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October 22, 2008

Kerry Weems
Acting Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Room 314-G, Hubert H. Humphrey Building
Washington, DC 20201

Dear Mr. Weems,

It has come to my attention that some Medicare Advantage (MA) plans have announced broker commissions for the upcoming enrollment period that far exceed any previous year's commissions. I am gravely concerned that without immediate action by the Centers for Medicare and Medicaid Services (CMS), these elevated commissions will lead to an unprecedented amount of churning of beneficiary enrollment this year, in a way that is disruptive to their care and detrimental to their coverage.

As you are aware, new regulations require that commissions not vary from first year enrollment amounts in the four years that follow enrollment. This means that a broker's commission for signing up a new beneficiary is the same as the broker receives when the beneficiary remains in the plan. This new rule was designed specifically to prevent churning, and eliminate the financial incentive for brokers to encourage beneficiaries to switch plans every year.

Unfortunately, in a clear attempt on the part of plans to skirt the intent of CMS's new MA marketing regulations the commissions offered this year (and thus, for the following four years) are greatly increased, and in some cases, four times higher than previous years. For example:

- Before the new regulation, a commission might offer $300 for signing up a new beneficiary and $100 for every year that a beneficiary stays with the plan. Over five years, the broker would stand to make $700.
- With the new rule requiring that commissions not vary for five years, however, in a "get it while you can" spirit, plans are offering much higher commissions for all five years. Typical commissions offered this year include $500 for signing up a new beneficiary, and $500 per year for each year that follows. That would be $2500 over five years – more than three times the financial possibility for encouraging a beneficiary to remain in their plan.

With this one time only opportunity to churn beneficiaries, and lock in high commissions for the next five years, it is reasonable to expect that we will see unprecedented plan changes this year, unless CMS takes action.

One suggestion to address this problem would be to cap commissions at a reasonable rate, perhaps as a percentage of what was offered in years past.

This issue needs to be resolved immediately, before open enrollment begins. Please respond in the next 14 days with a plan to address this issue. I also request that you provide me with a list of plans that have increased commissions from 2008 to 2009 more than 5 percent for first time enrollment.

Sincerely,

Pete Stark

Pete Stark
Chairman