

## **MEDICARE PRESCRIPTION DRUG BENEFIT**

### **2008 Application for NEW Prescription Drug Plan (PDP) Sponsors to Offer Employer/Union-Only Group Waiver Plans (EGWPs)**

**January ??, 2007**

**PUBLIC REPORTING BURDEN:** According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0936. The time required to complete this information collection is estimated to average 9 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS/EPOG, 7500 Security Boulevard, C1-22-06, Baltimore, Maryland 21244-1850.

**(These instructions to appear as a separate pop-up page in HPMS after Applicant completes *Solicitation for Applications for New Prescription Drug Plans (PDP) Sponsors*)**

### **BACKGROUND:**

The Medicare Modernization Act (MMA) provides employers and unions with a number of options for providing prescription drug coverage to their Medicare-eligible retirees. Under Part D of the MMA, those options include purchasing benefits from sponsors of prescription drug-only plans (PDPs), making special arrangements with Medicare Advantage Organizations (MAOs) and Section 1876 Cost Plans to purchase customized benefits, including drug benefits, for their retirees; and directly contracting with CMS to become Part D or MAO plan sponsors themselves. Each of these approaches involves the use of CMS waivers authorized under Sections 1857(i) or 1860D-22(b) of the Social Security Act (SSA). Under this authority, CMS may waive or modify requirements that “hinder the design of, the offering of, or the enrollment in” employer-sponsored group plans. CMS may exercise its waiver authority for employer/union-only group waiver plans (EGWPs).

For Calendar Years 2006 and 2007, CMS employer group waiver policy required PDP Sponsors to offer plans to individual Medicare beneficiaries as a condition of being able to offer EGWPs (i.e., “800 series” plans) to employer and union groups in the plan’s service area. Beginning in CY 2008, this requirement will be eliminated for all PDP Sponsors. Pursuant to CMS employer group waiver policy, in 2008, PDP Sponsors will be permitted to offer “800 series” plans to employer and union group beneficiaries without being required to offer plans to individual Medicare beneficiaries in the service area.

This application is to be used for new Prescription Drug Plan Sponsors who are seeking to offer new “800 series” plans in 2008 (with or without corresponding individual plans). Please follow the application instructions below and submit the required material in support of your application to offer new “800 series” EGWPs. Please note that for 2008, in addition to this document, new Applicants are also required to complete the 2008 *Solicitation For Applications for New Prescription Drug Plans (PDP) Sponsors*. Together these two documents will comprise a completed application.

### **APPLICATION INSTRUCTIONS:**

**This application is to be completed by the following entities:**

- **New PDP Sponsors seeking to offer new EGWPs (“800 series plans) - with or without corresponding individual plans (Applicant has not previously applied to offer “800 series” PDPs or plans to individual beneficiaries).**

**PDP Applicant must also complete the 2008 *Solicitation For Applications for New Prescription Drug Plans (PDP) Sponsors* in addition to this document.**

. New PDPs Applying for New EGWPs

Contract Number (S#): \_\_\_\_\_

**A separate application must be completed for *each contract number* under which the PDP Applicant is applying to offer “800-series” plans (with or without offering individual plans).**

**ASSISTANCE:**

If you have any questions about this application, please contact:

Marye Isaacs by email at [Marye.Isaacs@cms.hhs.gov](mailto:Marye.Isaacs@cms.hhs.gov) or by phone at 410-786-3276 or Julian Nadolny by email at [Julian.Nadolny@cms.hhs.gov](mailto:Julian.Nadolny@cms.hhs.gov) or by phone at 410-786-2274.

**REQUEST FOR ADDITIONAL WAIVER/MODIFICATION OF REQUIREMENTS (OPTIONAL):**

As a part of the application process, PDP Applicants may submit individual waiver/modification requests to CMS. The PDP Applicant should submit these additional waiver/modifications via hard copy to:

Centers for Medicare & Medicaid Services (CMS)  
Mail Stop: C1-22-06  
Attn: 2008 Case-by Case Waiver Request (Contract #: SXXXX)  
7500 Security Blvd.  
Baltimore, MD 21244-1850

These requests must be identified as requests for additional waivers/modifications and must fully address the following items:

- Specific provisions of existing statutory and/or regulatory requirement(s) the entity is requesting to be waived/modified (please identify the specific requirement (e.g., 42 CFR 423.32, Section 30.4 of the Part D Enrollment Manual) and whether you are requesting a waiver or a modification of these requirements);
- How the particular requirements hinder the design of, the offering of, or the enrollment in, the employer-sponsored group plan;
- Detailed description of the waiver/modification requested including how the waiver/modification will remedy the impediment (i.e., hindrance) to the design of, the offering of, or the enrollment in, the employer-sponsored group prescription drug plan;
- Other details specific to the particular waiver/modification that would assist CMS in the evaluation of the request; and
- Contact information (contract number, name, position, phone, fax and email address) of the person who is available to answer inquiries about the waiver/modification request.

**Applicant will complete the below information in HPMS:**

**PDP EGWP SERVICE AREA:**

In order to be able to enroll and thereby offer coverage to employer and union group retirees nationwide, PDP Applicant must have a national service area (i.e., 50 states and Washington D.C.) designated in the Health Plan Management System (HPMS) and will be required to submit a corresponding “national” Part D bid. Please note that if PDP Applicant wishes to include the territories in its service area, it may do so but the territories will have to be added to the service area manually by the PDP Applicant. Under existing CMS employer group waiver policy, the PDP Applicant will not be initially required to have pharmacy networks in place to cover retirees nationally. However, access sufficient to meet the needs of enrollees must be in place once the PDP Applicant contracts with an employer or union group that has retirees residing in any particular geographic location of the national service area.

Systems note: {PDPs should automatically have set a national service area (a national service area means all 50 states plus Washington D.C.). If an entity wants to also include territories, they should have access to add these territories manually}

I certify that I am an authorized representative, officer, chief executive officer, or general partner of the business organization that is applying for qualification to enter into a Part D contract with CMS. I have read, understand, and agree to comply with the above statement concerning service area. If I need further information, I will contact one of the individuals listed in the instructions for this application.

{Entity MUST complete for a complete application}

**CERTIFICATION FOR  
EMPLOYER/UNION-ONLY GROUP WAIVER PDP APPLICANTS**

This application, along with the 2008 *Solicitation For Applications for New Prescription Drug Plans (PDP) Sponsors*, comprises the entire application for PDP sponsor. All provisions of the *Solicitation* apply to PDP Applicant and to all employer/union-group waiver plans offered by PDP sponsor except as noted below, where the provisions of the 2008 *Solicitation* are specifically modified and/or superceded for employer/union-only group waiver plans offered by PDP sponsor:

**I, the undersigned, certify to the following:**

- 1) Applicant is applying to offer new employer/union-only group waiver (“800 series”) prescription drug plans (PDPs) and agrees to be subject to all CMS employer/union-only group waiver guidance.
  
- 2) Applicant has completed the *Solicitation for Applications for New Prescription Drug Plan Plans (PDP) Sponsors* and is submitting this application as an addendum to such *Solicitation*. The *Solicitation for Applications for New Prescription Drug Plan Plans (PDP) Sponsors* and this document comprise Applicant’s entire application.
  
- 3) Applicant understands that its employer/union-only group waiver PDPs will not be subject to Section 3.1.4.B.3 (Licensure and Solvency) of the *Solicitation for Applications for New Prescription Drug Plan Plans (PDP) Sponsors*. Applicant agrees that it must be licensed in at least one state in order to offer its employer/union-only group waiver PDP to eligible beneficiaries wherever they reside nationally. Applicant attests that will have convenient Part D pharmacy access sufficient to meet the needs of enrollees wherever they reside.
  
- 4) Applicant understands that its employer/union-only group waiver PDPs will not be subject to the requirements of Section 3.3.A.1-2 (Service Area) of the *Solicitation for Applications for New Prescription Drug Plan Plans (PDP) Sponsors*.
  
- 5) Applicant understands that its employer/union-only group waiver PDPs will not be subject to the requirements of Section 3.4.1.A of the *Solicitation for Applications for New Prescription Drug Plan Plans (PDP) Sponsors*. In order to be eligible for the CMS retail pharmacy access waiver of 42 CFR 423.120(a) (i.e., “TRICARE” standards), Applicant agrees that its retail pharmacy network is sufficient to meet the needs of its enrollees throughout the employer/union-only group waiver PDP’s national service area, including situations involving emergency access, as determined by CMS. CMS may periodically review the adequacy of the employer/union-only group waiver PDP’s pharmacy network and require PDP sponsor to expand access if CMS determines that such expansion is necessary in order to ensure that PDP sponsor’s network is sufficient to meet the needs of its enrollees.

- 6) Applicant understands that the requirements of Section 3.4.1.B of the *Solicitation for Applications for New Prescription Drug Plan Plans (PDP) Sponsors* will be met for its employer/union-only group waiver plans if Applicant submits GeoAccess reports **only** in areas where its prospective enrollees reside at the time of application.
- 7) Applicant understands that its employer/union-only group waiver PDPs will not be subject to the requirements of Section 3.5.A.3 (Enrollment and Eligibility) of the *Solicitation for Applications for New Prescription Drug Plan Plans (PDP) Sponsors*. Applicant agrees to restrict enrollment in its employer/union-only group waiver plans to those Part D eligible individuals eligible for an employer/union sponsor's employment-based retiree prescription drug coverage. Applicant also agrees not to enroll active employees of an employer/union sponsor in its employer/union-only group waiver PDPs.
- 8) Applicant understands that its employer/union-only group waiver PDPs will not be subject to the requirements of Section 3.5.A.5 (Enrollment and Eligibility) of the *Solicitation for Applications for New Prescription Drug Plan Plans (PDP) Sponsors* and that these PDPs will not be included in the processes for auto-enrollment (for full-dual eligible beneficiaries) or facilitated enrollment (for other low income subsidy eligible beneficiaries).
- 9) Applicant understands that its employer/union-only group waiver PDPs will not be subject to the requirements of 42 CFR §423.48 and Section 3.7 (Medicare Prescription Drug Plan Finder) of the *Solicitation for Applications for New Prescription Drug Plans (PDP) Sponsors*.
- 10) Applicant understands that its employer/union-only group waiver PDPs will not be subject to the requirements of 42 CFR §423.50(a) and Section 3.13.A.11 (Marketing/Beneficiary Communications). PDP sponsors' employer/union-only group waiver plan materials are not required to be submitted for review and approval by CMS prior to use. However, they must be submitted to CMS as informational copies at the time of use in accordance with the procedures outlined in Chapter 13 of the Medicare Marketing Guidelines. CMS reserves the right to review these materials in the event of beneficiary complaints or for any other reason it determines to ensure the information accurately and adequately informs Medicare beneficiaries about their rights and obligations under the plan.
- 11) Applicant understands that its employer/union-only group waiver PDPs will not be subject to the requirements of Section 3.13.A.12 and A.13 of the *Solicitation for Applications for New Prescription Drug Plans (PDP) Sponsors* (Marketing/Beneficiary Communications) when an employer or union's open enrollment period does not correspond to the annual coordinated Medicare open enrollment period. For these employers and unions, the timing for issuance of marketing/dissemination materials should be appropriately based on the employer/union sponsor's plan year (for example, if an employer or union sponsor's plan year begins on July 1, 2007 and ends on June 30, 2008, the Annual Notice of Change (ANOC) must be issued no later than April 30, 2007 (two months before the beginning of the plan year)).
- 12) Applicant understands that the dissemination requirements set forth in 42 CFR §423.128 will not apply with respect to any employer/union-only group PDP when the employer/union is subject to alternative disclosure requirements (e.g., the Employee Retirement Income Security

Act of 1974 (“ERISA”)) and fully complies with such alternative requirements. Applicant agrees to comply with the requirements for this waiver contained in employer/union-only group waiver guidance, including those requirements contained in Chapter 13 of the “Medicare Marketing Materials Guidelines for Medicare Advantage Plans (MAs), Medicare Advantage Prescription Drug Plans (MA-PDs), Prescription Drug Plans (PDPs), and 1876 Cost Plans.”

13) Applicant understands that it will not be subject to the requirement in Section 3.16.A.24 of the *Solicitation for Applications for New Prescription Drug Plans (PDP) Sponsors* to submit pricing and pharmacy network information to be publicly reported on [www.medicare.gov](http://www.medicare.gov).

14) Applicant agrees that it has not altered in any way the terms of this Certification. Applicant agrees that any alterations to the original text the Applicant may make to this Certification shall not be binding on the parties.

15) This Certification is deemed to incorporate any changes that are required by statute to be implemented during the term of the contract, and any regulations and policies implementing or interpreting such statutory provisions.

16) I have read the contents of the completed application materials and the information contained herein is true, correct, and complete. If I become aware that any information in these application materials is not true, correct, or complete, I agree to notify CMS immediately and in writing.

17) I authorize CMS to verify the information contained herein. I agree to notify CMS in writing of any changes that may jeopardize my ability to meet the requirements stated in these employer/union group waiver application materials prior to such change or within 30 days of the effective date of such change. I understand that such a change may result in termination of the approval.

18) I understand that in accordance with 18 U.S.C. § 1001, any omission, misrepresentation or falsification of any information contained in this application or contained in any communication supplying information to CMS to complete or clarify this application may be punishable by criminal, civil, or other administrative actions including revocation of approval, fines, and/or imprisonment under Federal law.

19) I further certify that I am an authorized representative, officer, chief executive officer, or general partner of the business organization that is applying for employer/union group waivers with CMS.

I certify that I am an authorized representative, officer, chief executive officer, or general partner of the business organization that is applying to offer employer/union-only group waiver plans with CMS. I have read and agree to comply with the above certifications.

{Entity MUST complete for a complete application}



. New PDPs Applying for New EGWPs

Contract Number (S#): \_\_\_\_\_

{An entity **MUST** complete this application to create “800-series” plan bids during plan creation and receive a national EGWP service area.}