

# EXHIBIT I

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



Financial Services Group

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[REDACTED], 2018

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

I am writing to you because the Centers for Medicare & Medicaid Services (CMS) have received complaints regarding possible violations of the Medicare Secondary Payer (MSP) provisions of the Social Security Act (SSA) by your employer-sponsored group health plan (GHP). *See* 42 U.S.C. § 1395y(h); 42 C.F.R. §§ 411.102, .108, .161. The MSP provisions prohibit a GHP plan from “taking into account” that an individual is entitled to or eligible for Medicare benefits on the basis of End-Stage Renal Disease (ESRD). Any GHP that fails to comply with this authority may be considered a nonconforming plan by CMS, and subject to Internal Revenue Service (IRS) referral as described in 42 C.F.R. § 411.130.

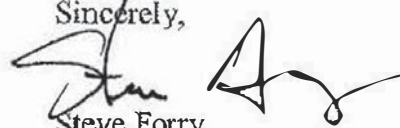
After review of the complaints received, CMS is not making a determination of nonconformance at this time. Rather, CMS reminds you that an employer-sponsored GHP may not take into account the ESRD-based Medicare entitlement or eligibility of any individual who is covered or seeks to be covered under the GHP. In addition, an employer-sponsored GHP may not differentiate in the benefits it provides between individuals with ESRD and other individuals covered under the plan, on the basis of ESRD, or the need for dialysis, or in any other manner. *See* 42 C.F.R. § 411.102(a)(1).

We note that under the governing regulations, a GHP “takes into account” that an individual is eligible for or entitled to Medicare benefits on the basis of ESRD when it imposes limitations on benefits for a Medicare entitled individual who has ESRD that do not apply to others enrolled in the plan. *See* 42 C.F.R. § 411.108(a)(5). Such limitations on benefits may include: providing less comprehensive health plan coverage; excluding benefits; reducing benefits; charging higher deductibles or coinsurance; providing for lower annual or lifetime benefit limits; and imposing more restrictive pre-existing illness limitations. *Id.* Further examples of such “taking into account” actions are described in 42 C.F.R. § 411.108(a).

CMS asks that you review your plan benefits to ensure compliance with the MSP provisions of the SSA, and their associated implementing regulations, regarding beneficiaries entitled to or eligible for Medicare on the basis of ESRD. If any violations of the governing authority are found, we ask that you take prompt corrective action.

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If you have questions about this letter, please call John Albert, of my staff, at 410-786-7457.

Sincerely,  
  
Steve Forry  
Director  
Division of MSP Operations