



**MEDICARE DRUG AND HEALTH PLAN CONTRACT ADMINISTRATION GROUP**

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**DATE:** June 5, 2009

**TO:** All Medicare Advantage Organizations (MAO), Prescription Drug Plan (PDP) Sponsors, and 1876 Cost Plans

**FROM:** Teresa DeCaro, Acting Director  
Medicare Drug & Health Plan Contract Administration Group

**SUBJECT:** 2009 Medicare Advantage and Prescription Drug Program Agent and Broker Compensation Refinements and Compensation Rate Adjustment for 2010

On January 16, 2009, CMS released its analysis of the compensation data submitted by MA and Part D plan sponsors in November 2008. The result of this analysis was the establishment of the national cut-off for fair market values (FMV)—\$400 for health plans and \$50 for prescription drug plans for initial compensation—with some exceptions for specific states.

**Compensation Refinements for 2009**

We have now completed our analysis of the compensation data submitted by plan sponsors and are establishing a low-end FMV cut-off, in addition to the high-end FMV cut-off established in January, in order to create an FMV range that represents permissible compensation amounts that are commensurate with market rates as contemplated in CMS-4138-IFC2 (see 42 CFR 422.2274(a)(1) and 423.2274(a)(1)).

In order to ensure that there is a more level playing field with regard to agent and broker compensation, we are requiring all plans to select a compensation amount that is within the FMV compensation range. Plans with compensation amounts already in this range are permitted, though not required, to change their current compensation amount, provided the new amount is within the FMV compensation range. This amount will become the new 2009 compensation amount and will be effective from the time of submission to CMS on July 1, 2009, through the remainder of 2009.

The chart below summarizes the FMV ranges for health plans and PDPs.

MA and Cost Plans				
	Puerto Rico	National	Connecticut, Pennsylvania, District of Columbia	California New Jersey
Initial	\$174 - \$274	\$300 - \$400	\$350 - \$450	\$450 - \$500
Renewal	\$87 - \$137	\$150 - \$200	\$175 - \$225	\$225 - \$250
PDPs				
Initial	\$46 - \$50			
Renewal	\$23 - \$25			

This resubmission is important in terms of accomplishing CMS' goal of creating incentives for agents and brokers to help Medicare beneficiaries select plans based on the beneficiary's health care needs rather than the agent's or broker's financial interests. Additionally, plan sponsors should keep in mind that the compensation amount they select for the remainder of 2009 will be used to determine the amount for 2010.

Plan sponsors must submit revised compensation schedules to [CMSBroker@lmi.org](mailto:CMSBroker@lmi.org) by July 1, 2009 consistent with the instructions in Appendix 1. We have contracted with LMI to provide technical assistance to organizations submitting compensation data. If your organization requires technical assistance, you may contact Jim O'Keiff at LMI at 703-917-7236.

### **Compensation Rate Adjustment for 2010**

42 CFR 422.2274(a)(1)(ii)(A) and 423.2274(a)(1)(ii)(A) require that for 2010 and subsequent years, the compensation amount paid to an agent or broker for an enrollment be the prior year's compensation adjusted by the change in MA or Part D rates in the "Announcement of Calendar Year (CY) 2010 Medicare Advantage Capitation Rates and Medicare Advantage and Part D Payment Policies."

In April 2009, CMS released the rate announcement for CY 2010 (<http://www.com.hhs.gov/MedicareAdvvtgSpecRateStats/Downloads/Announcement2010.pdf>). As provided on pages 4 and 37 of the rate announcement, MA rates increased by 0.81% and the Part D rates increased by 5.79%.

Compensation rates for 2010 must therefore be adjusted as follows:

2010 compensation amount = 2009 compensation amount \* MA or Part D rate % change.

For example, if an MA plan paid agents \$400 in 2009, it would pay \$403 to agents in 2010:

$$\$400 + \$400*(0.0081) = \$403$$

Similarly, for a PDP that paid agents \$50 in 2009, it would pay \$53 to its agents in 2010:

$$\$50 + \$50*(0.0579) = \$53$$

When calculating the compensation rates for 2010, plan sponsors should round to the nearest dollar using the following convention: amounts of 50 cents or more should be rounded up to the nearest dollar and amounts less than 50 cents should be rounded down to the nearest dollar.

Please note that we are considering ways of providing beneficiaries with plans' initial and renewal compensation amounts for 2010.

If you have questions regarding the information contained in this memorandum, please send them to [RegulationQuestions@cms.hhs.gov](mailto:RegulationQuestions@cms.hhs.gov).

## Appendix 1 – Instructions for Submitting Revised 2009 Compensation Schedules

- **Compensation Certification:** Please complete and send to CMS the compensation certification found at Attachment A to this document. Attachment A certifies that an organization's 2009 broker compensation structure meets the requirements outlined in this letter. The organization's chief executive officer or other authorized official should sign it. Acceptable formats for Attachment A are PDF or other image file (we need to see the signature).
- **Agent Compensation Workbook:** Please submit your revised 2009 compensation data by changing the currently approved version of Attachment 4 to Abby L. Block's letter dated November 7, 2008 on agent/broker compensation. Please modify (as needed) only the three 2009 tabs of the agent compensation workbook. They are "2009 Marketing Orgs," "2009 Writing Agents (Plan Paid)," and "2009 Writing Agents (M.O. Paid)." Do not modify or delete the information contained in the 2006, 2007, and 2008 tabs. Do not modify or delete column headings. Do not delete columns. Do not enter text or dollar signs in the data cells. Please remember that the values in the tab called 2009 Marketing Orgs should reflect only the compensation retained by the marketing organizations after paying agent compensation. The only acceptable format for Attachment 4 is .XLS.

Organizations are not required to submit documentation if they do not have any changes to currently approved broker compensation rates for 2009. We have contracted with LMI to provide technical assistance to organizations submitting compensation data. If your organization has any difficulty locating the currently approved electronic version of Attachment 4, please contact Paul Costello at (571) 633-7769. If your organization requires technical assistance, you may contact Jim O'Keiff at 703-917-7236.

Please e-mail the new compensation certification and the modified agent compensation workbook to [CMSBroker@lmi.org](mailto:CMSBroker@lmi.org) by July 1, 2009.