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MEMORANDUM

DATE September 21, 2009

TO: All Medicare Advantage Organizations, Medicare Advantage-Prescription Drug Organizations, Cost Based Organizations and Demonstration Plans

FROM: Teresa DeCaro, RN, M.S. /s/
Acting Director, Medicare Drug and Health Plan Contract Administration Group

SUBJECT: Misleading and Confusing Plan Communications to Enrollees

CMS has recently learned that some Medicare Advantage (MA) organizations have contacted enrollees alleging that current health care reform legislation affecting Medicare could hurt seniors and disabled individuals who could lose important benefits and services as a result of the legislation. The communications make several other claims about the legislation and how it will be detrimental to enrollees, ultimately urging enrollees to contact their congressional representatives to protest the proposals referenced in the letter.

Our priority is ensuring that accurate and clear information about the MA program is available to our beneficiaries. Thus, we are concerned about the recent mailings as they claim to convey legitimate Medicare program information about an individual's specific benefits or other plan information but instead offer misleading and/or confusing opinion and conjecture by the plan about the effect of health care reform legislation on the MA program and other information unrelated to a beneficiary's specific benefits. Further, we believe that such communications are potentially contrary to federal regulations and guidance for the MA and Part D programs and other federal law, including HIPAA. As we continue our research into this issue, we are instructing you to immediately discontinue all such mailings to beneficiaries and to remove any related materials directed to Medicare enrollees from your websites. If you have any questions about whether plan communications comply with the MA program requirements and guidance and federal law, we urge you to contact your Regional Office account manager.

Please be advised that we take this matter very seriously and, based upon the findings of our investigation, will pursue compliance and enforcement actions.