors Newsletter

3rd Quarter 2008

REPORTING PBM REBATES, OVERPAYMENT NOTIFICATIONS, NEW FINAL RECONCILIATION DEADLINE, PBM SPREAD

AMENDING PBM CONTRACTS

The RDS has recently released updates to their [policy on rebate reporting](#). As it stands now, all plan years with start dates after January 1st, 2007 will have to fully disclose all rebates received by the plan and kept by the PBM as part of the plan's allowable retiree cost (ARC) calculation. Medicare believes that such retained rebates are used to reduce the administrative fees that Plan Sponsors would otherwise pay the PBMs. Administrative fees are not eligible for subsidy payments. Many PBMs have difficulty providing rebate information regarding what they have retained. In accordance with this practice, many PBM contracts with Plan Sponsors do not require PBMs to disclose the amount of the rebates they've retained.

For RDS applications with start dates **prior** to January 1st, 2007, any Plan Sponsor whose PBM does not issue a rebate estimate due to their contractual adherence must make a reasonable good faith estimate as to the amount of rebates the PBM has retained. The good faith estimate should use a reasonable accounting and actuarial methodology, with such estimate reflecting in the calculation of ARC attributable to gross eligible costs.

The CMS expects that, going forward, plan sponsors will amend any contracts with their PBMs to require full disclosure of the retained rebates to CMS and its Office of the Inspector General. For all the plans with start dates **after** the January 1st, 2007 cutoff, reasonable good faith estimates **will not** be considered sufficient for the calculations of ARC and an accurate rebate percentage, including rebates paid to the Plan Sponsor and retained by the PBM, will be *required*.

OVERPAYMENT NOTIFICATIONS

A very important RDS announcement concerning notification of overpayment went into effect on June 12th, 2008. The announcement made very clear that plan sponsors who receive monthly, quarterly, semi-annual or interim annual RDS subsidy payments will be notified of an RDS overpayment via email. The messages are sent from the email address: rdspayment@cms.hhs.gov and should not be disregarded or blocked by a spam or junk mail filter.

It is imperative that [the Plan Sponsor] take the necessary steps to ensure that any e-mails from that address will be received by you and do not get marked as "Spam" or automatically deleted for any other reason. In addition, rdspayment@cms.hhs.gov is a notification-only e-mail address that does not monitor incoming e-mail. Please do not send e-mails to this address.

Plan Sponsors in overpayment status are expected to make compensatory payments in the amount specified by the email. When returning any overpayments to the CMS RDS payment center please have the Plan Sponsor ID clearly written on check or money order. CMS confirmation of the returned overpayments will also be through email. Read the entire announcement by clicking on the following link, an example email can be seen on the PDA website [here](#). [Overpayment Emails](#). Remember, as a Part D Advisors, Inc. client we monitor and direct all these activities.

NEW RECON DEADLINE

The RDS has released the [final Reconciliation deadline](#) for plan years ending in 2006. While there have been several extensions so far to the deadline for Final Reconciliation, Plan Sponsors should not rely on further extensions and/or appeals. As stated in the most recent deadline announcement, Final Reconciliation must have been completed by June 30th. At the writing of this letter 100% of Part D Advisors, Inc. clients have completed Final Reconciliation. Plan Sponsors need also to be aware that several steps of reconciliation require a response/action from the CMS. While moving through the steps of reconciliation, one needs to keep in mind the extra time these responses may require. Procrastination is likely to result in a failure to complete reconciliation, and a subsequent paying back of any subsidy monies collected by the Plan Sponsor. Those beginning reconciliation late should not rely on the appeals process to get more time, as all appeals are subject to approval and are not in any way guaranteed. Don't hesitate to contact Part D Advisors, Inc. for assistance; we have saved time and money for many plans troubled with reconciliation.

All Plan Sponsors with Retiree Drug Subsidy (RDS) applications for plan years ending in 2006 (with payment reconciliation deadlines of March 31, 2008) have been afforded additional time and have a new reconciliation deadline of June 30, 2008. This additional time applies to calendar and non-calendar year RDS applications that have plan years ending in 2006. Also, Plan Sponsors with RDS applications that have plan years ending in the first quarter of calendar year 2007 (January, February, March 2007) have been afforded additional time equivalent to that given 2006 plan years (an additional 3 months) and have a new reconciliation deadline of July 31, August 31, or September 30, 2008, respectively.

PBM SPREAD

Spread can be loosely defined as the difference between what the PBM pays the retail or mail order pharmacist for a prescription and what the Plan Sponsor is billed for that same prescription. For example, a PBM may have an agreement with a drug store chain to pay a fixed price on certain drugs. The PBM can then turn around and agree with a Plan Sponsor to be reimbursed at a higher price for the same drugs. The PBM then keeps the difference, which is called "spread." Much like rebates maintained by PBMs, such "spreads" may be kept in lieu of administrative costs or fees and must be included in the calculation of costs. However, CMS is becoming stricter about accurate disclosure of all such administrative costs. Plan Sponsors should take the same cautionary measures as they do with the rebate reporting requirements to make sure that they have accurate and legal disclosure of all costs charged and retained by their PBMs.

Best of Luck,

Part D Advisors, Inc

(This article was prepared by Part D Advisors, Inc as a Subsidy Tip in the 3rd Quarter Newsletter. If you wish to print and share the information in this newsletter, this Part D Advisors, Inc "credit" statement must be included. For more information regarding Part D Advisors, Inc or its services, please visit www.PartDAdvisors.com or contact Part D Advisors, Inc at (888) 447-2783.)