



EXPRESS SCRIPTS®

CMS 10/37

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September 6, 2007

CMS, Office of Strategic Operations and Regulatory Affairs  
Division of Regulations Development – C  
Attention: Bonnie L. Harkless  
Room C4-26-05  
7500 Security Boulevard  
Baltimore, Maryland 21244-1850

**Re:** Comments on the Solicitations for Applications

Dear Ms. Harkless,

Enclosed please find our comments on the 2009 Solicitation for PDP and MA-PD Applications. Please feel free to contact me with questions. Thank you for the opportunity to provide feedback.

Sincerely,

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## Comments on MA-PD & PDP Applications for 2009

| Section                            | Description  | Recommendation   |
|------------------------------------|--|--|
| 3.4, General Pharmacy Requirements | <p>Item two of this section reads:<br/> Applicant's network pharmacy contracts contain provisions governing providing Part D enrollees access to negotiated prices as defined in 42 CFR 423.100.</p>   | <p>We request that CMS clarify this section of the application to indicate if CMS is referring to the plan finder files. To protect the integrity of our pharmacy network and to ensure that convenient access is provided for all the plans we serve, ESI prefers not to provide beneficiaries with access to confidential provider agreement reimbursement rates as this requirement appears to infer. Since pharmacy reimbursement is negotiated confidentially between the provider and the payer(s) and is part of a proprietary and confidential Provider Agreement, providing this information to another entity, in this case a beneficiary, could impede future negotiations between the pharmacy and the payer and may, in fact, negatively impact beneficiary cost share in subsequent benefit years.</p> |
| 3.4.2, Out-of-Network Pharmacy     | <p>Item one of this section reads:<br/> "Applicant develops and operates a paper claims processing system designed to pay claims submitted by non-network pharmacies on behalf of Part D plan enrollees. Applicant processes claims according to the following standards:</p> <ul style="list-style-type: none"> <li>• 100% of claims requiring no intervention handled within 15 calendar days</li> <li>• 100% of claims requiring intervention handled within 30 calendar days</li> </ul> <p>99% of all manually keyed claims paid with no errors"</p> | <p>We request that CMS clarify this requirement to note that out-of-network claims are not paid to the out-of-network pharmacy, rather to the beneficiary using the out-of-network pharmacy.</p>   |