

MEMORANDUM

TO: Medicare Advantage Applicants for Contract Years 2005 and 2006

FROM: Bob Donnelly, Director, Medicare Drug Benefit Group  
Patricia Smith, Director, Medicare Advantage Group

RE: Timeline and Process for Issuing Determinations on Local MA and MA-PD Plan Applications for the 2005 and 2006 Contract Year

DATE: April 25, 2005

This communication provides Medicare Advantage (MA) and Medicare Advantage-Prescription Drug (MA-PD) local plan applicants for contract year 2005 and 2006 with information on CMS' timeframe for review and approval of applications. This year of transition is also a year of challenges – for you as our partners in Medicare Advantage and for CMS. At each step of this process we are endeavoring to provide flexibility in timeframes, thereby increasing the opportunity for you to meet the new requirements of the Medicare Advantage and Part D prescription drug programs.

During our MA and MA-PD application outreach efforts, many organizations have requested additional time to work on issues such as licensure and provider contracting for their local plans. In consideration of these requests and the condensed timeframes under which we all are working to transition to the 2006 Medicare Advantage requirements, we are extending the deadline for local Medicare Advantage Organization (MAO) applicants to submit follow up information to cure deficiencies in state licensure/certification and network provider adequacy. As noted on the attached timeline, **all other portions of the local plan MAO application must be completed and submitted to CMS no later than COB on June 1, 2005.**

The extended deadlines are as follows:

For **2005 local MAO applicants**, whose applications were submitted by February 15<sup>th</sup> or March 1<sup>st</sup>, we are extending the deadline for submission of materials to cure state licensure/certification and network adequacy issues to **June 15<sup>th</sup>, 2005.**

For **2006 local MAO applicants**, whose application were submitted by March 23<sup>rd</sup>, we are extending the deadline for submission of materials to cure state licensure/certification and network adequacy issues to **July 15<sup>th</sup>, 2005.** One exception to this date is the follow-up **pharmacy access analyses** which, in accordance with the Part D application, are due **August 1, 2005.** Additional guidance on submitting these pharmacy access analyses will be provided in early June, 2005.

We believe these extensions allow local plan applicants the maximum time practicable for curing deficiencies in these areas of their applications. While applicants are encouraged to complete these areas prior to June 15<sup>th</sup> for 2005 applicants, and July 15<sup>th</sup> for 2006 applicants (except for pharmacy access, which is due August 1), these are the deadlines by which CMS must receive:

- Adequate documentation to demonstrate that an applicant possesses the licensure/certification or authority that allows them to operate the type of MA plan in the areas of the State for which they have applied; and/or
- Information requested by CMS to demonstrate that the applicant's proposed network is adequate to ensure enrollee access to covered services.

In order to keep applicants informed as to the status of our review of their applications, CMS will issue conditional approval letters. Letters to 2005 applicants will be issued in mid-May. Letters to 2006 applicants will be issued in early June, prior to June 6, 2005 – the date that bid submissions are due. These letters will indicate the status of the application review, including whether certain issues remain unresolved. For applicants that have deficiencies in their applications on June 1, 2005 other than the areas of licensure/state certification and provider network, a letter of intent to deny will be issued.

By mid-September, we will send contracts to those applicants that have met all of the application requirements and whose bids we have accepted subsequent to the negotiation process. At that time, entities that fail to meet licensure/state certification and/or provider network requirements will receive a letter of intent to deny; similarly, entities whose bids are not accepted will be sent letters that explain the basis for the denial.

**In making this announcement, we wish to clearly state the implications of this decision on the review process.** Allowing 2005 local plan applicants until June 15, 2005, and 2006 applicants until July 15<sup>th</sup> to cure application deficiencies could impact both 2005 and 2006 applicants' ability to appeal application denials in time to participate in contract year 2006. Regulations at 42 CFR Part 422, Subpart N, allow applicants to seek three levels of administrative review of application denials. Those regulations further provide that entities seeking to appeal a denial must receive a favorable determination on appeal by July 15<sup>th</sup> in order for the contract to be effective on January 1 of the following year. Accordingly, 2005 and 2006 applicants that take advantage of the extended time frame for curing deficiencies but who ultimately receive a denial could be unable to participate in the 2006 contract year - even when they receive a favorable re-determination. In particular, this affects applicants whose licensure and provider networks are found deficient after July 15, 2005. A favorable re-determination on appeal received after July 15, 2005 would, however, render the applicant eligible to participate in the 2007 contract year.

Each entity must assess its own interests in choosing how to proceed. The best approach is to address all application requirements prior to the end of May 2005 (except for the pharmacy access requirements, which are due August 1, 2005). Many applicants who receive a letter of conditional approval in our mid-May (for 2005 applicants) and pre-June 6 (for 2006 applicants) communications may decide to continue to work on curing licensure and provider network deficiencies through the applicable extended deadlines. Some may wish to request a formal denial to enable them to pursue a formal appeal under Subpart N in the hopes of

gaining a favorable re-determination prior to the July 15, 2005 cut-off. We will issue formal denials if requested. Others may choose to withdraw their application, either completely or in select counties.

CMS is very pleased with the industry's response to the Medicare Advantage and Part D drug benefit programs. We appreciate your cooperative spirit in this extraordinary year, and remain committed to working with applicants to ensure that beneficiaries have quality choices in managed care.

Please contact Gloria Parker at (410)786-9281 or by e-mail at [gloria.parker@cms.hhs.gov](mailto:gloria.parker@cms.hhs.gov), or Teresa DeCaro at (410)786-6604 or by e-mail at [teresa.decaro@cms.hhs.gov](mailto:teresa.decaro@cms.hhs.gov) if you have questions about this timeline and process for local MA and MA-PD plan applications.  
Attachment: MA and MA-PD Local Plan Application Timeline