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

September 18, 2017

Ms. Renee George
President
Premier Health Insuring Corporation
110 North Main Street, Suite 1200
Dayton, OH 45402

Re: Notice of Imposition of Civil Money Penalty for Medicare Advantage-Prescription Drug Contract Number: H3233

Dear Ms. George:

Pursuant to 42 C.F.R. § 422.752(c)(1), § 422.760(b), § 423.752(c)(1), and § 423.760(b), the Centers for Medicare & Medicaid Services (CMS) is providing notice to Premier Health Insuring Company (Premier), that CMS has made a determination to impose a civil money penalty (CMP) in the total amount of **$3,600** for Medicare Advantage-Prescription Drug (MA-PD) Contract Number: H3233.

CMS has determined that Premier substantially failed to comply with the requirements to make timely decisions related to Part D coverage determinations, appeals, and grievances in violation of 42 C.F.R. Part 423, Subpart M.

Summary of Noncompliance

On December 16, 2016, CMS notified all Medicare Advantage Organizations and Prescription Drug Sponsors (collectively "sponsors") that it would be identifying organizations that are sending (i.e. auto-forwarding) inordinately high numbers of coverage determinations and redeterminations to the Independent Review Entity (IRE). CMS stated that high rates of auto-forwarded cases indicate that sponsors are not processing and notifying enrollees of their coverage determinations and redeterminations in the required adjudication timeframes.

CMS has identified that Premier had an inordinately high rate of coverage determinations and redeterminations auto-forwarded to the IRE during the second quarter of 2017. Specifically, Premier's adjusted auto-forward rate was 19.14 per 10,000 enrollees and is considered an outlier when compared to other sponsors. Therefore, Premier failed to comply with the requirements in 42 C.F.R. Part 423, Subpart M to process and notify enrollees of coverage determination and redetermination decisions within the required timeframes. When enrollees' requests are not

processed within the required timeframes, this may result in an inappropriate delay in accessing medications and/or may pose financial hardship to enrollees.

Part D Coverage Determinations, Appeals, and Grievances Requirements
(42 C.F.R. Part 423, Subpart M; Chapter 18 of the Medicare Prescription Drug Benefit Manual (IOM Pub. 100-18))

Pursuant to 42 CFR §§ 423.568(b), 423.572(a), 423.590(a), and 423.590(d), Part D sponsors are required to process coverage determinations and redeterminations and notify enrollees of those determinations within timeframes established in regulations. A sponsor's failure to process and notify the enrollee of its determination in the appropriate timeframe constitutes an adverse decision and the sponsor must "auto-forward" the enrollee's request to the IRE within 24 hours of the expiration of the applicable adjudication timeframe per §§ 423.568(h), 423.572(d), 423.590(c), and 423.590(e). Although CMS established the auto-forward process in order to protect beneficiaries from further delays in access to medications, the auto-forward process should not be a substitute for sponsors making coverage determinations and redeterminations within the required adjudication timeframes. Each sponsor should develop and implement processes that will help it make decisions timely and avoid high levels of cases that need to be auto-forwarded to the IRE.

Violations Related to Part D Coverage Determinations, Appeals, and Grievances

CMS determined that Premier violated the following Part D coverage determinations, appeals, and grievances requirement:

- Failure to make timely coverage determinations and redeterminations and notify enrollees of those decisions within the required timeframes. As a result, enrollees experienced inappropriate delays in accessing needed prescription medications and/or financial hardship, or inappropriate delays in accessing their appeal rights. This is in violation of 42 C.F.R. §§423.568(b), 423.572(a), 423.590(a), and 423.590(d).

Basis for Civil Money Penalty

Pursuant to 42 C.F.R. § 423.752(c)(1) and § 423.760(b), CMS has determined that Premier's violations of Part D requirements directly adversely affected (or had the substantial likelihood of adversely affecting) enrollees and warrants the imposition of a CMP. Premier failed substantially:

- To carry out the terms of its contract with CMS (42 C.F.R. § 423.509(a)(1));
- To comply with the requirements in Subpart M relating to grievances and appeals (42 C.F.R. § 423.509(a)(4)(ii)).

Right to Request a Hearing

Premier 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. Premier must send a request for a hearing to

the Departmental Appeals Board (DAB) office listed below by November 20, 2017. The request for hearing must identify the specific issues and the findings of fact and conclusions of law with which Premier disagrees. Premier 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 sent to CMS at the following physical address or electronically via the email address below:

Kevin Stansbury
Acting 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 Premier 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 November 21, 2017. Premier may choose to have the penalty deducted from its monthly payment, transfer the funds electronically, or mail a check to CMS. 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

Please note, this action will factor into Past Performance calculations. For Past Performance, your organization will receive one negative past performance point.

Further failures by Premier 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.

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

Sincerely,

/s/

Vikki Ahern
Director
Medicare Parts C and D Oversight and Enforcement Group

cc: Heather Lang, CMS/ CMHPO/Region V
Dolores Perteet, CMS/ CMHPO/Region V
Alicia Kimbrew, CMS/ CMHPO/Region V
Kevin Stansbury, CMS/CM/MOEG/DCE