

Part D Advisors Newsletter

Quarter 1, 2009

OIG AUDITS THE CITY OF BOSTON, MA, OIG AUDITS THE UNION BANK OF CALIFORNIA, FINAL AND PROPOSED REVISIONS TO RDS-RELATED REGULATIONS, OACT BEGINS ACTUARIAL AUDITS, REVISED GUIDANCE ON REBATES AND PRICE CONCESSIONS

OIG AUDITS THE CITY OF BOSTON, MA

The Office of the Inspector General (OIG) has begun audits of RDS plan sponsors. While there have been preliminary audits in the past, this is the first complete audit to take place bearing with it penalties for failure and very real risks for the plan sponsor involved. The OIG chose to audit the City of Boston, Massachusetts (Boston) and their applications for 2006 and 2007. The OIG audit was incredibly thorough and lasted five months. During that time the auditor reviewed Boston's entire subsidy recovery process including a third party who was hired to report costs to the RDS on behalf of the city. To view the entire audit report click [here](#). While the thought of your RDS application being the target of an audit may seem daunting, time consuming, or just terrifying, those plan sponsors who have signed with Part D Advisors, Inc. need not worry! Part D Advisors, Inc. has planned ahead in the event that any of our clients are audited and will stand shoulder to shoulder with them throughout the entire audit process. In addition to providing all the necessary documentation to show that costs were reported accurately and that eligibility was determined with precise attention to detail, Part D Advisors, Inc. maintains all client records for six years and retains a dedicated legal team whose expertise add an extra layer of protection to our clients that is unrivaled in the realm of subsidy recovery services. Groups who are not clients of Part D Advisors, Inc., should be sure to maintain all relevant records and/or confirm that any third party reporting on their behalf does the same, as OIG audits carry serious penalties including *loss of all subsidy dollars* collected on the affected application in addition to fees and penalties.

OIG AUDITS THE UNION BANK OF CALIFORNIA

This was the second complete audit the OIG performed on a plan sponsor. It lasted from June 2008 until January 2009 and like the audit of Boston, it was incredibly thorough. Read the full report [here](#). In a specific effort to audit Medicare eligibility, the OIG drew a random sample of 50 retirees from Union Bank's plan and reviewed the Medicare Beneficiary Database to determine if they were indeed eligible for Medicare Part D and not enrolled in a Part D prescription drug plan. Like the first plan sponsor audit, the audit of the Union Bank showed the OIG's determination to leave no stone unturned in their effort to enforce compliance with the current regulations. As the first two audits are now complete, the OIG has set the bar pretty high for all future audits and every plan sponsor should be taking note as to what is being scrutinized during the 5-8 months an auditor is delving into all available records. If you have concerns about the accuracy of you retiree data, cost reports send to the RDS, and/or your organization's ability to withstand such intense scrutiny, please call Part D Advisors, Inc. today. At Part D Advisors, Inc. we have been tailoring our approach to the subsidy recovery process, specifically to be as accurate as possible, and thus insuring unmatched security in

the event you are audited. For six years Part D Advisors, Inc. maintains all client data and will gladly stand shoulder to shoulder with any of our clients throughout the audit process.

FINAL AND PROPOSED REVISIONS TO RDS-RELATED REGULATIONS

From time to time CMS finds it necessary to update the language used in the regulations so as to better define the guidelines of the RDS process. These specific revisions were centered on providing definitions to terms which were previously undefined, as well as amending some definitions which were already included. To view the revisions for yourself click [here](#). Definitions for the terms “Actually Paid” and “Administrative Costs” were both amended while the definitions for “Allowable Retiree Costs” and “Gross Covered Retiree Plan-Related Prescription Drug Costs” were added. These additions and changes are very important because defining these terms alters the formulas used in determining costs submitted to the RDS. Previously vague or non-existent definitions provided loopholes through which plan sponsors purposely or inadvertently misreported cost data to the RDS. Part D Advisors, Inc. have been forerunners in identifying such loopholes, and our unique process insures that no plan sponsor working with Part D Advisors, Inc. has had their Gross Retiree Costs or Actual Costs misrepresented as a result those poorly worded guidelines currently under revision.

OACT BEGINS ACTUARIAL AUDITS

Actuarial audits are now a reality as the Office of the Actuary (OACT) under CMS sends out the first round of notifications to plan sponsors who have been selected for an audit. See an example of such a notification [here](#). The plan sponsor is expected to show well documented proof of their plan’s creditability by providing the auditor with the following no later than 15 days after the receipt of the audit notification letter:

- ✓ **A copy of the formal attestation**
- ✓ **Documentation for both prongs of attestation:**
- ✓ **Summary of plan provisions**
- ✓ **Total plan costs & retiree contributions**
- ✓ **Participant data**
- ✓ **Actuarial assumptions & methods**
- ✓ **Documentation of actuarial equivalence**
- ✓ **Any reports to employers covering these items.**

Section 1860D-22(a)(2)(B) of the Social Security Act requires that any plan sponsor participating in the RDS program maintain any and all records that may be required for purposes of audits and other oversight activities such as: adequacy of prescription drug coverage and the accuracy of payments made under the RDS program. Actuarial audits differ from CMS audits of entire applications in that, actuarial audits do not inquire into eligibility, cost reporting, rebate reporting, etc. but focus entirely on determining a plan’s creditability by means of the actuarial attestation.

REVISED GUIDANCE ON REBATES AND PRICE CONCESSIONS

Plan Sponsors and groups working on their behalf, are no longer required to account for manufacturer rebates and/or price concessions retained by a Pharmacy Benefit Manager (PBM) or other administrative entity. This guidance is designed to clarify the process for determining the actual percentage of a plan's total cost that rebates from a manufacturer or those retained by a PBM amount to for each benefit option of an application. Read the full announcement [here](#). This does not nullify the similar guidance released on June 6, 2008; it expands on it and clarifies what were considered some gray areas by those attempted to determine their costs with tenacious attention to detail.

“Specifying that there is no requirement, for any RDS plan year, to take into account manufacturer rebates and similar price concessions that are retained by a Pharmacy Benefit Management company (PBM). This approach is consistent with regulations published in the January 12, 2009, Federal Register (74 FR 1494).”

The RDS has indefinitely suspended the requirement to report PBM kept rebates, not eliminated it. Part D Advisors, Inc. is dedicated to keeping our clients and all interested plan sponsors up to date on the most current CMS releases. Clients of Part D Advisors, Inc. can rest assured that our legal team analyzes all such revisions to Medicare legislation and provides them with the most accurate subsidy recovery services available taking into account the nearly constant revisions to said legislation.

Best of Luck!

Part D Advisors, Inc

(This article was prepared by Part D Advisors, Inc as a Subsidy Tip in the 1st 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.)