



Shannon Schuster  
Director, Regulatory Affairs  
Government Programs  
UnitedHealthcare  
3100 AMS Blvd  
Green Bay, WI 54313  
920-661-6217

To: Centers for Medicare and Medicaid Services  
*Submitted electronically via:* [www.regulations.gov](http://www.regulations.gov)

From: Shannon Schuster  
UnitedHealthcare  
UnitedHealth Group

Date: October 15, 2019

Re: *Applications for Medicare Prescription Drug Plan 2021 Contracts*

Attached are comments regarding the Applications for Medicare Prescription Drug Plan 2021 Contracts.

## Applications for Medicare Prescription Drug Plan 2021 Contracts

Comments Submitted by  
UnitedHealthcare  
10/15/19

UnitedHealthcare (UHC) appreciates the opportunity to provide input to CMS regarding the Applications for Medicare Prescription Drug Plan 2021 Contracts.

### Application

*3.1.1 Management and Operations 42 CFR Part 423 Subpart K (page 26) states:*

Applicant does not have any covered persons who also served as covered persons for an entity that nonrenewed a contract pursuant to 42 CFR §423.507(a), or that terminated its contract with CMS by mutual consent, pursuant to 42 CFR §423.508, or unilaterally, pursuant to 42 CFR §423.510, since January 1, 2017.

### Recommendation:

UHC believes that the January 1, 2017 date in this attestation is not correct. Based on the regulations cited in the attestation (§423.507(a), §423.508, §423.510), there is a **two year period** in which CMS will not contract with an entity for which its covered persons also served as covered persons for an entity that has nonrenewed or terminated its contract by mutual consent or at the Part D sponsors request. Since this is the application for the 2021 contract year, we believe that the appropriate date in the attestation above should be January 1, 2019.

The January 1, 2017 date may be based on the 38 months referenced in §423.503 (b)(3). This 38 month prohibition applies when **CMS terminates** a contract, not when the contract is terminated by mutual consent or at the Part D sponsor's request, as stated in §423.503 (b)(3) and (b)(4) below:

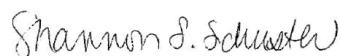
(b)(3) If CMS has terminated, under §423.509, or non-renewed... a Part D plan sponsor's contract, effective within the 38 months preceding the deadline established by CMS for the submission of contract qualification applications, CMS may deny an application based on the applicant's substantial failure to comply with the requirements of the Part D program even if the applicant currently meets all of the requirements of this part.

(b)(4) During the same 38-month period as specified in (b)(3) of this section, CMS may deny an application where the applicant's covered persons also served as covered persons for the terminated or non-renewed contract. A "covered person" as used in this paragraph means ...

We ask that CMS revise the attestation to reflect the two year time period applicable when an entity has terminated or nonrenewed its contract by mutual consent.

If you have any questions on these comments, please feel free to contact me at 920-661-6217.

Respectfully,



Shannon Schuster  
Director, Regulatory Affairs  
UnitedHealthcare  
UnitedHealth Group/UnitedHealthcare

Applications for Medicare Prescription Drug  
Plan 2021 Contracts