



**State of New Jersey**  
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**ADVISORY BULLETIN**  
**08-IHC-01**

February 11, 2008

To: IHC Program Member Carriers

From: Ellen DeRosa  
Executive Director

**Re: Exhibit K Assessment Report 2005/2006  
Action Required by Carriers that reported Medicare Advantage and/or  
Medicare Part D Premium – File Revised Exhibit K Assessment Report**

The purpose of this Advisory Bulletin is to notify Member Carriers of a change in the reporting requirements for the Exhibit K Assessment Report beginning with the Assessment Report for 2005/2006. The Exhibit K Assessment Report for 2005/2006 was filed in April 2007. The information contained on the Exhibit K Assessment Reports, as filed in 2007, was used to calculate the Loss Assessment for the 2005/2006 two-year calculation period, the Administrative Assessment for the 2008/2009 period and the non-group person targets for the 2007/2008 two-year calculation period. The assessments and targets were issued October 16, 2007.

As discussed in greater detail below, pursuant to Federal law, certain premium must be excluded from the net earned premium reported on the Exhibit K Assessment Report and Exhibit K Part C Premium Data Worksheet. Thus, Member Carriers are being given the opportunity to submit revised Exhibit K Assessment Reports. Using the net earned premium data on such revised Exhibit K Assessment Reports the IHC Board will issue an initial reconciliation of the Loss Assessment for the 2005/2006 two-year calculation period and the Administrative Assessment for the 2008/2009 period. Additionally, the IHC Board will reissue the non-group person targets for the 2007/2008 calculation period and give Member Carriers the opportunity to request exemptions based on the revised targets.

***Medicare Advantage Premium***

The Exhibit K Part C Premium Data Worksheet as it exists in N.J.A.C. 11:20 Appendix Exhibit K advises that only the premium amount paid by the federal government may be excepted from the Medicare Advantage premium. That direction fails to take into consideration the fact that as of 2005, 42 CFR 422.404 prohibits imposing a tax, fee or assessment with respect to Medicare Advantage Premium, regardless of whether the premium is paid by CMS, the Medicare

beneficiary or a third party on the beneficiary's behalf. Thus, Medicare Advantage premium should not have been included on the Exhibit K Assessment Report for the 2005/2006 two-year calculation period, nor should it be included on any future Exhibit K Assessment Reports unless Federal law is subsequently amended to permit its inclusion. Please note, that carriers must continue to report Total A&H Premium in Section 1 of the Premium Data Worksheet and such total premium would include Medicare Advantage Premium. The Medicare Advantage premium should be excepted in Section 2 item a of the Premium Data Worksheet. Medicare Advantage is defined as: a coordinated care plan (which would include "special needs plans"); a private fee-for-service plan; or a combination of a Medicare Advantage and an MSA. Regarding the "special needs plans", please note that although premium paid by CMS and the beneficiary paid by the State toward coverage is excepted premium, the premium paid by the State which funds coverage that is not Medicare Advantage coverage, is not excepted premium and thus must be included in the calculation of net earned premium.

### ***Medicare Part D Premium***

In Advisory Bulletin 07-IHC-01 we provided direction as to how carriers should report premium from Medicare Part D on this Worksheet. We have learned that such direction was inappropriate. Pursuant to 42 CFR 423.440 no premium from Medicare Part D may be taxed or assessed. Thus no Medicare Part D premium should have been included on the Exhibit K Assessment Report for the 2005/2006 two-year calculation period, nor should it be included on any future Exhibit K Assessment Reports unless Federal law is subsequently amended to permit its inclusion. Please note that carriers must continue to report Total A&H Premium in Section 1 of the Premium Data Worksheet and such total premium would include Medicare Part D Premium. The Medicare Part D premium should be excepted in Section 2 item a of the Premium Data Worksheet.

### ***File Revised Exhibit K Assessment Report for 2005/2006 by April 1, 2008***

All carriers that reported either Medicare Advantage Premium or Medicare Part D Premium on the Exhibit K Part C Premium Data Worksheet and the Exhibit K Assessment Report are asked to revise the Exhibit K Part C Premium Data Worksheet and Exhibit K Assessment Report to exclude all premium from Medicare Advantage plans and all premium from Medicare Part D. As stated above, Medicare Advantage Premium and Medicare Part D premium should be excepted in Section 2 a of the Premium Data Worksheet. Please submit the revised Exhibit K Assessment Report and Exhibit K Premium Data Worksheet by April 1, 2008.

**Note:** Member carriers that did not report either Medicare Advantage or Medicare Part D premium should NOT submit a revised Exhibit K Assessment Report for 2005/2006.

### ***2005/2006 Loss Assessment and 2008/2009 Administrative Assessment***

On October 16, 2007 the IHC Board billed the 2005/2006 loss assessment and the 2008/2009 Administrative Assessment. Each carrier's liability was determined using the net earned premium reported on the Exhibit K Assessment Report as previously submitted. After the IHC Board receives the revised Exhibit K Assessment Reports the IHC Board will issue an Initial Reconciliation of the 2005/2006 Loss Assessment and 2008/2009 Administrative Assessment. As will be explained in the initial reconciliation, if the reconciliation shows an amount due, pay

it within 30 days. If the reconciliation shows an amount to be refunded, such amount will be refunded when the amounts due have been collected.

***Non-Group Person Targets for 2007/2008***

On October 16, 2007 the IHC Board notified carriers of the non-group person targets for the 2007/2008 two-year calculation period and notified carriers of the opportunity to request an exemption. Six carriers requested exemptions. Since the non-group person targets are calculated using each carrier's proportionate share of net earned premium, and the net earned premium will be revised to exclude Medicare Advantage and Medicare Part D Premium, the non-group person targets need to be revised and thus prior exemption requests submitted by the six carriers based on the targets issued on October 16, 2007 are being voided. All carriers will be given an opportunity to request an exemption for the 2007/2008 two-year calculation period based on the revised non-group person targets. The revised non-group person targets will be issued along with the initial reconciliation discussed above. Carriers that wish to seek an exemption for 2007/2008 based on the revised target must do so within 30 days of receipt of the revised target.

***Action Carriers Must Take Now***

If your 2005/2006 Exhibit K Assessment Report included any Medicare Advantage or Medicare Part D Premium, submit a revised Exhibit K Part C Premium Data Worksheet and Exhibit K Assessment Report by April 1, 2008.

If you have any questions, please contact me by email at [ellen.derosa@dobi.state.nj.us](mailto:ellen.derosa@dobi.state.nj.us) or by phone at 609-633-1882 ext. 50302.