

November 1, 2011

Jon Blum, Director, Center for Medicare  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Hubert H. Humphrey Building  
200 Independence Avenue, SW  
Washington, DC 20201

**Subject: Concerns with Medicare Part D Preferred Network Plans and Co-Branding**

Dear Jon:

Following up on concerns that the National Community Pharmacists Association (NCPA) raised with you last year regarding the 2011 Humana Walmart-Preferred Rx Plan, we are writing you again to identify additional problems that we have observed with regard to new Part D preferred network plans for the 2012 plan year. To protect the interests of Medicare beneficiaries, we respectfully ask that CMS take immediate action to rectify these situations.

We believe the Medicare Part D prescription drug program has helped and continues to improve seniors' health by increasing access to medications and pharmacy services. Moreover, the cornerstone of the Part D program is improving senior access to pharmacy benefits and improving the quality of those benefits. However, NCPA is specifically concerned about the movement, over time, toward more Part D preferred network plans. As you know, we do not believe that the MMA authorizes the establishment of such preferred networks. This movement towards more restrictive networks poses serious questions in terms of the quality of care patients receive, possible marketing violations, pharmacy network adequacy issues, and complex benefit design issues.

*NCPA respectfully requests that CMS take the following actions immediately:*

- *Prevent preferred pharmacies from inappropriately steering patients to their associated network plan through tactics such as direct links on their websites to the preferred Part D plans and outbound phone calls encouraging beneficiaries to visit the preferred pharmacy website;*
- *Correct the Medicare Plan Finder tool so that it makes clear to beneficiaries that they have to go to a specific pharmacy to receive lower-cost prescription drug cost sharing associated with preferred network plans;*
- *Require preferred network plans to openly and transparently state via all communications that the associated low drug costs are only available when obtaining drugs from the preferred pharmacy and/or mail order pharmacies; and*
- *Ensure that preferred network plans do not include the preferred pharmacy name or logo on the member identification card and take immediate action to remedy any violations.*

**Number of Part D Preferred Network Plans Rapidly Increasing:** We have identified six Part D preferred network plans, three of which are new for 2012. The number of Part D preferred network plans **increased by 50%** in a single year. The three existing plans are Humana Walmart-Preferred Rx Plan, AARP Medicare Rx Preferred, and CVS Caremark Plus. The three new plans are First Health Part D Value Plus, Aetna CVS/Pharmacy Prescription Drug Plan, and Rite Aid EnvisionRxPlus.

The doubling of the number of preferred network plans is very troubling, particularly in light of the star ratings that these plans have received from CMS. CMS developed star ratings as a measure of quality for Part D plans. The report card on the existing preferred network plans, to date, is not good. In terms of national plans, the average beneficiary has a choice of 31 stand alone PDPs for 2012. However, nationwide there are six preferred network plans as outlined above. Those six preferred network plans have an average star rating of only 2.75, whereas the average star rating across all plans, unweighted by enrollment, is 3.2.<sup>1</sup> If the star rating trend of the six preferred network plans were to continue for three consecutive years, half of the preferred network plans (Aetna CVS/Pharmacy Prescription Drug Plan, First Health Part D Value Plus and Rite Aid EnvisionRxPlus) would potentially be terminated by CMS for a failure to obtain at least a 3 star rating.

Moreover, if the lower star ratings of existing preferred network plans are illustrative of the type of star ratings to expect from other future preferred network plans, then Part D patient quality care may be hindered. First, the low star ratings of the preferred network plans bring down and will continue to bring down the average star ratings for all plans. Second, the current plan landscape provides only 11% of beneficiaries with access to a 5 star Part D plan.<sup>2</sup> None of those 5 star plans are preferred network plans. Accordingly, in the future, if the number of preferred network plans increases, while the number of open network plans decreases, then patient access to 4 and 5 star plans may decrease, as well.

**Narrow Pharmacy Network Plans Engage in Inappropriate Beneficiary Steering:** Part D preferred network plans limit patient access and increase drug costs through their blatant patient steering efforts and their ability to create beneficiary confusion. As to the former, NCPA has examined the websites of CVS, Walmart, Walgreens and Rite Aid and each website blatantly steers website visitors to the preferred plan featuring that pharmacy. This is a direct violation of marketing guidelines. Of all four, only CVS appears to have a “small print” disclaimer that the respective pharmacies do not endorse a particular Part D plan. The websites for these four pharmacies even provide one-click direct web links to the respective enrollment websites for the Part D preferred plans featuring these pharmacies. By comparison, in 2011, Walmart’s website did not provide direct links to Humana Walmart-Preferred Rx Plan’s enrollment website. We have attached screen shots from the websites of various preferred provider plans illustrating this improper beneficiary steering behavior.

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<sup>1</sup> Avalere Health, 2012 CMS Star Ratings: Availability of High Performing Plans for Medicare Beneficiaries, October 2011, located at [http://www.avalerehealth.net/pdfs/Avalere\\_LIS\\_slides.pdf](http://www.avalerehealth.net/pdfs/Avalere_LIS_slides.pdf).

<sup>2</sup> Id.

As another example of inappropriate steering, NCPA is aware that CVS pharmacy is calling Medicare eligible beneficiaries to inform them of the 2012 Part D Annual Enrollment Period and to also encourage them to go to [www.cvs.com/medicare](http://www.cvs.com/medicare) or visit their local CVS pharmacy to find out if “they or their loved ones could save on overall medication costs in 2012 just by changing Medicare Part D plans.” Although they note that CVS pharmacy doesn’t recommend any particular Part D plan, NCPA contends that these phone calls are a blatant violation of the marketing guidelines once the beneficiary is told to go to a specific website for more information that steers them to the preferred plan featuring that pharmacy, as discussed above.

NCPA believes that the preferred pharmacies and current Part D preferred plans are coordinating aggressive and completely inappropriate marketing campaigns designed to push as many patients as possible into Part D preferred network plans. We consider this to be improper steering of patients by a provider to a particular Part D plan.

**Immediate Action Should be Taken Against Preferred Network Plans Marketing Violations:**

One glaring problem with the Medicare Plan Finder tool is that it contains no obvious information for beneficiaries on the fact they have to go to a specific pharmacy to receive specific lower-cost prescription drug cost sharing. NCPA asks CMS to address this immediately.

To make matters worse, the Part D preferred network plans mislead and confuse beneficiaries to further enhance the likelihood that beneficiaries will choose a preferred plan over an open network plan. The Part D preferred network plans, through marketing materials and their websites, place heavy emphasis on the potential savings for patients if they obtain certain specified drugs from the designated preferred pharmacy, regardless of how far away that pharmacy may be located from the beneficiary. However, in educating beneficiaries, the plans choose to place little emphasis on the fact that if the beneficiary joins the preferred network plan, then he or she will face significantly higher costs, should he or she choose to obtain medications from a non-preferred pharmacy. We have attached two Humana Walmart-Preferred Rx Plan ads as an example of misleading marketing.

In 2011, many of our members told us anecdotal stories in which their patients joined the Humana Walmart-Preferred Rx Plan and later expressed shock to their community pharmacist at the high drug costs that they faced when attempting to fill medications at their community non-preferred pharmacies. Some elderly patients neither fully understand all of the plan choices nor the significance of signing up for a preferred versus an open network plan. Part D preferred network plans take advantage of this weakness.

Other marketing issues include Part D preferred network ads on the plan websites, which are materially misleading. For example, Rite Aid EnvisionRxPlus’ website prominently talks about \$0 deductibles and \$0 copays on over 500 generic drugs. However, the ad does not educate the patient whether or not these “bonuses” and “incentives” are only applicable if the patient uses the preferred Rite Aid pharmacy. This example is included in our attachment of website screen shots.

Also, regarding co-branding prohibitions on member identification cards, NCPA urges CMS to ensure that neither preferred pharmacy names nor preferred pharmacy logos are included on identification cards associated with the Part D preferred network plans. CMS co-branding rules, which are clearly stated in Chapter 3 of the Medicare Marketing Guidelines, 30.3.1, provide:

*In addition to the above requirements, plan sponsors are prohibited from displaying the names and/or logos of co-branded network providers on the plan sponsor's member identification card, unless the provider names, and/or logos are related to a member's selection of a specific provider/provider organization (for example, physicians, and hospitals).*

Within the context of preferred provider network Part D plans, inclusion of either the pharmacy name or the logo is a patent violation of the CMS co-branding rules. That is, the name or logo of the preferred pharmacy cannot appear anywhere on the beneficiary card. NCPA appreciates CMS' close monitoring of this situation and requests that CMS take swift action against any violators of the co-branding rules.

**Part D Preferred Network Plans Obtain Lower Than Average Quality Ratings:** Focusing on specific measures, the attached chart illustrates the somewhat poor quality ratings earned by Part D preferred network plans. In terms of problems with patient access to services, CMS has reported on the Medicare Plan Finder online tool that Aetna CVS/Pharmacy Prescription Drug Plan, AARP Medicare Rx Preferred and CVS Caremark Plus only receive **a single star**. In light of these ratings, not surprisingly, patients are voting with their feet. For example, 23% of Aetna CVS/Pharmacy Prescription Drug Plan patients and nearly 10% of Humana Walmart-Preferred Rx patients chose to leave these plans last year.

Turning to patient safety measures, almost a quarter of AARP Medicare Rx Preferred, CVS Caremark Plus and Humana Walmart-Preferred Rx Plan beneficiaries received prescriptions, through their plans, for drugs with a high risk of side effects, when there were safer alternatives available. For all six of the preferred network plans, only 75% or fewer beneficiaries with a prescription for oral diabetes medication took the medication as directed; an indicator of sub-par adherence. For all six plans, the percentage of patients taking their blood pressure medication as directed was similarly less than ideal. And percentages in terms of patient adherence to cholesterol medications were even worse than for oral diabetes medications and blood pressure medications.

With regard to patient care, these numbers and statistics are cause for concern. A recent report by Avalere Health notes that CMS' plan ratings are increasingly moving towards measuring plan quality on the basis of patient outcomes, such as medication adherence, as opposed to process-based measures.<sup>3</sup> NCPA supports CMS' movement towards outcome based measures and we believe that CMS' transition will prove valid our arguments that preferred network plans can have a negative impact on patient health outcomes and not vice versa.

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<sup>3</sup> Id.

**Patient Access Hindered by Preferred Network Plans:** In addition to the quality related concerns raised by Part D preferred plans, such plans also portend future patient access issues, as well. As illustrated above, with regard to national plans, almost 20% of beneficiaries' Part D options are preferred network plans. In 2011, that percentage was a little under 13%. At this rate, in the future, Part D beneficiaries will have few options for open network Part D plans. This is problematic, particularly for rural beneficiaries, who may not have convenient access to one of the pharmacies listed as "preferred" by the preferred plans. Those pharmacies tend to be large national chain drug stores, which are much more prevalent in cities and in the suburbs than in rural America. Accordingly, as the number of preferred plans grow and the number of open network plans shrinks, many rural beneficiaries may be forced to obtain medications from non-preferred pharmacies, and to obtain such medications at higher costs.

Last year, we relayed to you our pharmacy network access concerns, focusing on Humana Walmart-Preferred Rx Plan's pharmacy network. As we discussed last year, we believe that these preferred provider networks are overly restrictive and discriminatory. The Part D TRICARE pharmacy network law, regulations and guidelines implement pharmacy network adequacy requirements in order to help assure that beneficiaries can continue to have access to a community pharmacist of their choice. In contravention of the Part D network adequacy requirements, these preferred provider plans create uneven access to pharmacies and disrupt existing beneficiary access to community pharmacists, a relationship that NCPA believes is as valuable as the physician-patient relationship.

CMS's own regulations at 423.272(b)(2) indicate that "*CMS does not approve a bid if it finds that the design of the plan and its benefits...are likely to substantially discourage enrollment by certain Part D individuals under the plan.*" To the contrary, individuals who do not live near a preferred pharmacy are likely to be discouraged from enrolling in a preferred network plan. If they enroll in the plan not fully knowing that their pharmacy is not in the network because of deceptive marketing practices, we believe that beneficiary is being discriminated against.

In the end, the lack of sufficient network pharmacies, especially in rural areas, means that many beneficiaries have to drive quite a long distance just to access a preferred pharmacy. NCPA believes that these geographical access problems violate Medicare policy that requires there to be access to consistent cost sharing in a plan's service area within a State. In sum, Part D preferred network plans decrease patient access and increase patient costs.

**Conclusion:** NCPA continues to express strong concerns that the gains made by Part D in improving medication use and reducing other medical expenditures will be reversed if the patient-pharmacist relationship is disrupted. Such disruption will continue to occur and get worse, unless CMS takes action to prevent restrictive pharmacy networks from becoming commonplace in Part D plans. We are concerned that CMS views pharmacies as interchangeable, while most consumer surveys clearly indicate that patients prefer to obtain their medications from community pharmacies, not mail order outlets, large chains or big box pharmacies. In fact, most studies show that medication adherence rates are improved through the face to face counseling of community-based pharmacies.

Regarding our request for immediate action, NCPA believes the examples discussed above are strongly indicative of marketing violations. We ask that CMS force the plan sponsors to remedy these apparent violations, such as direct links from preferred pharmacy websites to the corresponding preferred network Part D plan, and to enjoin any further use of these misleading materials. In addition, NCPA asks that the Medicare Plan Finder tool be corrected to highlight the necessity to utilize specific preferred pharmacies to receive specific lower-cost drug sharing. NCPA also requests that CMS immediately ask each preferred network plan sponsor to clarify all advertisements to make abundantly clear that the advertised low drug costs can only be obtained at the preferred pharmacy and/or mail order pharmacies. And finally, CMS should ensure that preferred network plans do not include the preferred pharmacy name or logo on member identification cards.

We appreciate CMS' increasing focus on patient outcomes in terms of plan ratings and believe that such a focus may end some preferred pharmacy networks. This year's star ratings illustrate the challenges preferred pharmacy networks face in achieving positive patient health outcomes. At the same time, NCPA believes that CMS must take action to broaden Part D plan networks to improve patient access, crack down on patient steering, and crack down on misleading and confusing marketing to Part D beneficiaries. Thank you for your prompt attention to our concerns.

Sincerely,

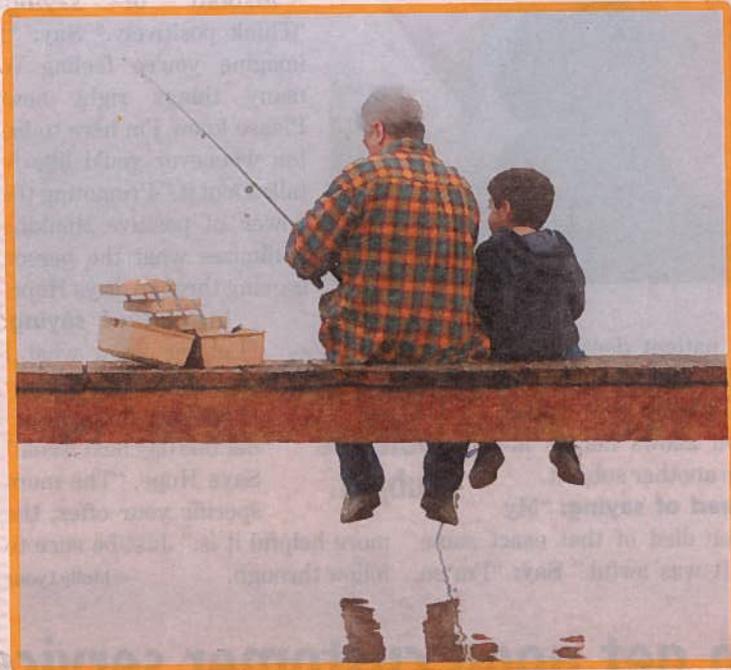


John M. Coster, Ph.D., R.Ph.  
Senior Vice President, Government Affairs

cc: United States Senate Finance Committee  
United States House of Representatives Committee on Ways and Means  
United States House of Representatives Committee on Energy and Commerce

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\*2012 CMS PDP Landscape Report <https://www.cms.gov/PrescriptionDrugCovGenIn/>. †After deductible. Applies only to drugs covered by Part D. ‡Based on Humana and Centers for Medicare & Medicaid Services enrollment data for the period 12/31/2010 – 07/31/2011. The Humana Walmart-Preferred Rx Plan (PDP) is a stand-alone prescription drug plan with a Medicare contract available to anyone entitled to Part A and/or enrolled in Part B of Medicare. You may enroll in the plan only during specific times of the year. You must continue to pay your Medicare Part B premiums. You must use network pharmacies except under non-routine circumstances. Other pharmacies are available in the Humana network. Quantity limitations and restrictions may apply. The benefit information provided herein is a brief summary, not a comprehensive description of benefits. Other plans may be available in the service area. For more information contact the plan. The "Spark" Design \*, Walmart and Save money. Live better. are marks and/or registered marks of Wal-Mart Stores, Inc. © 2011 Wal-Mart Stores, Inc.



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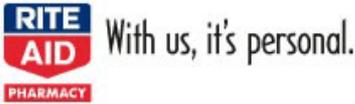
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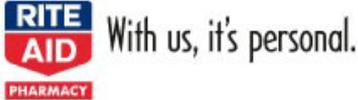
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## Humana Walmart-Preferred Rx Plan (PDP)†

Choose the Medicare prescription drug plan with the *lowest national premium\** and start saving.

Plan Premium	In-Store Copay**
<b>\$15.10</b> per month	as low as <b>\$1</b> after deductible

For more information, find Humana kiosks in [select Walmart stores](#) or visit [Humana-Medicare.com](#).

\*\*When filled at Walmart, Sam's Club, Neighborhood Market and Walmart Express.



## Compare Plans

Enter your ZIP code to compare plans in your area.

## Three Ways to Enroll

### Online

Use Humana's secure online form to enroll now and get more information.

### Call

Call Humana at **1-800-899-0542**. If you use a TTY, call 711, 8 a.m. to 8 p.m., 7 days a week.

### Walmart In-Store

Visit a Humana kiosk in select Walmart stores. [Find a location](#).

## Get Answers

Learn more about eligibility, enrollment and how the Humana Walmart-Preferred Rx

## Key Dates

- OCT 15** Annual enrollment period begins.
- DEC 7** Annual enrollment period ends.
- JAN 1** Coverage begins for 2012.

## Video



Watch this video to learn more about the Humana Walmart-Preferred Rx Plan (PDP).

# First Health Part D Plan - Walgreens



*First Health Part D helps you put First things first!*

## Expect more from First Health Part D Value Plus (PDP) — wellness, value and savings in one plan!

We care about your prescriptions, and your wellness too! First Health Part D *Value Plus* does more when it comes to your health by offering value-added services\* at Walgreens, a *Value Plus* preferred pharmacy.

### First Health Part D (PDP) Value Plus offers:

- Low monthly plan premium
- No annual deductible
- \$0 copays for preferred generic drugs at preferred pharmacies—including Walgreens (\$7 at other network pharmacies)

**PLUS** — quarterly vouchers for select vitamins and supplements,\* provided exclusively to Value Plus members for use at our preferred pharmacies, like Walgreens.

The Walgreens logo, featuring the word "Walgreens" in its signature red script font.



Enroll Online

Enroll by Phone

### Medicare Part D Preferred Plans 2012 Ratings:

CMS developed a plans rating system using ‘stars’ to rate Medicare prescription drug plans (PDPs) based on quality. The plan ratings are featured on the Medicare Plan Finder tool for beneficiaries and caregivers to use when comparing PDPs. The plans’ overall rating of 1 through 5 stars is based on several factors, but presented as a single summary score for easier comparison. NCPA is concerned that beneficiaries may be receiving messages about “preferred networks” and/or urged to enroll in them. The information provided is for pharmacist education and awareness only, and not intended to be shared with beneficiaries who are seeking assistance with choosing a plan.

Prescription Plan Name Organization	Summary rating of prescription drug plan quality (out of 5 stars)	Drug Plan Member Complaints and Problems Getting Services			Patient Safety				
		Complaints about drug plan (per 1000 members)	Problems with access to services <sup>1</sup> (out of 5 stars)	Members choosing to leave plan (%)	Safer alternatives for 65 and older <sup>2</sup>	Recommended BP meds for Diabetes <sup>3</sup>	Oral diabetes <sup>4</sup>	Blood Pressure <sup>5</sup>	Cholesterol <sup>6</sup>
<b>Aetna CVS/Pharmacy</b> Aetna Medicare	★★★ 1/2	0.21	★	23	16.70%	81.80%	72.70%	71.90%	69.40%
<b>AARP MedicareRx Preferred</b> United Healthcare	★★★★	0.22	★	6	23.90%	81.00%	74.60%	74.90%	70.50%
<b>CVS Caremark Plus</b> SilverScript Insurance Company	★★★★	0.26	★	8	24.30%	82.20%	74.70%	72.50%	70.90%
<b>First Health Part D Value Plus</b> First Health Part D/Coventry	★★★ 1/2	0.16	★★★	36	21.30%	82.90%	70.40%	70.20%	67.80%
<b>Humana Walmart-Preferred Rx</b> Humana Insurance Company	★★★★	0.42	★★★★★	9	24.20%	81.50%	75.00%	75.00%	70.70%
<b>Rite Aid EnvisionRx Plus</b> EnvisionRx Plus	★★★ 1/2	0.21	★★★★	25	20.30%	82.00%	69.70%	67.00%	64.10%
<b>MedicareBlue Rx Premier<sup>7</sup></b> Medicare Blue Rx	★★★★★	0.11	★★★★	6	13.50%	82.20%	84.50%	83.50%	78.80%

<sup>1</sup> Problems Medicare Found during CMS audits in Members’ Access to Services and in the Plan’s Performance (more stars are better because it means fewer serious problems)

<sup>2</sup> Plan Members 65 and Older Who Received Prescriptions for Certain Drugs with a High Risk of Side Effects, When There May Be Safer Drug Choices

<sup>3</sup> Using the Kind of Blood Pressure Medication That Is Recommended for People with Diabetes

<sup>4</sup> Taking Oral Diabetes Medication as Directed: percent of plan members with a prescription for oral diabetes medication who fill their prescription often enough to cover 80% or more of the time they are supposed to be taking the medication. (“Oral diabetes medication” means a biguanide drug, a sulfonylurea drug, a thiazolidinedione drug, or a DPP-IV inhibitor. Plan members who take insulin are not included.)

<sup>5</sup> Taking Blood Pressure Medication as Directed: percent of plan members with a prescription for a blood pressure medication who fill their prescription often enough to cover 80% or more of the time they are supposed to be taking the medication. (“Blood pressure medication” means an ACE (angiotensin converting enzyme) inhibitor or an ARB (angiotensin receptor blocker) drug.)

<sup>6</sup> Taking Cholesterol Medication as Directed: percent of plan members with a prescription for a cholesterol medication (a statin drug) who fill their prescription often enough to cover 80% or more of the time they are supposed to be taking the medication.

<sup>7</sup> Information provided for comparative purposes, this is not a preferred plan, but a PDP that received a 5-star rating