

## MEDICARE ADVANTAGE/PRESCRIPTION DRUG BENEFIT

~~Draft~~ 2008 Application Instructions for MA Organizations to  
Offer New Employer/Union-Only Group Waiver Plans (EGWPs)

January 16, 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 0938-0935. 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.

MAO ("800 series") EGWP \_\_\_\_\_ Contract Number (H# or R#): \_\_\_\_\_

~~(Applicants will complete this application via HPMS. These instructions will appear as a separate pop-up page in HPMS)~~

**BACKGROUND:**

The Medicare Modernization Act (MMA) provides employers and unions with a number of options for providing coverage to their Medicare-eligible members. Under 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 members; 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 PDPs, MAOs and Cost Plan Sponsors that offer employer/union-only group waiver plans (EGWPs). EGWPs are also known as “800 series” plans because of the way they are enumerated in CMS systems.

~~This application is to be used by MAOs seeking to offer the following new “800 series” EGWPs: Private Fee-For-Service (PFFS) Plans, Local Coordinated Care Plans (CCPs), Regional Preferred Provider Organization Plans (RPPOs), Regular Medical Savings Accounts (MSAs) and Demonstration MSAs. CMS issues separate contract numbers for each type of offering and thus a separate application is required for each corresponding contract. However, MAO Applicants may submit one application to be eligible to offer new MA-only and new MA-PD EGWPs under the same contract number. Please follow the application instructions below and submit the required material in support of your application to offer “800 series” EGWPs. (Please note that new MAO Applicants are required to complete and submit a different application to offer individual plans.)~~

For Contract Years 2006 and 2007, CMS employer group waiver policy required all MAOs to offer plans to individual Medicare beneficiaries as a condition of being able to offer “800 series” EGWPs to employers and unions. Beginning in 2008, this requirement will be eliminated for MAOs offering Non-Network PFFS plans, Regular MSAs or Demonstration MSAs. Pursuant to CMS employer group waiver policy, MAOs will be permitted to offer Non-Network PFFS, Regular MSA or Demonstration MSA “800 series” plans to employer and union group beneficiaries without being required to offer plans to individual Medicare beneficiaries. This waiver policy was not extended to MAOs offering Network PFFS plans, RPPOs or Local CCPs; therefore these MAOs are required to offer plans to individual beneficiaries in order to offer “800 series” plans to employer or union group beneficiaries. **PLEASE NOTE THAT IF YOU ARE A NEW MAO APPLICANT AND ONLY INTEND TO OFFER “800 SERIES” NON-NETWORK PFFS PLANS, REGULAR MSAs OR DEMONSTRATION MSAs (I.E., NO PLANS WILL BE OFFERED TO INDIVIDUAL MEDICARE BENEFICIARIES UNDER YOUR CONTRACT NUMBER), IN ADDITION TO COMPLETING THIS APPLICATION IN ACCORDANCE WITH THE INSTRUCTIONS BELOW, YOU MUST SEND AN EMAIL TO [EmployerWaivers@cms.hhs.gov](mailto:EmployerWaivers@cms.hhs.gov) TO ENSURE THE PROPER PROCESSING OF**

MAO ("800 series") EGWP \_\_\_\_\_ Contract Number (H# or R#): \_\_\_\_\_

**YOUR APPLICATION BY CMS. YOU MUST DO SO EVEN IF YOU SUBMITTED A NOTICE OF INTENT (NOI) TO APPLY ON OR BEFORE DECEMBER 1, 2006. THE EMAIL MUST INCLUDE YOUR CONTRACT NUMBER, THE TYPE OF PRODUCT (NON-NETWORK PFFS, REGULAR MSA OR DEMONSTRATION MSA) YOU ARE APPLYING FOR AND A STATEMENT THAT YOU INTEND TO ONLY OFFER "800 SERIES" MA PLANS ASSOCIATED WITH THIS PARTICULAR CONTRACT.**

This application is to be used by MAOs seeking to offer the following new “800 series” EGWPs: Private Fee-For-Service (PFFS) Plans, Local Coordinated Care Plans (CCPs), Regional Preferred Provider Organization Plans (RPPOs), Regular Medical Savings Accounts (MSAs) and Demonstration MSAs. CMS issues separate contract numbers for each type of offering and thus a separate application is required for each corresponding contract. However, MAO Applicants may submit one application to be eligible to offer new MA-only and new MA-PD EGWPs under the same contract number. Please follow the application instructions below and submit the required material in support of your application to offer “800 series” EGWPs. (Please note that in addition to this application, all new MAO Applicants are also required to complete and submit the appropriate 2008 MA Initial Application.)

#### **APPLICATION INSTRUCTIONS:**

This ~~document~~ application is to be completed in the following manner by the following entities applying to offer new MA-only and/or MA-PD Employer/Union-Only Group Waiver Plans (“800 series” EGWPs):

- New MA Organization applicants seeking to offer new “800 series” EGWPs- will be required to submit their application materials electronically through the Health Plan Management System (HPMS). New MAO Organizations include Applicants that have not previously applied to offer “800 series” plans or plans to individual beneficiaries. In order to complete and submit an application, please log on to HPMS and follow the instructions. To complete the application, please access the following link in HPMS:

**Contract Management > Contract Management > Select Contract Number > Online Applications/EGWP Attestation**

(Note: All new MA Organization applicants must complete the appropriate 2008 MA Initial Application in addition to this application. All new MAO Organizations intending to offer Part D EGWPs (i.e., MA-PDs) must also complete the 2008 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors. The 2008 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors is also required to be submitted electronically through HPMS. These requirements are also applicable to any new MA Organizations applying to offer “800 series” Non-Network PFFS, Regular MSA or Demonstration MSA plans and that do not intend to offer plans to individual plans-beneficiaries in 2008. Together these documents will comprise a completed application for new MA Organizations. Failure to complete the appropriate 2008 MA Initial ~~Solicitation~~ Application or, if applicable, the 2008 ~~Part D MA-PD solicitation~~ Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors, will result in a denial of the EGWP application.)

MAO (“800 series”) EGWP \_\_\_\_\_ Contract Number (H# or R#): \_\_\_\_\_

- ~~Existing MA Organizations that have not previously applied to offer any EGWPs (MA-only and MA-PD).~~
- Existing MA Organizations that have not previously applied to offer ~~an~~ EGWPs (MA-only EGWP).
- ~~Existing MA Organizations that have not previously applied to offer an or~~ MA-PD) will be required to submit their EGWP:
- application materials electronically through HPMS. In order to complete and submit and application, please log on to HPMS and follow the instructions. To complete the application, please access the following link in HPMS:

[Contract Management > Contract Management > Select Contract Number > Online Applications/EGWP Attestation](#)

FOR ALL APPLICATIONS REQUIRED TO BE SUBMITTED ELECTRONICALLY THROUGH HPMS, BEFORE CLICKING “SUBMIT” AT THE BOTTOM OF THE SCREEN, BE SURE TO PRINT THE APPLICATION FROM YOUR BROWSER SO THAT YOU HAVE A PRINTED COPY OF THE APPLICATION FOR YOUR RECORDS.

**A separate application must be completed for *each contract number* under which the MAO Applicant is applying to offer new “800 series” EGWPs.**

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

**EGWP SERVICE AREA REQUIREMENTS:**

For Regular MSA or Demonstration MSA Applicants: Applicants offering Regular MSA or Demonstration MSA EGWPs may provide coverage to employer group members nationwide. These Applicants are not required to offer corresponding individual plans.

For Non-Network PFFS Applicants: Applicants offering Non-Network PFFS EGWPs may provide coverage to employer group members nationwide. Applicants offering Non-Network PFFS EGWPs are not required to offer corresponding individual plans.

For Network PFFS Applicants: Applicants offering individual plans in any part of a state may provide coverage to employer group members residing throughout the entire state.

For Local CCP Applicants: Applicants offering individual plans in any part of a state may provide coverage to employer group members residing throughout the entire state.

However, to enable employers and unions to offer coordinated care plans to all their Medicare eligible retirees wherever they reside, beginning in 2008, a MAO offering a local coordinated care plan in a given service area (i.e., state) can extend coverage to an employer or union sponsor's beneficiaries residing outside of that service area when the MAO, either itself or through partnerships with other MAOs, is able to meet CMS provider network adequacy requirements and provide consistent benefits to those beneficiaries. Applicants who are eligible for this waiver at the time of application or may be eligible at any time during the contract year are strongly encouraged to designate their service area as broadly as anticipated (e.g., multiple states, national) to allow for the possibility for enrolling members during the contract year if adequate networks are in place (**mid-year service area expansions will not be allowed**). Applicant will not initially be required to have networks in place for those designated EGWP service areas outside of their individual plan service areas. However, access sufficient to meet the needs of enrollees must be in place once Applicant enrolls members of an employer or union group residing in particular geographic locations outside of its individual plan service area.

For RPPO Applicants: Applicants offering individual plans in any region may provide coverage to employer group members residing throughout the entire region (i.e., RPPOs must have the same service area for its/their EGWPs as for its/their individual plans).

~~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 offer employer/union-only group waiver plans in association with my organization's Medicare Advantage Contract with CMS. I have read, understand, and agree to comply with the above statement about service areas. If I need further information, I will contact one of the individuals listed in the instructions for this application.~~ New MAO Applicants and existing MAOs adding or expanding EGWP service areas will be able to enter their service areas directly into HPMS during the application process.

~~{Entity MUST check box for a complete application}  
{Next Screen}~~

**REQUESTS**

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

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

Centers for Medicare & Medicaid Services (CMS)

Mail Stop: C1-22-06

Attn: 2008 ~~Case-by-Case~~ Additional Waiver Request (Contract #: HXXXX or RXXXX)

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, and/or CMS policy requirement(s) the entity is requesting to be waived/modified (please identify the specific requirement (e.g., "42 CFR 422, ~~Section \_\_\_\_\_,~~ .66," or "Section 40.4 of Chapter 2 of the Medicare Managed Care Manual" (MMCM))") 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 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.



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

*Note: Any specific certifications below that reference Part D are not applicable to MAO Applicants applying to offer Regular MSAs or Demonstration MSAs because these plans cannot offer Part D. (Entities applying to offer Regular MSAs or Demonstration MSAs can offer Part D benefits through a separate standalone Prescription Drug Plan (PDP); however, a separate application is required to offer "800 series" PDPs).*

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

- 1) Applicant is applying to offer new employer/union-only group waiver ("800 series") plans and agrees to be subject to and comply with all CMS employer/union-only group waiver guidance.
- 2) Applicant attests that it will restrict enrollment in these employer/union-only group waiver plans to those Medicare eligible individuals eligible for the employer's/union's employment-based group coverage.
- 3) In order to be eligible for the CMS service area waiver for Local Coordinated Care plans that allows an MAO to extend coverage to employer group members outside of its individual plan service area, Applicant attests it has at the time of application or will have at the time of enrollment, networks adequate to meet CMS requirements and is able to provide consistent benefits to those beneficiaries, either itself or through partnerships with other MAOs. If Applicant is also applying to offer Part D, Applicant attests that such expanded service areas will have convenient Part D pharmacy access sufficient to meet the needs of these enrollees.
- 4) In order for new MAO Applicants to be eligible for the CMS employer group waiver that allows Non-Network PFFS plans, Regular MSA or Demonstration MSA plans to offer employer/union-only group waiver plans without offering plans to individual beneficiaries, MAO Applicant attests that it is licensed in at least one state.
- 5) In order for new MAO Applicants to be eligible for the CMS employer group waiver that allows Non-Network PFFS plans, Regular MSA or Demonstration MSA plans to offer employer/union-only group waiver plans without offering plans to individual beneficiaries, MAO Applicant understands and agrees that it must complete and submit the corresponding 2008 MA Initial Application in addition to this application. If new MAO Applicant is also applying to offer Part D plans (which is not available for Regular MSA and Demonstration MSA plans), new MAO Applicant also understands and agrees that it must complete and submit the 2008 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors in addition to this application.
- 6) In order for new MAO Applicants to apply to offer Part D for its Non-Network PFFS employer/union-only group waiver plans without offering plans to individual

beneficiaries, MAO Applicant understands and agrees that as part of its completion of the 2008 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors, it will submit GeoNetworks® retail pharmacy reports (Appendix XII –Retail Pharmacy Network Access Instructions) for areas its prospective employer/union-only group waiver plan enrollees reside in at the time of application.

7) Regular MSA or Demonstration MSA employer/union-only group waiver plan Applicants understand that that they will be permitted to enroll members through a Special Election Period as specified in Chapter 2, Section 30.4.4.1, of the Medicare Managed Care Manual (MMCM).

8) Applicant understands that dissemination/disclosure materials for its employer/union-only group waiver plans are not subject to the requirements contained in 42 CFR 422.80 or 42 CFR 423.50 to be submitted for review and approval by CMS prior to use. However, Applicant agrees that it will submit these materials to CMS at the time of use in accordance with the procedures outlined in Chapter 13 of the Medicare Marketing Guidelines. Applicant also understands 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.

9) Applicant understands that its employer/union-only group waiver plans will not be subject to the requirements regarding the timing for issuance of the Annual Notice of Change (ANOC), Summary of Benefits (SB), Formulary (if applicable), and Evidence of Coverage (EOC) 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)).

10) Applicant understands that the dissemination/disclosure requirements set forth in 42 CFR 422.111 and 42 CFR 423.128 will not apply to its employer/union-only group waiver plans when the employer/union sponsor is subject to alternative disclosure requirements (e.g., the Employee Retirement Income Security Act of 1974 ("ERISA")) and 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."

11) Applicant understands that its employer/union-only group waiver plans will not be subject to the requirements contained in 42 CFR 422.64 and 42 CFR 423.48 to submit information to CMS, including the requirements to submit information (e.g., pricing and pharmacy network information) to be publicly reported on **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 [www.medicare.gov](http://www.medicare.gov) [Julian.Nadolny@cms.hhs.gov](mailto:Julian.Nadolny@cms.hhs.gov) and the Medicare Prescription Drug Plan Finder.

~~12) In order to be eligible for the CMS retail pharmacy access waiver of 42 CFR 423.120(a)(1) (i.e., application of "TRICARE" standards), Applicant attests that its retail pharmacy network is sufficient to meet the needs of its enrollees throughout the employer/union-only group waiver plan's service area, including situations involving emergency access, as determined by CMS. Applicant acknowledges and understands that CMS may review the adequacy of the plan's pharmacy networks and potentially require expanded access in the event of beneficiary complaints or for other reasons it determines in order to ensure that the plan's network is sufficient to meet the needs of its employer-group population.~~

~~13) 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.~~

~~14) 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.~~

~~15) 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 qualifications stated in this application 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.~~

~~16) 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.~~

~~17) I acknowledge that I am aware that there is operational policy guidance, including the forthcoming 2008 Call Letter, relevant to this application that is posted on the CMS website and that it is continually updated. Organizations submitting an application in response to this solicitation acknowledge that they will comply with such guidance should they be approved to offer employer/union-only group waiver plans in association with the organization's Medicare Advantage Contract with CMS.~~

~~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 offer employer/union-only group waiver plans in association with my organization's Medicare~~

MAO ("800 series") EGWP \_\_\_\_\_ Contract Number (H# or R#): \_\_\_\_\_

~~Advantage Contract with CMS. I have read and agree to comply with the above certifications.~~

~~{Entity MUST check box for a complete application}~~

~~{An entity MUST complete to create 800-series bids during plan creation and receive any EGWP-only service areas.} or by phone at 410-786-2274.~~