



## **CENTER FOR BENEFICIARY CHOICES**

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**TO:** All current and prospective Medicare Advantage Plans, Prescription Drug Plans, Cost Plans, PACE, and Demonstration Organizations

**FROM:** David Lewis, Director, Medicare Advantage Group  
Cynthia Tudor, Director, Medicare Drug Benefit Group

**DATE:** July 23, 2007

**SUBJECT:** Sponsor Activities Performed Outside of the United States  
(Offshore Subcontracting)

As promised in the 2008 Call Letter (see pages 36 and 84), CMS is now issuing guidance on Medicare Advantage organization (MAO) and prescription drug plan (PDP) sponsor activities performed outside of the United States. CMS is concerned about these organizations' accountability for beneficiary personally identifiable information handled outside of the United States. Given the unique risks associated with the use of contractors operating outside the jurisdiction of the United States, CMS encourages sponsors using offshore subcontractors to take extraordinary measures to ensure that offshore arrangements protect beneficiary privacy.

CMS is asking all organizations using offshore subcontractors to submit specific subcontract information and an attestation that they have taken appropriate steps to address the risks associated with the use of subcontractors operating outside the U.S. Organizations must submit one attestation for each offshore subcontractor they have engaged to perform Medicare-related work. (See attachment titled "Offshore Subcontract Information and Attestation (CY2007 & CY 2008).") The attestation for each offshore subcontractor includes, in part:

- Offshore subcontractor's name and functions.
- Description of protected health information (PHI) provided to the offshore subcontractor.
- Offshore subcontracting arrangement safeguards adopted to protect beneficiary information.
- Offshore subcontractor audit requirements.

The date by which sponsors should submit these attestations are due to CMS depends upon whether the offshore subcontracts are currently signed and in place or still in negotiation. For offshore subcontracts that are currently signed and in place to perform CY2007 functions and/or CY2008 functions, attestations are due to CMS by September 30, 2007. For offshore subcontracts that are the subject of negotiations for CY2007 functions and/or CY2008 functions,

but have not yet been signed, attestations should be submitted to CMS thirty (30) calendar days after the offshore subcontract is signed.

Please submit two (2) hard copies of the Offshore Subcontract Information and Attestation (CY2007 & CY2008) to:

Centers for Medicare & Medicaid Services  
Mail Stop C1-26-12  
Attn: Part D Offshore Subcontracting  
7500 Security Blvd.  
Baltimore, Maryland 21244

Centers for Medicare & Medicaid Services  
Mail Stop C1-26-12  
Attn: Part C Offshore Subcontracting (Lettica Ramsey)  
7500 Security Blvd.  
Baltimore, Maryland 21244

If you have any questions regarding this memo, please contact Scott Nelson at [Scott.Nelson2@cms.hhs.gov](mailto:Scott.Nelson2@cms.hhs.gov) or (410) 786-1038 concerning Part D-related matters and Letticia Ramsey at [Letticia.ramsey@cms.hhs.gov](mailto:Letticia.ramsey@cms.hhs.gov) or (410) 786-5262 concerning Part C-related matters.

**OFFSHORE SUBCONTRACT INFORMATION AND ATTESTATION (CY2007  
& CY2008) – INSTRUCTIONS**

*A. CMS requests MAOs and PDP sponsors to provide offshore subcontracting information as follows:*

**Part I. Medicare Part C Organization and Part D Plan Sponsor Information**

1. Provide legal name of MAO or PDP sponsor; and
2. Identify MAO or PDP sponsor contracts or prospective contracts (e.g., H1234 or S1234).

**Part II. Offshore Subcontractor Information**

1. (a) Provide offshore subcontractor name;  
(b) Provide offshore subcontractor address;
2. Describe offshore subcontractor functions (narrative discussion); and
3. State proposed or actual effective date for offshore subcontract.

**Part III. Precautions for Protected Health Information (PHI)**

1. Describe the PHI that will be provided to the offshore subcontractor;
2. Discuss why providing PHI is necessary to accomplish the offshore subcontractor's objectives; and
3. Describe alternatives considered to avoid providing PHI, and why each alternative was rejected.

*B. CMS requests the MAO or PDP sponsor to complete, sign, and return the following attestation:*

**ATTESTATION CONCERNING THE USE OF OFFSHORE CONTRACTORS**

**Name of MAO or PDP Sponsor:**

**Medicare Contract Identification Number (e.g., H1234, S1234):**

**Part I. Attestation of Safeguards to Protect Beneficiary Information in the Offshore Subcontract**

	<b>Yes or No</b>	<b>Attestation</b>
I.1.		Offshore subcontracting arrangement has policies and procedures in place to ensure that PHI and other personal information remains secure.
I.2.		Offshore subcontracting arrangement prohibits subcontractor's access to data not associated with the sponsor's contracts.
I.3.		Offshore subcontracting arrangement has policies and procedures in place that allow for immediate termination of the subcontract upon discovery of a significant security breach.

I.4.		Offshore subcontracting arrangement includes all required Medicare Part C and D language (e.g., record retention requirements, compliance with all Medicare Part C and D requirements, etc.)
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**Part II. Attestation of Audit Requirements to Ensure Protection of PHI**

	Yes or No	Attestation
II.1.		Organization will conduct an annual audit of the offshore subcontractor.
II.2.		Audit results will be used by the Organization to evaluate the continuation of its relationship with the offshore subcontractor.
II.3.		Organization agrees to share offshore subcontractor's audit results with CMS, upon request.

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*[SIGNATURE OF INDIVIDUAL AUTHORIZED TO SIGN ON BEHALF OF ORGANIZATION]*

\_\_\_\_\_  
*[TITLE]*

\_\_\_\_\_  
*[DATE]*