

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850



MEDICARE PARTS C AND D OVERSIGHT AND ENFORCEMENT GROUP

January 17, 2025

Mrs. Sinead Madigan
Chief Executive Officer
Health Alliance Medical Plans
a subsidiary of The Carle Foundation
3310 Fields South Drive
Champaign, IL 61822

Re: Notice of Imposition of Civil Money Penalty for Medicare Advantage-Prescription Drug
Contract Numbers: H1463, H1737, H2591, H6306, and H8064

Dear Mrs. Madigan:

Pursuant to 42 C.F.R. §§ 422.752(c)(1), 422.760(c), 423.752(c)(1), and 423.760(c), the Centers for Medicare & Medicaid Services (CMS) is providing notice to The Carle Foundation (Carle Foundation), that CMS has made a determination to impose a civil money penalty (CMP) in the amount of **\$101,500** for Medicare Advantage-Prescription Drug (MA-PD) Contract Numbers H1463, H1737, H2591, H6306, and H8064.

An MA-PD organization's¹ primary responsibility is to provide Medicare enrollees with medical services and prescription drug benefits in accordance with Medicare requirements. CMS has determined that Carle Foundation failed to meet that responsibility.

Summary of Noncompliance

In 2023, CMS conducted an audit of Carle Foundation's 2021 Medicare financial information. In financial audit reports issued on August 25, 2023, and September 11, 2023, CMS auditors reported that Carle Foundation failed to comply with Medicare requirements related to Part C maximum out-of-pocket (MOOP) limit requirements in violation of 42 C.F.R. Part 422, Subpart C. More specifically, auditors found that in 2021, Carle Foundation charged enrollees more than annual Part C MOOP limits. Carle Foundation's failure to comply with Part C requirements adversely affected (or had the substantial likelihood of adversely affecting) enrollees because they may have experienced increased out-of-pocket costs.

¹ Referenced collectively as "plan sponsor".

Part C Maximum Out-of-Pocket Limit Requirements (42 C.F.R. §§ 422.100(f)(4) and (5) and Health Plan Management System (HPMS) Memo, Final Contract Year 2021 Part C Benefits Review and Evaluation, April 8, 2020)

Medicare Advantage (MA) organizations must have an enrollee in-network MOOP amount for basic benefits that is no greater than the annual limit calculated by CMS. In addition, MA Preferred Provider Organization (PPO) plans must also establish a combined MOOP amount for basic benefits that are provided in-network and out-of-network. MA organizations are responsible for tracking out-of-pocket spending accrued by their enrollees and must alert enrollees and contracted providers when the plan's MOOP amounts are reached. MA organizations must not charge an enrollee in excess of MOOP limits.

Violation Related to Part C Maximum Out-of-Pocket Limit Requirements

CMS determined that Carle Foundation failed to comply with MOOP requirements by failing to track enrollee out-of-pocket spending and charging enrollees more than annual MOOP limits. More specifically, when claims that had been pending for review were manually processed, the claims processors did not check to see whether enrollees had met their MOOP limits and did not factor those limits into the calculation of the enrollees' cost sharing for the manual claims. In other cases, MOOP overages were created when a medical claim in Carle Foundation's internal claim system and a Part B medication claim in the pharmacy benefit manager's external system were processed on the same day. As a result, enrollees were charged amounts in excess of their annual MOOP limit. Carle Foundation's failure to comply with MOOP limit requirements violates 42 C.F.R. §§ 422.100(f)(4) and (5).

Basis for Civil Money Penalty

Pursuant to 42 C.F.R. § 422.752(c)(1)(i), CMS may impose a CMP for any determination made under 42 C.F.R. § 422.510(a)(1). Specifically, CMS may issue a CMP if a MA-PD has failed substantially to carry out its contract. Pursuant to 42 C.F.R. § 422.760(b)(2), a penalty may be imposed for each enrollee directly adversely affected (or with the substantial likelihood of being adversely affected) by the deficiency.

CMS has determined that Carle Foundation failed substantially to carry out the terms of its contract (42 C.F.R. § 422.510(a)(1)) by substantially failing to comply with requirements at 42 C.F.R. Part 422, Subpart C. Carle Foundation's violations of Part C requirements directly adversely affected (or had the substantial likelihood of adversely affecting) enrollees and warrant the imposition of a CMP.

Right to Request a Hearing

Carle Foundation may request a hearing to appeal CMS's determination in accordance with the procedures outlined in 42 C.F.R. Parts 422 and 423, Subpart T. Carle Foundation must send a request for a hearing to the Departmental Appeals Board (DAB) office listed below by March 19,

2025.² The request for hearing must identify the specific issues and the findings of fact and conclusions of law with which Carle Foundation disagrees. Carle Foundation must also specify the basis for each contention that the finding or conclusion of law is incorrect.

The request should be filed through the DAB E-File System (<https://dab.efile.hhs.gov>) unless the party is not able to file the documents electronically. If a party is unable to use DAB E-File, it must send appeal-related documents to the Civil Remedies Division using a postal or commercial delivery service at the following address:

Civil Remedies Division
Department of Health and Human Services
Departmental Appeals Board
Medicare Appeals Council, MS 6132
330 Independence Ave., S.W.
Cohen Building Room G-644
Washington, D.C. 20201

Please see https://dab.efile.hhs.gov/appeals/to_crd_instructions for additional guidance on filing the appeal.

A copy of the hearing request should also be emailed to CMS at the following address:

Kevin Stansbury
Director, Division of Compliance Enforcement
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244
Mail Stop: C1-22-06
Email: kevin.stansbury@cms.hhs.gov

If Carle Foundation does not request an appeal in the manner and timeframe described above, the initial determination by CMS to impose a CMP will become final and due on March 20, 2025. Carle Foundation may choose to have the penalty deducted from its monthly payment or transfer the funds electronically. To notify CMS of your intent to make payment and for instructions on how to make payment, please call or email the enforcement contact provided in the email notification.

Impact of CMP

Further failures by Carle Foundation to provide its enrollees with Medicare benefits in accordance with CMS requirements may result in CMS imposing additional remedies available under law, including contract termination, intermediate sanctions, penalties, or other enforcement actions as described in 42 C.F.R. Parts 422 and 423, Subparts K and O.

² Pursuant to 42 C.F.R. §§ 422.1020(a)(2) and 423.1020(a)(2), the plan sponsor must file an appeal within 60 calendar days of receiving the CMP notice.

If Carle Foundation has any questions about this notice, please call or email the enforcement contact provided in the email notification.

Sincerely,

/s/

John A. Scott

Director

Medicare Parts C and D Oversight and Enforcement Group

cc: Ashley Hashem, CMS/ OPOLE
Adams Solola, CMS/OPOLE
Andy Mathison, CMS/OPOLE
Kevin Stansbury, CMS/CM/MOEG/DCE