DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information and Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201

Date: August 28, 2017

RE: Invoice of Advance Payments of the Premium Tax Credit and User Fee Debts and Payment and Enrollment Disputes

Issuers participating in the Federally-facilitated Exchanges (FFEs) or State-based Exchanges utilizing the Federal platform (SBE-FPs) who receive an invoice for outstanding APTCs and/or user fees* and have submitted or will submit a payment or enrollment dispute (an 820/PPR (payment) dispute or an ERR (enrollment) dispute) (hereinafter "payment and enrollment dispute") to the Enrollment Reconciliation and Resolution (ER&R) Contractor can have these invoiced debts placed in "appeal status" if they are challenging the APTC or user fee amount charged and the issuers are working in good faith with CMS to resolve such disputes. **Please note that while a dispute is pending and in "appeal status," interest and fees as set forth in the Initial Invoice will still accrue; however, the debt will not be referred to the U.S. Treasury.**

In order to have invoiced debts placed in "appeal status," CMS will need information on which payment and enrollment disputes are applicable to a specific Initial Invoice. Specifically, CMS will need the Initial Invoice number, the dispute control number(s) and the date of the dispute form(s). If a dispute has not yet been filed, but the issuer intends to do so in good faith, the issuer will need to identify the date by which it plans on sending its disputes and the applicable Initial Invoice number. In these circumstances, the issuer will need to follow up within five (5) calendar days of filings these disputes with the Initial Invoice number, dispute control number(s) and the date of the dispute form(s). This information should be provided to CMS by emailing ACAfinancialappeals@cms.hhs.gov.

Updated Reconciliation File Submission with No Corresponding Disputes: If an issuer has submitted a reconciliation file that will result in changes to its FFE payment and enrollment file that affects the invoiced debt related to APTCs and/or user fees, the issuer should notify CMS of the date or run of the reconciliation file. This information should be provided to CMS by emailing ACAfinancialappeals@cms.hhs.gov. Upon receipt of this information, CMS will place the invoiced debt in appeals status for 60 calendar days in an attempt to allow this matter to resolve itself through the updated reconciliation file, rather than requiring the issuer to file a dispute. **Please note that interest and fees as set forth in the Initial Invoice will still accrue until the information provided to the FFEs is updated through the reconciliation process.**

Appeal Status: Debts placed in appeal status will not be referred to the U.S. Treasury for collection until the status is removed. Even though referral will not occur, we encourage the full payment of invoiced amounts even when a dispute is pending to avoid the assessment of interest and fees set forth in the Initial Invoice. In the event a dispute results in the reversal of charges that an issuer has already paid, CMS will process such refund in the next applicable monthly payment cycle.**

Resolution of Disputes: CMS will deem dispute(s) resolved if the issuer pays the full amount of the invoice while it works with CMS to resolve the dispute(s) or CMS confirms that these disputes have been resolved (approved, denied or closed), and if approved the changes from those disputes have been successfully processed. CMS will notify the issuer via email for situations that fall under the second or third category, and if the issuer does not request reconsideration under 45 C.F.R. § 156.1220 then CMS will remove appeal status.

Reconsideration Request: In the event the issuer disagrees with the resolution of the payment or enrollment dispute as that dispute relates to the payment of APTCs or user fee charge assessments and the materiality threshold is met, the issuer may seek reconsideration under 45 C.F.R. § 156.1220(a) within 60 calendar days of receipt of the dispute decision. The issuer can file a request for reconsideration by emailing the ER&R contractor at ERRSupportCenter@Cognosante.com. With this request for reconsideration, the issuer should provide the Initial Invoice number, the dispute control number(s) and the date of the dispute form(s). After final resolution of the reconsideration request the dispute will be deemed resolved. Please note that while a reconsideration request or accompanying appeal is pending, interest will still accrue.

SBE Issuer: We note that SBE issuers can file disputes the for the 2014 benefit year through the exceptions process set forth in https://www.regtap.info/reg_librarye.php?i=2143 or by resubmitting the manual payment workbooks for the 2015-2017 benefit years.

---

* Based on past experience, dental issuers and issuers exiting the Exchanges often have outstanding invoices for APTCs and user fees.

** As with all payments to an issuer, a refund would be subject to netting pursuant to 45 C.F.R. § 156.1215.