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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: March 17, 2017

Subject: **2016 Benefit Year HHS Risk Adjustment Data Validation (HHS-RADV) Requirements**

In the 2018 Notice of Benefit and Payment Parameters final rule[1] (2018 Payment Notice), CMS implemented a materiality threshold for the HHS-RADV program to ease the burden of annual audit requirements for smaller issuers of risk adjustment covered plans, beginning with the 2017 Benefit Year program. Specifically, beginning with the 2017 Benefit Year HHS-RADV (the second year of HHS-RADV payment adjustments), issuers with total annual premiums at or below $15 million (based on the benefit year being validated) will not be subject to annual Initial Validation Audit (IVA) requirements (81 FR 94104). We also indicated in the 2018 Payment Notice that we would exercise enforcement discretion with respect to the 2016 Benefit Year HHS-RADV requirements for issuers below this materiality threshold.

CMS has determined to exercise enforcement discretion for a lower threshold for the 2016 Benefit Year HHS-RADV, the first year of HHS-RADV payment adjustments, than the $15 million materiality threshold finalized for the 2017 Benefit Year. CMS will not take enforcement action against issuers with 500 or fewer member months statewide that fail to engage an IVA entity or to perform an IVA for the 2016 Benefit Year HHS-RADV. Consistent with the threshold used to offer a lower, separate default risk adjustment charge to issuers of this size, CMS believes these issuers' audit results would be immaterial to national and statewide error rates. Issuers below the 500 member month threshold for the 2016 Benefit Year HHS-RADV will still receive an adjustment to the 2017 Benefit Year risk adjustment transfers. As finalized in the 2018 Payment Notice, the adjustment will be a default error rate equal to 1) the average negative error rate nationally, or 2) the average negative error rate within a state, whichever is lower. CMS will determine whether an issuer falls below the 500 member month threshold as of the February 9, 2017 data submission.

Consistent with the policy set forth in the 2018 Payment Notice Final Rule, beginning for the 2017 Benefit Year HHS-RADV, the second year of HHS-RADV payment adjustments, CMS will conduct random and targeted sampling through which issuers below the $15 million materiality threshold would be subject to an IVA approximately every three (3) years.

[1] *HHS Notice of Benefit and Payment Parameters for 2018* Final Rule, 81 FR 94,058 (Dec. 22, 2016).