



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

42 CFR Parts 417, 422, 423, 455, and 460

[CMS-4201-CN]

RIN 0938-AU96

**Medicare Program; Contract Year 2024 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly; Correction**

**AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.**

**ACTION** Final rule; correction.

**SUMMARY:** This document corrects technical errors that appeared in the final rule published in the **Federal Register** on April 12, 2023, entitled “Contract Year 2024 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly.”

**DATES:** This correcting document is effective June 5, 2023.

**FOR FURTHER INFORMATION CONTACT:** Lucia Patrone, (410) 786-8621.

### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

In FR Doc. 2023-07115 of April 12, 2023 (88 FR 22120), there were a number of technical errors that are identified and corrected in this correcting document. The provisions in this correction document are effective as if they had been included in the document published April 12, 2023.

Accordingly, the corrections are effective June 5, 2023.

#### **II. Summary of Errors**

##### A. Summary Errors in the Preamble

On page 22134, we inadvertently omitted § 422.514(d)(1) from the list of sections finalized.

On page 22135, we made errors in our discussion of the effective dates for the changes to the

general enrollment period (GEP) made by the Consolidated Appropriations Act, 2021, and the Part D special enrollment period (SEP).

On page 22150, we made a typographical error in a regulatory reference.

On page 22226, we made a typographical error when specifying a term.

On page 22300, we made a technical error regarding an acronym.

#### B. Summary of Errors in the Regulations Text

On page 22336 in § 422.2267(a)(3), we made a typographical error.

On page 22341 in § 423.2264 we made a typographical error and technical errors in regulations text regarding election periods and third-party marketing.

On page 22344 in § 423.2536(c), we made a typographical error in a reference.

On page 22345 in § 460.70, we made a-- typographical error in a paragraph designation; technical error in the use of an acronym; and technical error in the use of a term.

### **III. Waiver of Proposed Rulemaking and Delay in Effective Date**

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule in accordance with 5 U.S.C. section 553(b) of the Administrative Procedure Act (APA). The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, and the terms and substances of the proposed rule or a description of the subjects and issues involved. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued.

We believe that this final rule correcting document does not constitute a rule that would be subject to the notice and comment or delayed effective date requirements. This document merely corrects typographical and technical errors in the final rule, but it does not make substantive changes to the policies or the implementing regulations that were adopted in the final rule. As a result, this final rule correcting document is intended to ensure that the information in the final rule accurately reflects the policies and regulatory amendments adopted in that document.

In addition, even if this were a rule to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the minor corrections in this document into the final rule or delaying the effective date would be unnecessary, as we are not altering our policies or regulatory changes, but rather, we are simply implementing correctly the policies and regulatory changes that we previously proposed, requested comment on, and subsequently finalized. This final rule correcting document is intended solely to ensure that the final rule accurately reflects these policies and regulatory changes. Furthermore, such notice and comment procedures would be contrary to the public interest because it is in the public's interest to ensure that the final rule accurately reflects our policies and regulatory changes. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

### **Correction of Errors**

In FR Doc. 2023-07115 of April 12, 2023 (88 FR 22120), make the following corrections:

#### A. Corrections of Errors in the Preamble

1. On page 22134, third column, third full paragraph, line 7, the reference “422.514(g)” is corrected to read “422.514(d)(1) and (g)”.
2. On page 22135, first column, second full paragraph, lines 4 and 5, the phrase “provide that on” is corrected to read, “provide that for GEPs on”.
3. On 22150, first column, sixth full paragraph, lines 6 and 7, the reference “§423.2508(d)(1) through (5)” is corrected to read “§ 423.2508(c)(1) through (5)”.
4. On page 22226, third column, third full paragraph, line 6, the phrase “anon-English” is corrected to read “a non-English”.
5. On page 22300, third column, first full paragraph, line 28, the phrase “and the SAA,” is corrected to read “and the State administering agency (SAA),”.

#### B. Correction of Errors in the Regulations Text

1. On page 22336, second column, first partial paragraph (§422.2267(a)(3)), line 3, the phrase “anon-English” is corrected to read “a non-English”.

2. On page 22341—
  - a. First column, 17<sup>th</sup> paragraph (§ 423.2264(c)(3)(i)(A)), line 2, the phrase “prior of” is corrected to read “prior to”.
  - b. Third column--
    - i. Fourth paragraph (§ 423.2267(e)(41) introductory text), line 25, the phrase “The MA organization must” is corrected to read “The Part D sponsor must”.
    - ii. Fifth paragraph (§ 423.2267(e)(41)(i)), lines 3 and 4, the phrase “one MA organization” is corrected to read “one Part D sponsor.”
3. On page 22344, second column, 14<sup>th</sup> full paragraph (§ 423.2536(c) introductory text), line 6, the reference “§ 423.2508(d)(1)” is corrected to read “§ 423.2508(c)(1)”.
4. On page 22345, second column—
  - a. Third paragraph (§ 460.70(a)), the paragraph number “(xviv)” is corrected to read “(xix)”.
  - b. Fourteenth paragraph (§ 460.70(a)(3)(ii)), line 2, the phrase “the SAA” is corrected to read “the State administering agency”.
  - c. Fifteenth paragraph (§ 460.70(a)(4)), line 8, the phrase “participant medical specialty.” is corrected to read “particular medical specialty”.

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**Elizabeth J. Gramling,**

Executive Secretary to the Department,

Department of Health and Human Services.