



Jennifer McKenna
Director, Medicare Regulatory Affairs
9800 Healthcare Lane
Minnetonka, MN 55343
952-931-5681

To: Centers for Medicare and Medicaid Services
Submitted electronically <http://www.regulations.gov>

From: Jennifer McKenna
UnitedHealthcare
UnitedHealth Group

Date: December 21, 2020

Re: Solicitation for Applications for Medicare Prescription Drug Plan 2022 Contracts

Attached for your consideration are UnitedHealthcare's comments regarding the Solicitation for Applications for Medicare Prescription Drug Plan 2022 Contracts put forth for comment on October 21, 2020.

Solicitation for Applications for Medicare Prescription Drug Plan 2022 Contracts

UnitedHealthcare (UHC) appreciates this opportunity to provide input to the Centers for Medicare and Medicaid Services (CMS) regarding the Solicitation for Applications for Medicare Prescription Drug Plan 2022 Contracts comment opportunity.

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, 2018.

Recommendation: UHC believes that the January 1, 2018 date in this attestation is not correct and should be updated to January 1, 2020. 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 sponsor's request. Since this is the application for the 2022 contract year, we believe that the appropriate date in the attestation above should be January 1, 2020.

The January 1, 2018 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) (“(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” and (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.”).

We therefore 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. Alternatively, we recommend that CMS have two separate attestations – one for the situation for when CMS terminates a contract (with the January 1, 2018 date) and one for the situation where the contract was nonrenewed or terminated by mutual consent (with the January 1, 2020 date).

If you have any questions on these comments, please feel free to contact me at 952-931-5681.

Respectfully,

Jennifer McKenna

Jennifer McKenna
Director, Medicare Regulatory Affairs
UnitedHealthcare