

MEDICARE PRESCRIPTION DRUG BENEFIT

2009 Solicitation for Applications for New Employer/Union Direct Contract Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors

January __, 2008

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 37.25 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~~[C4-26-05](#), Baltimore, Maryland 21244-1850.

BACKGROUND:

The Medicare Modernization Act (MMA) provides employers and unions with a number of options for providing prescription drug coverage to their Medicare-eligible active employees or retirees. Under the MMA, those options include making special arrangements with Medicare Advantage Organizations (MAOs) and Section 1876 Cost Plans to purchase customized benefits, including drug benefits, for their members; purchasing benefits from sponsors of prescription drug-only plans (PDPs); and directly contracting with CMS to become Part D 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.

This application is to be used by employers or unions seeking to directly contract with CMS to become a Part D Medicare Advantage Organization (“Direct Contract MA-PD”) for their Medicare eligible active employees and/or retirees. Please follow the application instructions below and submit the required material in support of your application to offer a Direct Contract MA-PD.

Which Applicants Should Complete This Application?

This application is to be used by employers or unions seeking to directly contract with CMS to become a Part D Medicare Advantage ~~Organization~~[Organizations](#) (“Direct Contract MA-PD”) for their Medicare eligible active employees and/or retirees. Please follow the application instructions below and submit the required material in support of your application to offer a Direct Contract MA-PD.

APPLICATION INSTRUCTIONS:

Applications must be submitted by March __, 2008, by all employers or unions seeking to offer a Direct Contract MA-PD.

Which Application Materials Must Be Submitted and How Must These Materials Be Submitted?

All Direct Contract MA-PD Applicants must complete and submit the following:

- (1) The *2009 Medicare Advantage Application*. This portion of the application is submitted electronically through the Health Plan Management System (HPMS).
- (2) The *2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors*. This portion of the application is submitted electronically through the Health Plan Management System (HPMS).
- (3) *2009 Initial Application For Employer/Union Direct Contract Private Fee-For-Service (PFFS) Medicare Advantage Organization*. [Appendix Appendices I and III](#) (optional) of this application are to be submitted in hard copy and Appendix II is submitted electronically through HPMS.
- ~~(4) The 2009 Direct Contract Part D financial solvency and capital adequacy information/documentation.~~ (4) [The 2009 Part D Financial Solvency & Capital Adequacy Documentation for Direct Contract MA-PD Applicants \(Appendix I of this application\)](#). This portion of the application is submitted in hard copy in accordance with the instructions below. ~~A list of the required information to be submitted is included in Appendix I.~~
- (5) The 2009 Direct Contract MA-PD ~~attestations.~~ [Attestations](#). This portion of the application is submitted electronically through HPMS. A copy of these attestations is ~~attached in~~ [included with this application](#) (Appendix II).

All of the above enumerated submissions will comprise a completed application for new Direct Contract MA-PDs. Failure to complete and submit items numbers 1 through 5 above will result in a denial of the Direct Contract MA-PD application.

Employer/Union Direct Contract MA-PD

Using HPMS to Submit Application Materials

In order to submit the electronic portions of this application through HPMS (items number 1, 2, [3](#) and [45](#) above), please log on to HPMS and follow the instructions. To complete these application materials, please access the following link in HPMS:

Contract Management > Contract Management > Select Contract Number > Online Applications/

Instructions for Submitting Hard Copy Application Materials

Please submit two (2) copies of all required hard copy application materials for Appendix I (~~financial solvency/capital adequacy documentation~~[Part D Financial Solvency & Capital Adequacy Documentation For Direct Contract MA-PD Applicants](#)) to the following address:

Centers for Medicare & Medicaid Services (CMS)
Mail Stop: C1-22-06
ATTN: 2009 Direct Contract MA-PD Application (Appendix I)
(Contract #: EXXXX)
7500 Security Blvd.
Baltimore, MD 21244-1850

Please note: In addition to these hard copy submissions, the Applicant is also required to enclose with this submission a duplicate electronic copy of all of these materials on a CD.

Appendix I

Part D Financial Solvency & Capital Adequacy Documentation For Direct Contract MA-PD Applicants

Background and Instructions:

~~A~~An MAO generally must be licensed by at least one state as a risk-bearing entity (42 CFR 423.401(a)(1)). CMS has waived the requirement for Direct Contract MA-PDs. Direct Contract MA-PDs are not required to be licensed, but must meet CMS Part D financial solvency and capital adequacy requirements. Each Direct Contract MA-PD Applicant must demonstrate that it meets the requirements set forth in this Appendix and provide all required information set forth below. CMS may in its discretion approve, on a case-by-case basis, waivers of such requirements upon a demonstration from the Direct Contract MA-PD that its fiscal soundness is commensurate with its financial risk and that through other means the entity can assure that claims for benefits paid for by CMS and beneficiaries will be covered. In all cases, CMS will require that the employer's/union's contracts and sub-contracts provide beneficiary hold harmless provisions.

The information required in this Appendix must be submitted in hardcopy submission in accordance with the above instructions abovecontained in this application.

I. EMPLOYER/UNION ORGANIZATIONAL INFORMATIONFINANCIAL DOCUMENTATION

~~As part of this submission, if the Direct Contract MA-PD Applicant is a state agency, labor organization, or a trust established by one or more employers or labor organizations, the Applicant must include the required information listed below along with its financial solvency documentation. Minimum Net Worth: \$1.5 Million - Documentation of Minimum Net Worth~~

State Agencies:

~~The Direct Contract MA-PD Applicant must demonstrate financial solvency through furnishing two years of independently audited financial statements to CMS. If Applicant is a state agency, instrumentality or subdivision, please provide the relationship between the entity that is named as the Direct Contract MA-PD Applicant and the state or commonwealth with respect to which the Direct Contract MA-PD Applicant is an agency, instrumentality or subdivision and the source of applicant's revenues including whether applicant receives appropriations and/or has the authority to issue debt.~~

Labor Organizations:

~~If Applicant is a labor organization including a fund or trust, please provide the relationship (if any) between Applicant and any other related labor organizations such as regional, local or international unions, or welfare funds sponsored by such related labor~~

~~organizations. If Applicant is a jointly trustee Taft-Hartley fund, please include the names and titles of labor-appointed and management-appointed trustees.~~

Trusts:

~~If Applicant is a trust such as a voluntary employee beneficiary association under Section 501(c)(9) of the Internal Revenue Code, please provide the names of the individual trustees and the bank, trust company or other financial institution that has custody of Applicant's assets.~~

~~H. FINANCIAL DOCUMENTATION~~

~~Minimum Net Worth: \$1.5 million – Documentation of Minimum Net Worth~~

~~The Direct Contract MA-PD must demonstrate financial solvency through furnishing two years of independently audited financial statements to CMS. If the potential Direct Contract MA-PD has not been in operation at least twelve months, it may choose to: 1) obtain independently audited financial statements for a shorter time period; or 2) demonstrate that it has the minimum net worth through presentation of un-audited financial statements that contain sufficient detail to allow CMS to verify the validity of the financial presentation. The un-audited financial statement must be accompanied by an actuarial opinion from a qualified actuary regarding the assumptions and methods used in determining loss reserves, actuarial liabilities and related items.~~

A “qualified actuary” for purposes of this application means a member in good standing of the American Academy of Actuaries, a person recognized by the Academy as qualified for membership, or a person who has otherwise demonstrated competency in the field of actuarial science and is satisfactory to CMS.

If the ~~potential~~ Direct Contract MA-PD's ~~PD Applicant's~~ auditor is not one of the 10 largest national accounting firms in accordance with the list of the 100 largest public accounting firms published by the CCH Public Accounting Report, the ~~applicant~~ Applicant should enclose proof of the auditor's good standing from the relevant state board of accountancy.

A. Liquidity

The Direct Contract MA-PD Applicant must have sufficient cash flow to meet its financial obligations as they become due. The amount of the minimum net worth requirement to be met by cash or cash equivalents is \$750,000. Cash equivalents are short-term highly liquid investments that can be readily converted to cash. To be classified as cash equivalents, investments must have a maturity date not longer than 3 months from the date of purchase.

In determining the ability of a Direct Contract MA-PD Applicant to meet this requirement, CMS will consider the following:

1. The timeliness of payment,
2. The extent to which the current ratio is maintained at 1:1 or greater, or whether there is a change in the current ratio over a period of time; and
3. The availability of outside financial resources.

CMS may apply the following corresponding corrective remedies:

1. If a ~~Part D Sponsor~~ [Direct Contract MA-PD](#) fails to pay obligations as they become due, CMS will require the ~~Part D Sponsor~~ [Direct Contract MA-PD](#) to initiate corrective action to pay all overdue obligations.
2. CMS may require the ~~Part D Sponsor~~ [Direct Contract MA-PD](#) to initiate corrective action if any of the following are evident:
 - a) The current ratio declines significantly; or
 - b) A continued downward trend in the current ratio. The corrective action may include a change in the distribution of assets, a reduction of liabilities, or alternative arrangements to secure additional funding to restore the current ratio to at least 1:1.
3. If there is a change in the availability of outside resources, CMS will require the ~~Part D Sponsor~~ [Direct Contract MA-PD](#) to obtain funding from alternative financial resources.

B. Methods of Accounting

~~The~~ [A](#) Direct Contract MA-PD generally must use the standards of Generally Accepted Accounting Principles (GAAP). Generally Accepted Accounting Principles (GAAP) are those accounting principles or practices prescribed or permitted by the Financial Accounting Standards Board. However, a [Direct Contract](#) MA-PD whose audited financial statements are prepared using accounting principles or practices other than GAAP, such as a governmental entity that reports in accordance with the principles promulgated by the Governmental Accounting Standards Board (GASB), may utilize such alternative standard.

C. Bonding and Insurance

A Direct Contract MA-PD may request a waiver in writing of the bonding and/or insurance requirements set forth at 42 CFR 423.504(b)(4)(iv) and (v). Relevant considerations will include demonstration that either or both of the foregoing requirements are unnecessary based on the entity's individualized circumstances, including maintenance of similar coverage pursuant to other law, such as the bonding requirement at ERISA Sec-~~tion~~ [tion](#) 412.

D. Additional Information

A ~~potential~~ Direct Contract MA-PD must furnish the following financial information to CMS to the extent applicable:

1. **Self-Insurance/Self Funding:** If the ~~potential~~ Direct Contract MA-PD's health plan(s) are self-insured or self-funded, it must forward proof of stop-loss coverage (if any) through copies of policy declarations.
2. **Trust:** If the ~~potential~~ Direct Contract MA-PD maintains one or more trusts with respect to its health plan(s), a copy of the trust documents, and if the trust is intended to meet the requirements of Section 501(c)(9) of the Internal Revenue Code, the most recent IRS approval letter.
3. **Forms 5500 and M-1:** The two most recent annual reports on Forms 5500 and M-1 (to the extent applicable) for the ~~potential~~ Direct Contract MA-PD health plans that cover prescription drugs for retirees that are Part D eligible individuals.
4. **ERISA Section 411(a) Attestation:** Each ~~applicant~~ Direct Contract MA-PD Applicant (including an applicant that is exempt from ERISA) must provide a signed attestation that no person serves as a fiduciary, administrator, trustee, custodian, counsel, agent, employee, consultant, adviser or in any capacity that involves decision-making authority, custody, or control of the assets or property of any employee benefit plan sponsored by the ~~potential~~ Direct Contract MA-PD Applicant if he or she has been convicted of, or has been imprisoned as a result of his or her conviction of, one of the felonies set forth in ERISA Section 411(a), for 13 years after such conviction or imprisonment (whichever is later).
5. **Defined Benefit Pension Plan:** If the ~~potential~~ Direct Contract MA-PD Applicant sponsors one or more defined benefit pension plans (within the meaning of ERISA Section 3(35)) that is subject to the requirements of Title IV of ERISA, the latest actuarial report for each such plan.
6. **Multi-Employer Pension Plan:** If the ~~potential~~ Direct Contract MA-PD Applicant is a contributing employer with respect to one or more multi-employer pension plans within the meaning of ERISA Section 3(37), the latest estimate of contingent withdrawal liability.
7. **Tax-Exempt Applicants Only:** A copy of the most recent IRS tax-exemption.

III. INSOLVENCY REQUIREMENTS

A. Hold Harmless and Continuation of Coverage/Benefits

A Direct Contract MA-PD Applicant shall be subject to the same hold harmless and continuation of coverage/benefit requirements as Medicare Advantage contractors.

B. Insolvency Deposit

A Direct Contract MA-PD [Applicant](#) generally must forward confirmation of its establishment and maintenance of an insolvency deposit of at least \$100,000, to be held in accordance with CMS requirements by a qualified U. S. Financial Institution. A “qualified financial institution” means an institution that:

1. Is organized or (in the case of a U.S. office of a foreign banking organization) licensed under the laws of the United States or any state thereof; and
2. Is regulated, supervised, and examined by the U.S. Federal or State authorities having regulatory authority over banks and trust companies.

A Direct Contract MA-PD [Applicant](#) may request a waiver in writing of this requirement.

IVIII. GUARANTEES (only applies to an Applicant that utilizes a Guarantor)

A. General Policy

A Direct Contract MA-PD [Applicant](#), or the legal entity of which the Direct Contract MA-PD [Applicant](#) is a component, may apply to CMS to use the financial resources of a Guarantor for the purpose of meeting the requirements of a Direct Contract MA-PD [Applicant](#) set forth above. CMS has the sole discretion to approve or deny the use of a Guarantor.

B. Request to Use a Guarantor

To apply to use the financial resources of a Guarantor, a Direct Contract MA-PD must submit to CMS:

1. Documentation that the Guarantor meets the requirements for a Guarantor under paragraph (C) of this section; and
2. The Guarantor's independently audited financial statements for the current year-to-date and for the two most recent fiscal years. The financial statements must include the Guarantor's balance sheets, profit and loss statements, and cash flow statements.

C. Requirements for Guarantor

To serve as a Guarantor, an organization must meet the following requirements:

1. Is a legal entity authorized to conduct business within a State of the United States.
2. Not be under Federal or State bankruptcy or rehabilitation proceedings.
3. Have a net worth (not including other guarantees, intangibles and restricted reserves) equal to three times the amount of the [Direct Contract](#) MA-PD guarantee.
4. If a State insurance commissioner or other State official with authority for risk-bearing entities regulates the Guarantor, it must meet the net worth

- requirement in Section [II.A](#) above with all guarantees and all investments in and loans to organizations covered by guarantees excluded from its assets.
5. If the Guarantor is not regulated by a State insurance commissioner or other similar State official, it must meet the net worth requirement in Section [II.A](#) above with all guarantees and all investments in and loans to organizations covered by a guarantee and to related parties (subsidiaries and affiliates) excluded from its assets.

D. Guarantee Document

If the guarantee request is approved, a Direct Contract MA-PD ~~Sponsor~~[Applicant](#) must submit to CMS a written guarantee document signed by an appropriate Guarantor. The guarantee document must:

1. State the financial obligation covered by the guarantee;
2. Agree to:
 - a) Unconditionally fulfill the financial obligation covered by the guarantee; and
 - b) Not subordinate the guarantee to any other claim on the resources of the Guarantor;
3. Declare that the Guarantor must act on a timely basis, in any case not more than 5 business days, to satisfy the financial obligation covered by the guarantee; and
4. Meet any other conditions as CMS may establish from time to time.

E. Ongoing Guarantee Reporting Requirements

A Direct Contract MA-PD must submit to CMS the current internal financial statements and annual audited financial statements of the Guarantor according to the schedule, manner, and form that CMS requires.

F. Modification, Substitution, and Termination of a Guarantee

A Direct Contract MA-PD cannot modify, substitute or terminate a guarantee unless the Direct Contract MA-PD:

1. Requests CMS's approval at least 90 days before the proposed effective date of the modification, substitution, or termination;
2. Demonstrates to CMS's satisfaction that the modification, substitution, or termination will not result in insolvency of the Direct Contract MA-PD; and
3. Demonstrates how the Direct Contract MA-PD will meet the requirements of this section.

G. Nullification

If at any time the Guarantor or the guarantee ceases to meet the requirements of this section, CMS will notify the Direct Contract MA-PD ~~that it ceases to~~

recognize the guarantee document. In the event of this nullification, a Direct Contract MA-PD -must:

1. Meet the applicable requirements of this section within 15 business days; and
2. If required by CMS, meet a portion of the applicable requirements in less than the 15 business days in paragraph (G.1.) of this section.

IV. ONGOING REPORTING REQUIREMENTS

An approved Direct Contract MA-PD [Applicant](#) is required to update financial information set forth in Sections [II](#) and [III](#) above to CMS on an ongoing basis. The schedule, manner, and form of reporting will be in accordance with CMS requirements.

Appendix II

Direct Contract MA-PD Attestations For Contract _____

1. CERTIFICATION

EGWP SERVICE AREA & PHARMACY ACCESS REQUIREMENTS

All provisions of the 2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors apply to all plan benefit packages offered by the Direct Contract MA-PD except where the provisions are specifically modified and/or superseded by particular employer/union-only group waiver guidance, including those waivers/modifications set forth below (specific sections of the 2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors that have been waived or modified for new MA-PD Sponsor Applicants are noted in parentheses). In general, Part D plans can only cover beneficiaries in the service areas in which they are licensed and approved by CMS to offer benefits. CMS has waived this requirement for Direct Contract MA-PD Sponsors. Direct Contract MA-PD Sponsors can extend coverage to all of their retirees, regardless of whether they reside in one or more MA regions in the nation. In order to provide coverage to retirees wherever they reside, Direct Contract MA-PD Sponsors must set their service areas to include all areas where retirees may reside during the plan year (no mid-year service area expansions will be permitted). Applicants will be required to submit retail and other pharmacy access information (mail order, home infusion, long-term care, I/T/U) for the entire defined service area during the application process and demonstrate sufficient access in these areas in accordance with employer group waiver pharmacy access policy.

☐ 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 Direct Contract MA-PD. I have read, understand, and agree to comply with the above statement about service areas and pharmacy access. 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.}

2. CERTIFICATION

All provisions of the 2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors apply to all plan benefit packages offered by the Direct Contract MA-PD except where the provisions are specifically modified and/or superseded by particular employer/union-only group waiver guidance, including those waivers/modifications set forth below (specific sections of the 2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors that have been waived or modified for new Direct Contract MA-PD Applicants are noted in parentheses).

I, the undersigned, certify to the following:

- 1) Applicant is applying to offer new employer/union-only Direct Contract Medicare Advantage Prescription Drug Plans ~~(MA-PD)~~ and agrees to be subject to and comply with all CMS employer/union-only group waiver guidance.
- 2) Applicant understands and agrees that it must complete and submit the *2009 Medicare Advantage Application*, *2009 Initial Application For Employer/Union Direct Contract Private Fee-For-Service (PFFS) Medicare Advantage Organization*, and *2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors* in addition to this application (which includes Appendix I - Part D Financial Solvency ~~and~~ Capital Adequacy Documentation [for Direct Contract MA-PD Applicants](#)). All these documents comprise new [Direct Contract MA-PD Sponsor](#) Applicant's entire Direct Contract MA-PD application.
- 3) Applicant agrees to restrict enrollment in its Direct Contract MA-PD plans to those Medicare eligible individuals eligible for the employer's/union's employment-based group coverage.
- 4) Applicant understands and agrees that it is not required to submit a 2009 Part D bid (i.e., bid pricing tool) to offer its Direct Contract MA-PD. (Section 3.2.6.A.1 of the *2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors*)
- 5) 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 Direct Contract MA-PD'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. (Section 3.5.1.A of the *2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors*)
- 6) Applicant understands and agrees that as part of its completion of the *2009 Solicitation for Applications for New Prescription Drug Plan (MA-PD) Sponsors*, it will submit GeoNetworks® retail pharmacy reports (Appendix IX - Retail Pharmacy Network Access Instructions) [and other pharmacy access submissions \(mail order, home infusion, long-term care, I/T/U\) required](#) at the time of application ~~for its entire designated service area. (in~~ Section 3.5.1 of the *2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors* [for its entire designated service area. \(Sections 3.3.B and 3.5 of the 2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan \(MA-PD\) Sponsors\)](#)
- 7) Applicant understands that its Direct Contract MA-PD plans 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). (Section 3.6.A.2 of the

2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors)

8) Applicant understands that CMS has waived the requirement that the Direct Contract MA-PD must provide beneficiaries the option to pay their premium through Social Security withholding. Thus, the premium withhold option will not be available for enrollees in Applicant's Direct Contract MA-PD. (Sections 3.6.A.9 and 3.24.A.2-4 of the *2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors)*

9) Applicant understands that dissemination materials for its Direct Contract MA-PD plans are not subject to the requirements contained in 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 9 of the Medicare Managed Care Manual ([MMCM](#)). Applicant also understands [that](#) 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. (Section 3.14.A.1 of the *2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors)*

10) Applicant understands that its Direct Contract MA-PD plans will not be subject to the requirements regarding the timing for issuance of [certain dissemination materials, such as](#) the Annual Notice of Change (ANOC), Summary of Benefits (SB), and Formulary when the [employer/union's](#) or union's open enrollment period does not correspond to the annual coordinated Medicare open enrollment period and/or the employer's or union's plan year does not correspond to the Medicare calendar year plan year. For these employers and unions, the timing for issuance of the above marketing/dissemination materials should be appropriately based on the employer/union sponsor's open enrollment period or plan year (~~(two months before the plan year begins or open enrollment period begins)~~ (for example, if an employer or union sponsor's plan year begins on July 1, ~~2008~~2009 and ends on June 30, ~~2009, 2010~~ the EOC must be [issued no later than the Annual Notice last day of Change \(ANOC\) must be issued no later than April 30, 2008 \(two months before the beginning first month of the plan year\), or by July 31, 2009; similarly, if an employer or union sponsor's open enrollment period begins on December 15, 2008, the ANOC, SB and Formulary must be issued at least 15 days before the open enrollment period, or by November 30, 2008\). \(Section 3.14.A.10 of the *2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plans \(MA-PD\) Sponsors\)*](#)

11) Applicant understands that the dissemination/disclosure requirements set forth in 42 CFR 423.128 will not apply to its Direct Contract MA-PD 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 9 of the ~~Medicare Managed Care Manual~~ [MMCM](#).

(Sections 3.14.A.1-2, 3.8 of the 2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plans (MA-PD) Sponsors)

12) Applicant understands that its Direct Contract MA-PD plans will not be subject to the requirements contained in 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 www.medicare.gov (Medicare Prescription Drug Plan Finder). (~~Section 3.8.A and~~ 3.17.A.17 ~~and Section 3.8.A~~ of the 2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plans (MA-PD) Sponsors)

13) Applicant understands that its Direct Contract MA-PD plans will not be subject to the Part D beneficiary customer service call center hours and call center performance requirements. Applicant attests that it will ensure that a sufficient mechanism is available to respond to beneficiary inquiries and will provide customer service call center services to these members during normal business hours. However, CMS may review the adequacy of these call center hours and potentially require expanded beneficiary customer service call center hours in the event of beneficiary complaints or for other reasons in order to ensure that the entity's customer service call center hours are sufficient to meet the needs of its enrollee population. (Section 3.14.A.5 of the 2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plans (MA-PD) Sponsors)

14) In general, Part D plan Sponsors must report certain information to CMS, to their enrollees, and to the general public (such as the cost of their operations and financial statements) under 42 CFR 423.514(a). Applicant understands that in order to avoid imposing additional and possibly conflicting public disclosure obligations that would hinder the offering of employer sponsored group plans, CMS will modify these reporting requirements for Direct MA-PDs to allow information to be reported to enrollees and to the general public to the extent required by other law (including ERISA or securities laws), or by contract. (Section 3.17.A.15-16 of the 2009 Solicitation for Applications for New Medicare Advantage Prescription Drug Plan (MA-PD) Sponsors)

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 and the information contained herein is true, correct, and complete. If I become aware that any information in this application 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 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.

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

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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 acknowledge that I am aware that there is operational policy guidance, including the forthcoming 2009 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 MA-PD 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~~ Direct Contract plans in association with my organization's MA-PD Contract with CMS. I have read and agree to comply with the above certifications.

{Entity MUST check box for a complete application.}

ASSISTANCE:

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

Julian Nadolny by email at Julian.Nadolny@cms.hhs.gov or by phone at 410-786-2274.

Usree Bandyopadhyay by email at Usree.Bandyopadhyay@cms.hhs.gov or by phone at 410-786-6650.