

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Center for Medicare  
7500 Security Boulevard, Mail Stop C4-21-26  
Baltimore, Maryland 21244-1850



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

July 28, 2011



Dear 



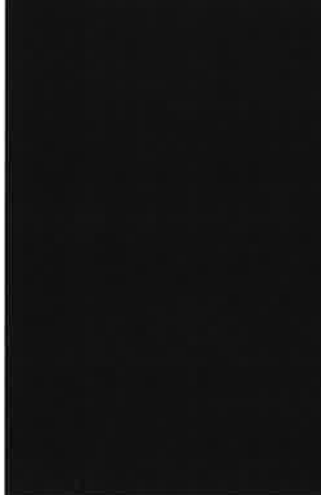
On January 7, 2010 the Veterans Health Administration (VHA) awarded funds to VA Medical Centers (VAMCs) to pursue and implement service agreements with PACE organizations to coordinate prescription drug delivery between the VA and PACE on behalf of veterans enrolled in PACE. As described in a Department of Veterans Affairs memorandum to its Network Director dated November 4, 2009, Fiscal Year (FY) 2010 VHA funds will be awarded and renewed, given acceptable 2010 progress reports through FY 2011. It is the expectation that projects will have demonstrated their worth and will continue in FY 2012 and beyond. The VA Medical Centers (VAMC) and PACE organizations with which they will enter into agreements are identified below:

**Veterans Integrated**

**Service Network (VISN)**

**VAMC**

**PACE**

Service Network (VISN)	VAMC	PACE
		

Currently, PACE enrollees who are also eligible for VA benefits do not have access to the VA prescription drug benefit. Specifically, PACE regulations at 42 C.F.R. Part 460.92 require that the PACE benefit package include, among other things, all Medicare-covered items and services, including Medicare Part D prescription drug coverage. In addition, Part D regulations at 42

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*This information has not been publicly disclosed and may be privileged and confidential. It is for internal government use only and must not be disseminated, distributed, or copied to persons not authorized to receive the information. Unauthorized disclosure may result in prosecution to the full extent of the law.*

C.F.R. Part 423.30(c) require PACE enrollees to obtain their prescription drug benefits from their PACE organization. As a result, PACE enrollees who are also eligible for VA benefits currently receive prescription drug coverage through their PACE organization. Medicare-only PACE veterans are particularly affected by this requirement as they are responsible for paying a significant Medicare Part D premium to the PACE organization to obtain the coverage.

We understand that the proposed arrangements between the VA and PACE would benefit veterans by facilitating coordination of prescription drug benefits between the VA and Medicare. PACE veterans would be permitted to receive their prescriptions from the VA, thus relieving them of the Medicare Part D premium obligations that currently exist.

As your organization is one of the PACE organizations that have been selected to enter into an agreement with a VAMC we are granting your organization a **conditional, organization-wide waiver of \$460.92 of the PACE regulation** under the authority of section 903 of the Benefits Improvement and Protection Act (BIPA) of 2000. This waiver will permit any participant in your organization who is eligible for VA drug coverage to choose to receive their prescription drug coverage through the VA and avoid paying the Medicare Part D premium.

This waiver approval will be effective as of the date of this letter and upon execution of a provider agreement between the VAMC listed above and your organization that shall include the following provisions that have been prior approved by CMS:

- In accordance with §460.102(c) the PACE primary care physician will manage the VA-eligible participants' care.
- Prescriptions will be ordered by the PACE primary care physician in accordance with the individual's care plan. The VA shall dispense the prescription as ordered by the PACE primary care physician and not impose step therapy, prior authorization or other such cost saving mechanisms.
- If the prescription is not available from the VA formulary, the prescription shall be provided by the PACE organization.
- In the event of any future non-renewal or termination of the VAMC/PACE provider agreement, VA-eligible PACE participants who have elected to receive their drug coverage through the VA must be notified, at a minimum, 60 days prior to the non-renewal or termination. At such time, VA-eligible PACE participants shall also be notified that they will be required to receive their prescription drug coverage through the PACE organization. In the absence of the VA/PACE prescription drug provider agreement that permits the VA-eligible PACE participants to receive prescription drug coverage from the VA, these individuals may become responsible for paying the Medicare Part D premium depending on Medicare/Medicaid eligibility status.

The terms and conditions of these provisions may not be altered without prior written authorization of CMS, the state administering agency and the VA.

We are also granting your organization a **waiver of §423.30(c) of the Medicare Part D regulations** that requires Medicare Part D eligible individuals to obtain qualified prescription drug benefits through their PACE organization. This waiver is being issued under the authority of §423.458(d) to improve coordination of Part D with the benefits offered by the PACE

organization. This waiver is authorized to facilitate offering PACE benefits to VA-eligible individuals who have access to drugs through the VA and voluntarily choose to forego Medicare Part D coverage.

PACE organizations participating in this waiver will be required to review their Monthly Membership Report (MMR) from CMS on a monthly basis and promptly identify and report to CMS the PACE members enrolled subject to this waiver each month. This reporting will allow CMS to deduct the Part D subsidy payments from the PACE organization's next monthly payment for those individuals who elect to receive their prescription drugs through the Veterans Administration. (INSERT PO NAME) must submit this information each month no later than the Plan Data Due Date on the MARx Monthly Schedule. The current schedule may be obtained by going to the MAPD Help Desk website ([www.cms.gov/MAPDHelpDesk](http://www.cms.gov/MAPDHelpDesk)) and following the link on the left-hand side of the page to the Plan Communications Users Guide. The schedule is located in Appendix C of the Guide.

The PACE organization will first be required to establish a Point of Contact (POC) for the required monthly reporting. Please email the following information to [CPC\\_DPO@cms.hhs.gov](mailto:CPC_DPO@cms.hhs.gov), with "PACE – VA POC" in the subject line:

- Name of PACE Organization
- Contract Number
- POC Name
- POC Email Address
- POC Phone Number

Following receipt of the POC information, CMS will provide further details to the designated POC for the required monthly reporting. A spreadsheet format will be provided. The PACE organization will locate the following information on the MMR for PACE participants who have elected VA coverage, complete and email the spreadsheet to [CPC\\_DPO@cms.hhs.gov](mailto:CPC_DPO@cms.hhs.gov), with "PACE – VA Payments for Payment Month mm/yyyy" in the subject line. Item numbers below refer to the Monthly Membership Detail Data File record layout (see Plan Communications Users Guide, Appendix E.9):

- Contract Number (#1)
- PBP Id (#45)
- HICN (#4)
- Last Name (#5)
- Sex (#7)
- Date of Birth (#8)
- FIRST Payment Month (#3)
- Total Part D Payment (#77)

The monthly spreadsheet must contain ALL applicable participants with payments or adjustments on that month's MMR, including those reported in prior months along with new participants electing VA coverage. The FIRST Payment Month will indicate which participants are new (because the date in the spreadsheet detail line will match the date in the subject line of the email).

The Part D payments for participants electing VA coverage will be deducted from the next month's payment. This deduction will include the net amount of prospective Part D payments and adjustments appearing on the MMR applicable to the VA coverage election period. The total deduction for all participants will be reported on the Plan Payment Report under Section 6, CMS Adjustments. It will not be reported on the MMR.

We clarify that the applicability of this waiver permitting coordination of prescription drug benefits between the PACE organization and the VA on behalf of VA-eligible PACE participants does not extend to include the coordination of benefits of additional health services between the PACE organization and the VA.

Please note that these waiver approvals are contingent upon a signed 3-party PACE program agreement. In addition, these arrangements will be reviewed during monitoring visits in the future. Should it be noted at that time that an arrangement is not in fact consistent with the terms of the waiver approvals, we will reconsider your approval for the related waiver or waivers.

[REDACTED] will be responsible for evaluating the impact these waiver approvals have on policies, procedures, and marketing materials. Updates to these affected documents should be submitted to CMS and the State within 90 days of this approval letter.

If you have further questions, please contact John Hebb at 410-786-6657 for BIPA 903 waiver issues, Deborah Larwood at 410-786-9500 for Part D waiver issues or William Bucksten at 410-786-7477 for payment issues.

Sincerely,



Kathryn Coleman  
Director, Division of Medicare Advantage Operations  
Medicare Drug & Health Plan Contract Administration Group



Christian Bauer  
Director  
Division of Drug Plan Policy and Quality

cc:  
CMS Regional Office  
CMS Central Office  
State Administering Agency