

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Drug and Health Plan Choice
7500 Security Boulevard, Mail Stop C4-23-07
Baltimore, Maryland 21244-1850



May 17, 2010

VIA:
FEDERAL EXPRESS DELIVERY
EMAIL (ks@foxrxcare.com)
AND FACSIMILE (866-369-7978)

Mr. Kary Shankar
CEO, Senior Official for Contracting
Fox Insurance Company
40 West 25th Street – 6th Floor
New York, NY 10010
Phone: (877-369-9564)

Re: Reminder of Fox's Obligation to Pay Claims with Dates of Service Prior to the Termination of its Contract (S5557)

Dear Mr. Shankar:

Following Fox Insurance Company's ("Fox") Prescription Drug Plan ("PDP") contract termination on March 9, 2010, the Centers for Medicare & Medicaid Services ("CMS") informed you of Fox's remaining obligations in a separate letter dated April 2, 2010. As part of this communication, CMS reminded Fox of its obligations with respect to the payment of pharmacy claims by stating that:

"Fox is required to pay all claims and claims adjustments for dates of service on or before March 9, 2010. This includes initial processing of claims for the duration of the CMS-required minimum timely filing limit of 90 days post date of service, as well as immediate reprocessing of any claims denied in error. This also includes successful resolution of all automated TrOOP balance transfer transactions for disenrolled beneficiaries for coverage years 2009 and 2010.

Fox should have a method of advising pharmacies of the process for submission and payment of outstanding claims, and should not refer pharmacies to CMS or its contractors with questions about payment of claims with dates of service prior to March 9, 2010."

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CMS has received numerous complaints that Fox has failed to fulfill its obligations by withholding payment for claims to pharmacies who furnished services to Fox enrollees prior to March 10, 2010. Fox's failure to reimburse pharmacies and drug suppliers for pharmaceutical services rendered to its Medicare enrollees is unacceptable. Between beneficiary premiums and the monthly capitated payment Fox receives from CMS, Fox was paid over \$30,550,000 for the month of February and over \$33,380,000 for the month of March to furnish Medicare Part D coverage to Fox enrollees (120,000 enrollees in February and 127,000 in March).

Fox is in direct violation of regulatory requirements and the terms of its prior contract with CMS regarding prompt payment of claims under 42 C.F.R. §423.520, and will continue to be in violation until all of its obligations have been satisfied, including payment of all claims for services occurring on or before March 9, 2010. CMS expects Fox to begin payment of all claims and claims adjustments immediately.

Sincerely,

/s/

Cynthia G. Tudor, Ph.D.
Director
Medicare Drug Benefit and C & D Data Group

cc: Mr. Jonathan Blum, CMS/CPC
Mr. Timothy Hill, CMS/CPC
Dr. Jeff Kelman, CMS/CPC
Ms. Brenda Tranchida, CMS/CPC/PCOG
Ms. Danielle Moon, CMS/CPC/MCAG
Ms. Cheri Rice, CMS/CPC/MPPG
Mr. Michael Crochunis, CMS/CPC/MEAG
Mr. Peter Ashkenaz, CMS/OEA
Ms. Laurie McWright, CMS/OL
Mr. James Kerr, CMS/OA/CMHPO
Ms. Janis Remer, CMS/CMHPO/Region II
Mr. Reginald Slaten, CMS/CMHPO/Region II
Ms. Carol Bennett, DHHS/OGC
Ms. Jill Abrams, DHHS/OGC