

**Attachment A**  
**Proposed Changes to**  
**Standard 2010 ~~Community-Rated HMO~~ Health Benefits Contract**

**NOTE:** New and revised language is underlined and language to be deleted is ~~struck out~~.

1. Section 1.5 Records and Information To Be Furnished By OPM (~~SEP 2000~~) (JAN 2011). We have added language to address what Carriers must do when they receive enrollment changes that result in the collection of benefit payments.

(a) OPM shall maintain or cause to be maintained records from which the Carrier may determine the names and social security numbers of all Enrollees. OPM, other agencies of the Federal Government, or the FEHB Clearinghouse shall furnish the information to the Carrier at such times and in such form and detail as will enable the Carrier to maintain a currently accurate record of all Enrollees.

(b) The OPM shall direct the agencies to provide the Carrier or the FEHB Clearinghouse, not less often than quarterly, the names of Enrollees enrolled under the contract by payroll office and the premium paid for those Enrollees for the current pay cycle. The Carrier shall at least quarterly reconcile its enrollment records with those provided by the Government or the FEHB Clearinghouse.

(c) Clerical error (whether by OPM, any other Government agency, the FEHB Clearinghouse, or the Carrier) in keeping records pertaining to coverage under this contract, delays in making entries thereon, or failure to make or account for any deduction of enrollment charges, shall not invalidate coverage otherwise validly in force or continue coverage otherwise validly terminated. If any person finds relevant facts pertaining to a person covered under this contract to be misstated, and if the misstatement affects the existence, amount, or extent of coverage, the actual facts shall determine whether coverage is in force under the terms of this contract.

(d) In instances of erroneous enrollments where benefit payments have been made in error, the Carrier must inform enrollees within five days of when the Carrier receives notification from the agency that the Carrier will collect for these benefit payments. The Carrier shall provide notice to the enrollees that they have the right to contest their enrollment change with their agency or their retirement system.

2. Section 1.9 Plan Performance-Community-Rated HMO Contracts (~~JAN 2010~~) (JAN 2011). We have corrected the typo in (b). We have added an FEHB Clearinghouse standard to (j), renumbered (k) and (l), and underlined the titles for (h), (i), (j), and (k).

(b) Clinical Care Measures. The Carrier shall measure and/or collect data on the quality of the health care services it provides to its members as requested by OPM. Measurement/data collection efforts may include performance measurement systems such as Healthcare ~~Effectiveness~~ Effectiveness Data and Information Set (HEDIS), or similar measures developed by accrediting organizations such as the National Committee for Quality Assurance (NCQA), the Joint Commission on Accreditation of Healthcare

Organizations (JCAHO), or URAC. Costs incurred by the Carrier for collecting or contracting with a vendor to collect quality measures/data shall be the Carrier's responsibility.

(h) Quality Assurance Plan. The Carrier must demonstrate that a statistically valid sampling technique is routinely used prior to or after processing to randomly sample FEHB claims against Carrier quality assurance/fraud and abuse prevention standards.

(i) Reporting Compliance. The Carrier shall keep complete records of its quality assurance procedures and fraud prevention program and the results of their implementation and make them available to the Government as determined by OPM.

(j) FEHB Clearinghouse (CLER). The carrier shall not have any CLER records with a 160 error code and a fail count of four or higher, except for OPM annuitants. A '160' error is when a carrier reports an enrollment but no Federal agency reports that enrollment.

(k) Correction of deficiencies. The Contracting Officer may order the correction of a deficiency in the Carrier's quality assurance program or fraud prevention program. The Carrier shall take the necessary action promptly to implement the Contracting Officer's order. If the Contracting Officer orders a modification of the Carrier's quality assurance program or fraud prevention program pursuant to this paragraph (j) after the contract year has begun, the costs incurred to correct the deficiency may be excluded from the administrative expenses -- for the contract year -- that are subject to the administrative expenses limitation specified at Appendix B; provided the Carrier demonstrates that the correction of the deficiency significantly increases the Carrier's liability under this contract.

(l) In order to allow sufficient implementation time, the Contracting Officer will notify the Carrier reasonably in advance of any new requirement(s) under paragraphs (a) through (j).

3. We are adding Section 1.29 Executive Order 13496 Notification of Employee Rights Under Federal Labor Laws (Jan 2011) to replace Section 5.61 Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (FAR 52.222-39)

1. During the term of this contract, the contractor agrees to post a notice, of such size and in such form, and containing such content as the Secretary of Labor shall prescribe, in conspicuous places in and about its plants and offices where employees covered by the National Labor Relations Act engage in activities relating to the performance of the contract, including all places where notices to employees are customarily posted both physically and electronically. The notice shall include the information contained in the notice published by the Secretary of Labor in the Federal Register (Secretary's Notice).

2. The contractor will comply with all provisions of the Secretary's Notice, and related rules, regulations, and orders of the Secretary of Labor.

3. In the event that the contractor does not comply with any of the requirements

set forth in paragraphs (1) or (2) above, this contract may be cancelled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in or adopted pursuant to Executive Order [number as provided by the Federal Register] of [insert new date]. Such other sanctions or remedies may be imposed as are provided in Executive Order [number as provided by the Federal Register] of [insert new date], or by rule, regulation, or order of the Secretary of Labor, or as are otherwise provided by law.

4. The contractor will include the provisions of paragraphs (1) through (3) above in every subcontract entered into in connection with this contract (unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order [number as provided by the Federal Register] of [insert new date]) so that such provisions will be binding upon each subcontractor. The contractor will take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for non compliance: Provided, however, that if the contractor becomes involved in litigation with a subcontractor, or is threatened with such involvement, as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. Section 2.3 Payment of Benefits and Provision of Services and Supplies (~~JAN 2003~~) (~~JAN 2010~~). Add language in section (g) to clarify that the Carriers must proactively identify overpayments. Add sections (g)(8) and (g)(9) to indicate that Carriers must perform due diligence after OPM has identified an erroneous payment and that OIG or OPM will review claims payment and procedures to validate the Carrier's due diligence.

(a) By enrolling or accepting services under this contract, Members are obligated to all terms, conditions, and provisions of this contract. The Carrier may request Members to complete reasonable forms or provide information which the Carrier may reasonably request; *provided*, however, that the Carrier shall not require Members to complete any form as a precondition of receiving benefits unless the form has first been approved for use by OPM. Notwithstanding Section 2.11 *Claims Processing*, forms requiring specific approval do not include claim forms and other forms necessary to receive payment of individual claims.

(b) When members are required to file claims for covered benefits, benefits shall be paid (with appropriate documentation of payment) within a reasonable time after receipt of reasonable proof covering the occurrence, character, and extent of the event for which the claim is made. The claimant shall furnish satisfactory evidence that all services or supplies for which expenses are claimed are covered services or supplies within the meaning of the contract.

(c) The procedures and time period for receiving benefits and filing claims shall be as specified in the agreed upon brochure text (*Appendix A*). However, failure to file a claim within the time required shall not in itself invalidate or reduce any claim where timely filing was prevented by administrative operations of Government or, provided the claim was submitted as soon as reasonably possible.

(d) The Carrier may request a Member to submit to one or more medical

examinations to determine whether benefits applied for are for services and supplies necessary for the diagnosis or treatment of an illness or injury or covered condition. The examinations shall be made at the expense of the Carrier.

(e) As a condition precedent to the provision of benefits hereunder, the Carrier, to the extent reasonable and necessary and consistent with Federal law, shall be entitled to obtain from any person, organization or Government agency, including the Office of Personnel Management, all information and records relating to visits or examination of, or treatment rendered or supplies furnished to, a Member as the Carrier requires in the administration of such benefits. The Carrier may obtain from any insurance company or other organization or person any information, with respect to any Member, which it has determined is reasonably necessary to:

- (1) identify enrollment in a plan,
- (2) verify eligibility for payment of a claim for health benefits, and
- (3) carry out the provisions of the contract, such as subrogation, recovery of payments made in error, workers compensation, and coordination of benefits.

(f) When claim filing is required, benefits are payable to the Enrollee in the Plan or his or her assignees. However, under the following circumstances different payment arrangements are allowed:

(1) Reimbursement Payments for the Enrollee. If benefits become payable to the estate of an Enrollee or an Enrollee is a minor, or an Enrollee is physically or mentally not competent to give a valid release, the Carrier may either pay such benefits directly to a hospital or other provider of services or pay such benefits to any relative by blood or connection by marriage of the Enrollee determined by the Carrier to be equitably entitled thereto.

(2) Reimbursement Payments for a minor child. If a child is covered as a family member under the Enrollee's self and family enrollment and is in the custody of a person other than the Enrollee, and if that other person certifies to the Carrier that he or she has custody of and financial responsibility for the dependent child, then the Carrier may issue an identification card for the dependent child(ren) to that person and, when claim filing is required, may reimburse that person for any covered medical service or supply.

(3) Reimbursement Payments to family members covered under the Enrollee's self and family enrollment. If a covered child is legally responsible, or if a covered spouse is legally separated, and if the covered person does not reside with the Enrollee and certifies such conditions to the Carrier, then the Carrier may issue an identification card to the person and when claim filing is required, the Carrier may reimburse that person for any covered medical service or supply.

(4) Compliance with the HIPAA Privacy Rule. The Carrier may pay benefits to a covered person other than the Enrollee when in the exercise of its discretion the Carrier decides that such action is necessary to comply with the HIPAA Privacy Rule, 45 C.F.R. §164.500 *et seq.*

(5) Any payments made in good faith in accordance with paragraphs (f)(1) through (f)(4) shall fully discharge the Carrier to the extent of such payment.

(g) *Erroneous Payments.* [It is the Carrier's responsibility to proactively identify overpayments.](#) If the Carrier ~~or OPM~~ determines that a Member's claim has been paid in error for any reason (except fraud and abuse), the Carrier shall make a prompt and diligent effort to recover the erroneous payment to the member from the member or, if to

the provider, from the provider. Prompt and diligent effort to recover erroneous payments means that upon discovering that an erroneous payment exists, the Carrier shall--

(1) Send a written notice of erroneous payment to the member or provider that provides: (A) an explanation of when and how the erroneous payment occurred, (B) when applicable, cite the appropriate contractual benefit provision, (C) the exact identifying information (i.e., dollar amount paid erroneously, date paid, check number, date of service and provider name), (D) a request for payment of the debt in full, and (E) an explanation of what may occur should the debt not be paid, including possible offset to future benefits. The notice may also offer an installment option. In addition, the Carrier shall provide the debtor with an opportunity to dispute the existence and amount of the debt before proceeding with collection activities;

(2) After confirming that the debt does exist and in the appropriate amount, send follow-up notices to the member or the provider at 30, 60 and 90 day intervals, if the debt remains unpaid and undisputed;

(3) The Carrier may off-set future benefits payable to the member or to a provider on behalf of the member to satisfy a debt due under the FEHBP if the debt remains unpaid and undisputed for 120 days after the first notice.

(4) After applying the first three steps, refer cases to a collection attorney or a collection agency if the debt is not recovered;

(5) Make a prompt and diligent effort to recover erroneous payments until the debt is paid in full or determined to be uncollectible by the Carrier because it is no longer cost effective to pursue further collection efforts or it would be against equity and good conscience to continue collection efforts.

(6) Suspend recovery efforts for a debt which is based upon a claim that has been appealed as a disputed claim under Section 2.8, until the appeal has been resolved;

(7) Maintain records that document individual unrecovered erroneous payment collection activities for audit or future reference.

(8) If OPM determines that a Member's claim has been paid in error for any reason (except fraud and abuse), the Carrier shall make a prompt and diligent effort to recover the erroneous payment to the member from the member or, if to the provider, from the provider as specified in (g)(1) through (7)

(9) OPM will review the Carrier's claims payments and procedures to validate the Carrier's due diligence.

5. Add Section 3.10 Audit Resolutions (JAN 2011) to place a time limit on carriers to respond to draft and final audit reports.

When OIG issues a Draft Report of findings to the Carrier, the Carrier must provide data to validate or invalidate the findings in the timeframe specified within the OIG Draft Report transmittal letter. All supporting documentation must be provided with the response. Carriers shall not wait until receipt of the Final Report to address any findings. The Carrier has 180 days after the issuance of the Final Report to resolve any findings.

## FAR Clauses

1. We are deleting Section 5.61 to comply with Executive Order 13496.

### ~~SECTION 5.61~~

#### ~~NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (DEC 2004) (FAR 52.222-39)~~

~~(a) Definition. As used in this clause—~~

~~“United States” means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.~~

~~(b) Except as provided in paragraph (c) of this clause, during the term of this contract, the Contractor shall post a notice, in the form of a poster, informing employees of their rights concerning union membership and payment of union dues and fees, in conspicuous places in and about all its plants and offices, including all places where notices to employees are customarily posted. The notice shall include the following information (except that the information pertaining to National Labor Relations Board shall not be included in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended (45 U.S.C. 151-188)).~~

#### Notice to Employees

~~Under Federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs. Under certain conditions, the law permits a union and an employer to enter into a union security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment. If you do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, contract administration, or grievance adjustment, you are entitled to an appropriate reduction in your payment. If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.~~

~~For further information concerning your rights, you may wish to contact the National Labor Relations Board (NLRB) either at one of its Regional offices or at the following address or toll free number:~~

~~National Labor Relations Board  
Division of Information  
1099 14th Street, N.W.  
Washington, DC 20570  
1-866-667-6572  
1-866-316-6572 (TTY)~~

~~To locate the nearest NLRB office, see NLRB's website at <http://www.nlr.gov>.~~

~~(c) The Contractor shall comply with all provisions of Executive Order 13201 of February 17, 2001, and related implementing regulations at 29 CFR Part 470, and orders of the Secretary of Labor.~~

~~(d) In the event that the Contractor does not comply with any of the requirements set forth in paragraphs (b), (c), or (g), the Secretary may direct that this contract be cancelled, terminated, or suspended in whole or in part, and declare the Contractor ineligible for further Government contracts in accordance with procedures at 29 CFR Part 470, Subpart B—Compliance Evaluations, Complaint Investigations and Enforcement Procedures. Such other sanctions or remedies may be imposed as are provided by 29 CFR Part 470, which implements Executive Order 13201, or as are otherwise provided by law.~~

~~(e) The requirement to post the employee notice in paragraph (b) does not apply to—~~

~~—(1) Contractors and subcontractors that employ fewer than 15 persons;~~  
~~—(2) Contractor establishments or construction work sites where no union has been formally recognized by the Contractor or certified as the exclusive bargaining representative of the Contractor’s employees;~~

~~—(3) Contractor establishments or construction work sites located in a jurisdiction named in the definition of the United States in which the law of that jurisdiction forbids enforcement of union security agreements;~~

~~—(4) Contractor facilities where upon the written request of the Contractor, the Department of Labor Deputy Assistant Secretary for Labor Management Programs has waived the posting requirements with respect to any of the Contractor’s facilities if the Deputy Assistant Secretary finds that the Contractor has demonstrated that—~~

~~—(i) The facility is in all respects separate and distinct from activities of the Contractor related to the performance of a contract; and~~

~~—(ii) Such a waiver will not interfere with or impede the effectuation of the Executive order; or~~

~~—(5) Work outside the United States that does not involve the recruitment or employment of workers within the United States.~~

~~(f) The Department of Labor publishes the official employee notice in two variations; one for contractors covered by the Railway Labor Act and a second for all other contractors. The Contractor shall—~~

~~—(1) Obtain the required employee notice poster from the Division of Interpretations and Standards, Office of Labor Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5605, Washington, DC 20210, or from any field office of the Department’s Office of Labor Management Standards or Office of Federal Contract Compliance Programs;~~

~~—(2) Download a copy of the poster from the Office of Labor Management Standards website at <http://www.olms.dol.gov>; or~~

~~—(3) Reproduce and use exact duplicate copies of the Department of Labor’s official poster.~~

~~(g) The Contractor shall include the substance of this clause in every subcontract or purchase order that exceeds the simplified acquisition threshold, entered into in connection with this contract, unless exempted by the Department of Labor Deputy Assistant Secretary for Labor Management Programs on account of special circumstances in the national interest under authority of 29 CFR 470.3(c). For indefinite~~

~~quantity subcontracts, the Contractor shall include the substance of this clause if the value of orders in any calendar year of the subcontract is expected to exceed the simplified acquisition threshold. Pursuant to 29 CFR Part 470, Subpart B—Compliance Evaluations, Complaint Investigations and Enforcement Procedures, the Secretary of Labor may direct the Contractor to take such action in the enforcement of these regulations, including the imposition of sanctions for noncompliance with respect to any such subcontract or purchase order. If the Contractor becomes involved in litigation with a subcontractor or vendor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.—~~