DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
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CENTER FOR MEDICARE

DATE: October 20, 2022

TO: Medicare Advantage Organizations, Prescription Drug Plans, and Section 1876 Cost Plans

FROM: Amy Larrick Chavez-Valdez, Director
Medicare Drug Benefit and C & D Data Group

SUBJECT: Contract Year 2023 Monitoring of Posted Comprehensive Formularies

Requirements pertaining to the dissemination of Part D information are found at 42 CFR §§ 423.128 and 423.2265(c). Additional guidance is available in the Medicare Communications and Marketing Guidelines (MCMG) in conjunction with the "Part D Communication Materials" HPMS memorandum from November 1, 2018, and Section 30 of the Medicare Prescription Drug Benefit Manual, Chapter 6. Part D sponsors must include on their website their current drug list or formulary, including tier level and applicable quantity limit (QL) restrictions, prior authorization (PA), limited access (LA), and step therapy (ST) requirements. Part D sponsors must also post all ST and PA criteria documents. CMS monitors the posting and accuracy of these formulary documents. This memorandum provides a summary of the results of Contract Year (CY) 2022 monitoring and announces that CMS will again perform the Posted versus Approved (PvA) Analysis for CY 2023.

CY 2022 Results

In the November 18, 2021, HPMS memorandum entitled "Contract Year 2022 Monitoring of Posted Comprehensive Formularies," CMS announced that we would be conducting a review comparing posted formularies on plan websites for CY 2022 to CMS-approved HPMS formularies that would be effective January 1, 2022.

We selected 178 Part D contracts for inclusion in the CY 2022 PvA. We identified a targeted sample of drugs for review for each of the participating Part D plan contracts. After reviewing the posted formularies on plan websites and analyzing the results, we determined that 14 of the 178 Part D contracts (7.87 percent) had discrepancies. These discrepancies included the following: two defined standard plans posted tiered formularies; six plans had unclear or undefined abbreviations; two formulary drugs were posted as requiring PA but did not have a PA on the approved formulary file; two drugs were posted with ST requirements but were not subject to ST on the approved formulary file; six drugs were posted at a tier different from the approved formulary; one drug was posted without the approved LA indicator; and one drug was missing from the posted formulary.

During the CY 2022 review, CMS continued to identify abbreviations without clear descriptors. We remind Part D sponsors that pursuant to 42 CFR § 423.2262(a)(1)(iii), Part D sponsors may not "engage in activities that could mislead or confuse Medicare beneficiaries, or misrepresent the Part D sponsor." As explained in the November 1, 2018, HPMS memorandum, beneficiaries should be able to clearly differentiate drug formulations and find definitions for all abbreviations listed on posted formularies.

CY 2023 Monitoring

To ensure the accuracy of required formulary communication materials, CMS will again be conducting a review comparing the formularies posted on plan websites for CY 2023 to their approved formularies within HPMS that will be effective January 1, 2023. CMS will select a random sample of Part D plans for inclusion in the analysis. In addition to the random selection, a sample of new sponsors and sponsors with previously identified posted formulary concerns will be included. CMS will notify and provide additional information to selected Part D sponsors for the CY 2023 analysis.

CMS will extract comprehensive formulary and utilization management documents from plan websites and compare these to the CMS-approved formulary effective January 1, 2023. For each posted formulary, CMS will identify a sample of drugs from the HPMS formulary file and match them to the posted formulary PDF. Missing drugs or drugs with a posted tier, LA, or utilization management indicator that differs from the approved HPMS formulary file will be deemed a discrepancy. In addition to the review of drug samples, CMS will be reviewing online formulary and utilization management documents for compliance with other requirements set forth in guidance.

CMS will notify any Part D plan sponsors for whom discrepancies are identified via email, and depending on the nature of the discrepancy, CMS may provide Part D plan sponsors with a response form workbook for download and completion. In addition, it is our expectation that selected Part D sponsors will work aggressively to correct any confirmed errors as soon as possible.

For questions regarding the posted versus approved analysis, please email PartDFormularies@cms.hhs.gov.