

## **MEDICARE ADVANTAGE/PRESCRIPTION DRUG BENEFIT**

### **2009 Application Instructions for Cost Plan Sponsors to Offer New Employer/Union-Only Group Waiver Plans (EGWPs)**

**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 4 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 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.

### ***Which Applicants Should Complete This Application?***

This application is to be used for Cost Plan Sponsors seeking to offer new Part D employer/union-only group waiver plans (EGWPs). **Please note that CMS’ employer group waiver authority only applies to the Part D portion of the coverage, not to Parts A and B. Thus, Cost Plans may only offer Part D Employer/Union-Only Group Waiver Plans as an optional supplemental benefit.** All applications are required to be submitted electronically in the Health Plan Management System (HPMS). Please follow the application instructions below and submit the required material in support of your application to offer “800 series” EGWPs.

**APPLICATION INSTRUCTIONS:**

This application must be submitted electronically through HPMS by ~~5:00 pm Eastern Time on~~ March \_\_, 2008, by the following entities applying to offer new “800 series” EGWPs:

- Existing Cost Plan Sponsors that currently offer plans to individual beneficiaries but that have not previously applied to offer Part D “800 series” EGWPs under this same contract.

***Using HPMS to Submit an Application***

In order to 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

***Separate Applications Required For Each Contract Number***

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

## **EGWP SERVICE AREA REQUIREMENTS**

| Cost plans are not eligible for an EGWP-specific service area expansion (i.e., cost plans must have the same service area for their EGWPs as for their individual plans).

**REQUEST FOR ADDITIONAL WAIVER/MODIFICATION OF  
REQUIREMENTS (~~OPTION~~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: 2009 Additional Waiver Request (Contract #: HXXXX)  
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, regulatory, and/or CMS policy requirement(s) the entity is requesting to be waived/modified (please identify and cite 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 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.

**ASSISTANCE:**

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

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

Usree Bandyopadhyay by email at [Usree.Bandyopadhyay@cms.hhs.gov](mailto:Usree.Bandyopadhyay@cms.hhs.gov) or by phone at 410-786-6650.

## EGWP Attestation for Contract \_\_\_\_\_

### 1. EGWP SERVICE AREA REQUIREMENTS

Cost Plan applicant understands that as a Cost plan with Optional Supplemental Part D “800 series” EGWPs, it can provide coverage to beneficiaries eligible for the EGWP throughout the service area where the applicant also offers individual plans.

NOTE: {Cost plan sponsor must have the same service area for its Part D EGWPs as its individual plan service area.}

☐ 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 Cost Plan Sponsor 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.

{Entity MUST complete for a complete application.}

### 2. CERTIFICATION

**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) In order to be eligible to offer employer/union-only group waiver plans, Applicant attests that it will only offer these plans in those areas where it is licensed and satisfies the requirement to offer individual plans [under this contract number](#).
- 3) Applicant attests that it will restrict enrollment in its employer/union-only group waiver 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 employer/union-only group waiver plans. (Section 3.2.6.A.1 of the 2009 Solicitation for Applications for New Cost Plan 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 (or will be sufficient prior to enrollment) 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. (Section 3.3.1.A.1 of the *2009 Solicitation for Applications for New Cost Plan Sponsors*).

6) Applicant understands that its employer/union-only group waiver 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 3.4.A.2 of the *2009 Solicitation for Applications for New Cost Plan Sponsors*)

7) 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 [www.medicare.gov](http://www.medicare.gov) and , Medicare Prescription Drug Plan Finder (“MPDPF”). (Sections 3.6.A and 3.15.A.20 of the *2009 Solicitation for Applications for New Cost Plan Sponsors*).

8) Applicant understands that dissemination materials for its employer/union-only group waiver 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 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 3.12.A.1 of the *2009 Solicitation for Applications for New Cost Plan Sponsors*).

9) Applicant understands that its employer/union-only group waiver 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), Formulary, and Evidence of Coverage (EOC) when an ~~employer~~[employer's](#) or union's open enrollment period does not correspond to the annual coordinated Medicare open enrollment period and/or an 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 of Change \(ANOC\) must be issued no later than April 30, 2008 \(two months before the beginning](#) of the plan year)~~)).~~[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 3.12.A.10 of the *2009 Solicitation for Applications for New Cost Plan Sponsors*).



10) Applicant understands that the dissemination requirements set forth in 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 9 of the MMCM. (Sections 3.12.A.1-2, 8 of the *2009 Solicitation for Applications for New Cost Plan Sponsors*).

11) Applicant understands that its employer/union-only group waiver 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 3.12.A.5 of the *2009 Solicitation for Applications for New Cost Plan Sponsors*).

12) Applicant understands that CMS has waived the requirement that the employer/union-only group waiver plans 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 employer/union-only group waiver plans. (Sections 3.4.A.9 and 3.21.A.2-4 of the *2009 Solicitation for Applications for New Cost Plan Sponsors*)

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 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.

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.

## Cost Plan (“800 series”) EGWP

17) 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 Cost Plan 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 Cost Plan Sponsor Contract with CMS. I have read and agree to comply with the above certifications.

{Entity MUST check box for a complete application.}

{Entity MUST create 800-series PBPs during plan creation and designate EGWP service areas.}