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DATE: November 5, 2007

TO: Medicare Advantage Organizations Offering Private Fee-for-Service (PFFS)  
Plans To Employer and Union Group Plan Sponsors

FROM: Abby L. Block  
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SUBJECT: Ensuring Effective Employer/Union Sponsorship of Private Fee-for-Service Plans – Key  
Actions

Private Fee-For-Service (PFFS) plans are a growing segment of the Medicare Advantage (MA) program. In May 2007, CMS provided additional model documents and required new outreach processes to ensure individual Medicare beneficiaries and providers are informed about the distinctive features of Medicare PFFS plans offered to individual Medicare beneficiaries. *See Memorandum from Abby L. Block, Ensuring Beneficiary Understanding of Private Fee-For-Service Plans, Actions and Best Practices, May 25, 2007.*

PFFS plans also represent a viable option for employer and union group plan sponsors seeking to offer a Medicare Advantage plan as part of employment-based retiree health care coverage. There are several unique and important considerations in the areas of marketing and provider access when these MA plans are offered to employer and union group plan sponsors. This memorandum outlines several key actions for Medicare Advantage Organizations (MAOs) offering these plans to employer and union group sponsors. MAOs are required to immediately take into account these key actions and implement any specific requirements outlined below. Please note that several of these key actions include those identified in the May 25, 2007 Memorandum referenced above.

### **Key Communications with Employer and Union Group Sponsors**

PFFS plans may be attractive to employer/union group sponsors for several reasons, including that certain kinds of PFFS MA plans do not require established networks of providers and allow employers to cover retirees wherever they may reside in the United States. For example, in addition to existing MA employer group extended service areas, beginning in 2008 the elimination of the "nexus test" creates more opportunities to offer employer/union-only group waiver (i.e., "800 series") non-network PFFS plans to employer group sponsors on a national basis. *See Memorandum from Abby L. Block, 2008 Employer Group Waiver Policy – Elimination of the "Nexus" Test for PDPs, Non-Network PFFS and MSA MA Plans and Service Area Extension for Certain MA Local Coordinated Care Plans, November 13, 2006.*

However, entities offering national coverage to employer and union group health plan enrollees may face some potentially unique challenges (e.g., provider access). When employer and union group health plan sponsors are considering PFFS plans as an option, MAOs are required to accentuate the following key aspects of offering these kinds of plans to employer and union sponsors:

1. Ensure Employer Sponsors Understand How PFFS Plans Work Prior To Considering These Options For Their Retirees. When marketing a PFFS option to employer sponsors, it is important to ensure that the employer sponsor understands that the product works differently from other MA plans. This includes that enrollees may only receive services from providers that accept the plan's terms and conditions of payment and providers have the right to decide if they will accept the plan's terms and

conditions of payment each time the enrollee seeks treatment from the particular provider. These conditions would apply equally to all providers, including those that retirees may be accustomed to receiving treatment from under the previous employer-sponsored health care option (e.g., Original Medicare plus a supplemental employer-sponsored wrap).

2. Ensure Employer Sponsors Understand The Importance Of Developing A Targeted Communication Strategy For Retirees And Providers Prior To Transitioning From Existing Health Care Options. PFFS plans should accentuate the need for employer sponsors to communicate to their retirees and their existing providers how the PFFS plan works. It is essential to explain to retirees how the plan is different from the current employer-sponsored health care option, including how the plan works with providers as outlined in number 1 above. (Targeted education and outreach to retirees, using applicable model documents and outreach processes identified for individual beneficiaries outlined in the May 25, 2007 Memorandum and referenced below, should continue for new entrants and their providers). Also, these communications should encourage retirees to check whether their existing providers will accept the PFFS plan's terms and conditions before the effective date of the PFFS plan to facilitate effective outreach activities. If employers use consultants or other intermediaries to purchase retiree coverage from your organization, you must ensure that the employer/union sponsor understands the PFFS product and the effect it will have on retirees.
3. Ensure Employer Sponsors Understand The Importance of Developing An Up-Front, Agreed-Upon Process In The Event There Is Insufficient Provider Access In Particular Geographic Areas. As stated above, an important difference in employer-sponsored PFFS plans is that coverage may be offered on an extended geographic basis. PFFS plans should stress the importance of developing an employer-specific process and retiree communication strategy to address those instances where a retiree cannot obtain access to *any* providers of a particular type in a specific geographic area and therefore the employer-sponsored PFFS plan does not meet the individual's health care needs. Solutions may include an agreement between the PFFS plan and the employer sponsor to offer an alternative or "fall back" health care option such as offering another kind of MA plan (e.g. local PPO) or disenrolling the retiree from the PFFS plan and returning them to Original Medicare with employer "wrap around" supplemental coverage.

### **Key Communications with Providers And Employer-Sponsored PFFS Enrollees**

MAOs are required to take the following actions for beneficiaries enrolled in employer-sponsored PFFS plans:

1. Assure Providers That They Will Receive Prompt And Accurate Payments. PFFS plans must conduct effective outreach to providers to help them understand how employer/union sponsored PFFS plans work and to overcome any resistance that may be particularly caused by concerns about the timeliness and accuracy of payments. PFFS plans and employer sponsors should ensure that the plan's terms and conditions of payment are easily accessible to providers. In addition to these important communications, it also may be helpful in some instances to explain to providers the way that employer-sponsored coverage works (i.e., employers typically choose the plan choice for their retirees; the retiree may risk losing their coverage or their family's employer coverage if they elect another plan; one claim is submitted for retirees in employer-sponsored PFFS plans vs. two with Original Medicare plus employer-sponsored supplemental coverage, etc.).
2. Ensure Retiree Communications Explain How PFFS Works Prior to Transitioning. As with individual beneficiaries, retirees in PFFS plans must be similarly informed about how PFFS plans work. All communications with retirees should clearly outline how the PFFS plan differs from their existing retiree health care option (providers must agree to accept the plan's terms and conditions of payment, the retiree's existing providers may not accept these terms and conditions, and retirees may have to choose new providers who will accept the terms and conditions). Employer-sponsored PFFS plan communications must prominently include the following disclaimer:

*A Medicare Advantage Private Fee-for-Service plan works differently than your existing plan. Your doctor or hospital is not required to agree to accept the plan's terms and conditions, and thus may choose not to treat you, with the exception of emergencies. If your doctor or hospital does not agree to accept our payment terms and conditions, or otherwise agree to treat you, you will not be able to receive covered services from them under this plan. Providers can find the plan's terms and conditions on our website at: [insert link to PFFS terms and conditions].*

3. Utilize Existing CMS-Approved Model Materials For Provider And Retiree Outreach and Education. Outreach and education to providers and enrollees in employer-sponsored PFFS plans must adhere to the same basic educational requirements applicable to individual plans. For example, a model two-sided leaflet that PFFS plans may provide to enrollees (and that enrollees may in turn provide to their health care providers) to facilitate understanding of PFFS plans has been developed (*see* Attachment 2 of the May 25, 2007 Memorandum referenced above). The contents of the leaflet must be included in all key retiree and provider communications received from employer sponsors and/or PFFS plans. These materials may be customized for particular employer sponsors as needed in accordance with existing employer group waivers concerning employer group marketing/dissemination materials.

### **Summary/Conclusion**

We appreciate your cooperation in instituting the key actions identified above for employer-sponsored PFFS plans. CMS will continue to monitor employer-sponsored PFFS plans to determine if additional actions are necessary. If you have any specific questions concerning this memorandum, you may address these to the Employer Policy and Operations Group at 410-786-2257 or 410-786-3257.