

**Kaiser Permanente Comments on
Draft Medicare Advantage Application**
Submitted electronically to <http://regulations.gov>
September 28, 2017

Kaiser Permanente appreciates the opportunity to provide comments on the Centers for Medicare & Medicaid Services' (CMS) draft MA Part D Application for CY 2019.

We are providing specific comments related to Section E of 3.1.1 Management and Operations 42 CFR Part 423 Subpart K; 2014 Call Letter of the Part D application, item number 10 states the following:

10. Contain language ensuring that the first tier, downstream, or related entity will make its books and other records available in accordance with 42 CFR §423.505(e)(2) and 42 CFR §423.505(i)(2). Generally stated, these regulations give HHS, the Comptroller General, or their designees the right to audit, evaluate and inspect any books, contracts, records, including medical records and documentation involving transactions related to CMS' contract with the Part D sponsor and that these rights continue for a period of 10 years from the final date of the contract period or the date of audit completion, whichever is later. 42 CFR §423.505(e)(2) and (i)(2).

Kaiser Permanente requests that CMS correct this language to reflect the updated regulatory language so that it states the following (changes in red text):

10. Contain language ensuring that the first tier, downstream, or related entity will make its books and other records available in accordance with 42 CFR §423.505(e)(2) and 42 CFR §423.505(i)(2). Generally stated, these regulations give HHS, the Comptroller General, or their designees the right to audit, evaluate and inspect any books, contracts, ~~records,~~ **computers or other electronic systems** (including medical records and documentation) involving transactions related to CMS' contract with the Part D sponsor and that these rights continue for a period of 10 years from the final date of the contract period or the date of audit completion, whichever is later. 42 CFR §423.505(e)(2) and (i)(2).

This language is also repeated in the following 5 appendices that are contract crosswalks:

- APPENDIX X – Crosswalks of Section 3.1.1E Requirements in Subcontracts submitted as Attachments to Section 3.1.1
- APPENDIX XI – Crosswalk for Retail Pharmacy Access Contracts
- APPENDIX XII – Crosswalk for Mail Order Pharmacy Access Contracts

- APPENDIX XIII – Crosswalk for Home Infusion Pharmacy Access Contracts
- APPENDIX XV – Crosswalk for Indian Tribe and Tribal Organization, and Urban Indian Organization (I/T/U) Pharmacy Access Contracts.

Kaiser Permanente appreciates the opportunity to comment on the draft Part D Application. Please contact Winston Lawrence at (510).507-0510 or winston.d.lawrence@kp.org if you have any questions or if we can provide additional information.