

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Drug and Health Plan Choice
7500 Security Boulevard, Mail Stop C4-23-07
Baltimore, Maryland 21244-1850



PROGRAM COMPLIANCE AND OVERSIGHT GROUP

November 3, 2009

VIA: FEDERAL EXPRESS DELIVERY
EMAIL (chuck.berg@wellcare.com)
AND FACSIMILE (813-290-6306)

Mr. Charles Berg
Executive Chairman
WellCare Health Plans, Inc.
8735 Henderson Road
Tampa, FL 33634
Phone Number: (813) 290-6205

Re: Release of Intermediate Sanctions (Suspension of Enrollment and Marketing):
Contract Numbers: H0117, H0712, H0913, H1032, H1112, H1216, H1264,
H1416, H1657, H1903, H2491, H3361 and S5967

Dear Mr. Berg:

On March 7, 2009, the Centers for Medicare & Medicaid Services (CMS) imposed intermediate sanctions on WellCare Health Plans, Inc. (WellCare), thereby suspending WellCare's marketing and enrollment activities for all of its Medicare Advantage and Prescription Drug contracts. CMS' decision was based on serious deficiencies in the following operational areas: enrollment and disenrollment, appeals and grievances, marketing and agent/broker oversight and the timeliness of reporting privacy/security breaches to CMS.

At this time, based on consideration of CMS' review of documentation and information provided by WellCare, CMS' validation activities and additional assurances provided by WellCare, CMS has determined that WellCare has satisfactorily addressed the deficiencies that formed the basis for the sanction, and CMS will release WellCare from the marketing and enrollment sanctions for the above-referenced Medicare Advantage and Prescription Drug contracts. Effective immediately, WellCare may begin marketing. Also, WellCare may begin enrolling beneficiaries on November 15, 2009 for the **2010 contract year**. However, WellCare is not permitted to accept any enrollments with effective dates prior to January 1, 2010.

Because WellCare has provided notice to CMS that it is non-renewing its Private Fee-For-Service (PFFS) Medicare Advantage Contracts (H1340, H4577, and H6499) and a Medicare Advantage PPO Contract (H0967) for Contract Year 2010, CMS is hereby providing notice that the marketing and enrollment sanctions for these four (4) contracts will remain in effect through the end of the contract period (December 31, 2009).

Appeals and Grievances Processes – Corrective Action Required

During the validation of your request for release from sanction, we conducted an audit of WellCare's appeals and grievances processes. CMS found several deficiencies, none of which are serious enough to prevent CMS from releasing WellCare from sanction. However, we will be separately issuing a request to your organization for corrective action to ensure these deficiencies are corrected. CMS expects WellCare to work directly with its Regional Office Account Manager to provide the information required by the request for correction and to ensure ultimate correction of these identified deficiencies.

CMS Ongoing Monitoring and Oversight

Please note that CMS will subject WellCare to targeted monitoring and heightened surveillance and oversight of all of its operational areas during the upcoming open enrollment periods (i.e., the Annual Open Election Period (AEP) and the Medicare Advantage Open Enrollment Period (OEP)). In addition, CMS will be frequently asking WellCare for specific data to provide CMS with assurance that the deficiencies that were the basis for the sanctions are not likely to recur.

If any of the underlying deficiencies that formed the bases for these sanctions do recur, including if WellCare fails to be responsive to CMS or to comply with CMS timeliness requirements for responding to beneficiary complaints, WellCare will be subject to the remedies available to CMS under law, including the imposition of additional sanctions or penalties, contract nonrenewal or termination, as described in 42 C.F.R. Parts 422 and 423, Subparts K and O.

Submission of Data, Records & Information to CMS – Corrective Action Required

On May 26, 2009, after the marketing and enrollment sanctions had been imposed, WellCare self-reported to CMS that it received a complaint through its compliance hotline that managers in its Appeals and Grievances Department had directed employees to alter documents in preparation for a CMS July 2008 program audit. Because this matter concerned possible fraud, in accordance with our standard operating procedures, we referred it to the CMS' Program Integrity Office.

Both WellCare and CMS independently investigated this matter and came to the same conclusion – that WellCare employees had deliberately altered original appeals and grievances documents in an effort to mislead CMS auditors and avoid detection of non-compliance with certain CMS appeals and grievances requirements. WellCare

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cooperated fully with CMS' investigation and has demonstrated that it has taken several appropriate remediation steps to address this matter.

While this issue was not directly related to the deficiencies upon which sanctions were imposed, it is important to notify you at this time that we will be separately issuing a request to your organization for corrective action related to this issue. This compliance action is necessary to ensure WellCare continues to maintain sufficient internal controls (including controls over any delegated entities) to prevent, detect and respond to any similar incidents and to ensure that WellCare does not provide false, inaccurate or incomplete data, records or information to CMS in the future, including when providing the monthly payment/enrollment certifications, Part C and D reporting data and any records or data provided during a CMS audit. CMS expects WellCare to work directly with its Regional Office Account Manager to provide the information required by the request for corrective action and to ensure that situations such as this one do not recur.

Also, if CMS becomes aware that WellCare falsifies or misrepresents data, records, or information provided to CMS in the future, CMS will consider all compliance and enforcement options available to CMS under the law, including the imposition of additional sanctions or penalties, contract nonrenewal or termination as described in 42 C.F.R. Parts 422 and 423, Subparts K and O. WellCare also may be subject to further action pending the outcome of the above-mentioned referral to Program Integrity.

Please contact me at (410) 786-2001 if you have any questions about this matter.

Sincerely,



Brenda J. Tranchida
Director
Program Compliance and Oversight Group

cc: Ms. Charlene Frizzera, CMS/OA
Mr. Jonathan Blum, CMC/CPC
Mr. Timothy Hill, CMS/CPC
Ms. Carol Bennett, DHHS/OS/OGC
Mr. James Kerr, CMS/OA/CMHPO
Ms. Colleen Carpenter, CMS/CMHPO/Region IV
Ms. Gloria Parker, CMS/CMHPO/Region IV
Ms. Nancy Brown, DHHS/OIG/OCIG
Mr. Peter Ashkenaz, CMS/OEA
Ms. Mary Agnes Laurenno, CMS/OBIS
Ms. Laura McWright, CMS/OL
Ms. Kimberly Brandt, CMS/OFM/PI
Ms. Cynthia Tudor, CMS/CPC/MDBG

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Ms. Danielle Moon, CMS/CPC/MCAG
Mr. Anthony Culotta, CMS/CPC/MEAG
Mr. Thomas Hutchinson, CMS/CPC/MPPG
Ms. Teresa DeCaro, CMS/CPC
Mr. Thomas O'Neil, WellCare