

DEPARTMENT OF HEALTH & HUMAN
SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850



MEDICARE PLAN PAYMENT GROUP

DATE: February 29, 2024

TO: All Part D Sponsors

FROM: Jennifer R. Shapiro, Director, Medicare Plan Payment Group

SUBJECT: Completion of the Coverage Gap Discount Reconciliation for Benefit Year 2022–reissued to correct the appeal deadline

The Centers for Medicare & Medicaid Services (CMS) completed the calculations for the 2022 Final Part D Coverage Gap Discount (CGD) Reconciliation. The calculations were performed in accordance with § 1860D-14A of the Social Security Act and 42 C.F.R. § 423.2320. The reconciliation calculations utilize the following:

- All CGD Prescription Drug Event (PDE) data with a processed date, found on the Prescription Drug Front-end System (PDFS) response report, on or before June 30, 2023 Cycle 3 and invoiced through the Quarter 6 invoice for 2022;
- The prospective Coverage Gap Discount Subsidy Amounts (CGDSA), beginning with January 2022 and ending with 2022 adjustments in January 2023; and
- All plan information received in the Health Plan Management System (HPMS) through January 2024 for calendar year 2022.

Sequestration

In years previous to Benefit Year 2021, in accordance with § 256(d) of the Balanced Budget and Emergency Deficit Control Act (BBEDCA), CMS reduced the prospective CGDSA by two percent for the purposes of computing the Part D CGD reconciliation.¹ However, sequestration was suspended as of May 2020.² The Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), enacted on March 27, 2020, suspended the sequestration of Medicare programs

¹ HPMS memoranda, *Additional Information Regarding the Mandatory Payment Reductions in Medicare Advantage, Part D, and Other Programs*, May 1, 2013 (available at <https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/CMS-memo-on-MA-and-Sequestration-May2013.pdf>)

² HPMS memorandum, *Medicare Advantage/Prescription Drug System (MARx) May 2020 Payment – INFORMATION*, April 22, 2020 (available at <https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/2012314744-qu-marxplanpaymentlettermay2020.pdf>)

between May 1, 2020, and December 31, 2020. The Consolidated Appropriations Act, 2021, enacted December 27, 2020, extended this suspension for three more months, through March 31, 2021. H.R. 1868, enacted on April 14, 2021, further extended the suspension through December 31, 2021. Finally, the Protecting Medicare and American Farmers from Sequester Cuts Act, enacted on December 10, 2021, extended the suspension through March 31, 2022.

CMS resumed sequestration reductions, in accordance with the revised amounts specified in the Protecting Medicare and American Farmers from Sequestration Cuts Act, beginning with April 2022 payment for Medicare Advantage, Programs of All-Inclusive Care for the Elderly, Medicare-Medicaid Plans, section 1876 and 1833 cost-based Managed Care Organizations, and Part D. Accordingly, CMS sequestered one percent of prospective payments and adjustments for months April 2022 through June 2022 and two percent for months beginning with July 2022 and ending in December 2022.

Because the sequestration amount subtracted from the prospective CGDSA is at the contract level and reconciliation is performed at the plan benefit package (PBP) level, CMS reallocates sequestration amounts to the PBP level prior to performing reconciliation calculations. If a contract has more than one PBP, the sequestration amount is allocated among the non-Employer Group Waiver Plan (EGWP) PBPs based on member month count (MMC) for the PBP for calendar year 2022. For example, if a contract has two PBPs, PBP “A” with 60 member months and PBP “B” with 40 member months, 60 percent of the total sequestration amount for the contract is allocated to the PBP “A” and the remaining sequestration amount is allocated to the PBP “B.” The sequestration amount will be reflected on your CGD reconciliation inputs report on the Medicare beneficiary identifier record identified as “ADJUSTMENT.”

Manufacturer Bankruptcy

Pursuant to 42 C.F.R. § 423.2320(c), if a manufacturer declares bankruptcy and, because of the bankruptcy, does not pay its quarterly invoices used in the CGD reconciliation, CMS adjusts the coverage gap reconciliation amount of each of the affected Part D sponsors to account for the total unpaid quarterly invoices. For this coverage gap reconciliation, CMS adjusted for any unpaid invoices through the quarter 6 invoices for CY 2022. The adjustment amount for impacted sponsors will be reflected on the CGD reconciliation inputs report on the Medicare beneficiary identifier record identified as “ADJUSTMENT”.

Although EGWPs are not part of the CGD reconciliation because that plan type does not receive prospective coverage gap payments, that plan type will receive a payment adjustment for any unpaid invoices related to manufacturer bankruptcy through quarter 6 invoices for CY 2022. EGWPs impacted by manufacturer bankruptcy will receive CGD reconciliation reports at the same time and in the same manner as the other plan types included in the CGD reconciliation. Impacted EGWPs will see a payment adjustment in the same month that other plan types included in the CGD reconciliation will see payment adjustments to remit and recover the calculated CGD reconciliation amounts.

CGD Reconciliation Reports and Payment Adjustments

The CGD reconciliation reports will be distributed to impacted sponsors for download via the Third Party Administrator (TPA) Portal on March 11, 2024. If you cannot access these reports, please contact the TPA at 877-534-2772, Option 1.

Payment adjustments to remit and recover these calculated CGD reconciliation amounts are planned for the April 2024 payment. As part of the Part D CGD reconciliation process, these final reconciled gap discount program payments will be subject to the reopening and appeals provisions found at 42 C.F.R. §§ 423.346 and 423.350, respectively.

Reopening Process

Part D sponsors can submit requests for reopening, as instructed in the December 29, 2015 HPMS memorandum, “Revised Reopening Request Process and Notification of Overpayment Related to PDE and DIR Data.”³ Additionally, CMS may reopen final CGD determinations at its discretion.

Any questions regarding the reopening process may be emailed to the Payment Support Contractor at PartDPaymentSupport@acumenllc.com.

Appeals Process

Appeals are filed when a plan sponsor does not believe that CMS applied its stated payment methodology correctly. Refer to 42 C.F.R. § 423.350 and the May 8, 2008 HPMS memorandum, “The Part D Reopening Process and the Part D Appeals Process.”⁴

If you wish to appeal, your request for reconsideration must be filed and received no later than March 26, 2024. Requests for reconsideration should be addressed to Jennifer R. Shapiro, Director, Medicare Plan Payment Group, and emailed to the Payment Process Contractor at PartDPaymentSupport@acumenllc.com.

Thank you.

³ Memo is available at the https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/2012182060-is-revised_reopening_request_process_and_notification_of_overpayment_related_to_pde_and_dir_data.pdf

⁴ Memo is available at https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/reopeningsandappeals_050808_196.pdf. Note that the reopening process described in the May 8, 2008 HPMS memorandum, *The Part D Reopenings Process and the Part D Appeals Process*, has been updated by the December 29, 2015, June 1, 2017, and April 6, 2018 HPMS memoranda; however, the appeals process described is still current (with the exception of the contractor’s contact information) and should be followed to file an appeal.