**Authority/Purpose:**

In adopting this policy on the Commission Chargeback Process-Medicare (“Policy”), WellCare Health Plans, Inc. (“WellCare” or the “Company”) and its representatives seek to ensure compliance with applicable federal and state laws, regulations, and guidance on compensation of Producers selling Medicare Advantage and Medicare Part D products, including but not limited to 42 C.F.R. 422.2274 and 423.2274, and sections 120.4 – 120.4.7 of the Medicare Marketing Guidelines Chapter 3.

**Definitions:**

- **SMARTComp:** End User Developed Application System
- **CHMI:** Comprehensive Health Management Inc.
- **Chargebacks:** Chargebacks are defined as recovering compensation that was "Advanced" in a calendar year for months the member was not on the plan.
- **Compensation:** Pecuniary or non-pecuniary remuneration of any kind relating to the sale or renewal of a policy, including, but not limited to, commissions, bonuses, gifts, prizes, awards and finders’ fees.

**NOTE:** Compensation does not include:
  a. The payment of fees to comply with state appointment laws;
  b. Training costs;
  c. Certification costs;
  d. Testing costs;

**Policy:**

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<tr>
<th>Manual Section:</th>
<th>Policy Name:</th>
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<tr>
<td>Corporate Policy and Procedures, Operations, Member Operations</td>
<td>Commission and Chargeback Policy-Medicare</td>
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<th>Reviewed (No changes to policy)</th>
<th>Revised (Content changes made to policy)</th>
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*Electronic Approvals are located in C360*
e. Reimbursement of mileage to, and from, appointments; and
f. Reimbursement for actual costs associated with beneficiary sales appointments such as venue rent, snacks, and materials

- **IKA System**: Online enrollment system

- **Initial Compensation**: Offered for the beneficiary's initial Plan Year of enrollment in a plan. This includes "New to MA" (N2MA) enrollments as well as plan changes from "unlike" plans (see below).

- **Like Plans**:
  - PDP to PDP
  - MA, MAPD or MMP to another MA, MAPD or MMP
  - 1876 cost plan to another 1876 cost plan

- **Unlike Plans**:
  - PDP to 1876 plan or MA/MAPD plan
  - MA/MAPD to a PDP or 1876 plan
  - 1876 cost plan to a MA/MAPD plan or PDP

**NOTE**: For dual enrollments (e.g. in a MA only plan and a standalone PDP), the compensation rules apply independently to each plan. However, when dual enrollments are replaced by an enrollment in a single plan, compensation is paid based on the MA movement (e.g. movement from a MA only and PDP to a MA-PD would be compensated at the initial compensation amount for the MA to MA-PD "like plan type" move).

- **NSSA**: National Sales Support Analyst

- **Plan Year**: Plan Years start on January 1st and end on December 31st.

- **Producer**: W2 Sales Representatives, Captive Agents, Independent Agents, 1099 Sales Agents, Brokers, General Agents, General Agencies, and Distribution Partners

- **Renewal Compensation**: Is up to 50% of the current year fair market value (FMV) following the initial plan year, regardless of when a member enrolled.
  - At its discretion, WellCare may pay renewals beyond 6 years as long as the member remains enrolled.

- **Xcelys**: Member System of Record

**Policy Statements**:

1. WellCare has an established process to notify CMS of the compensation schedule in HPMS by the CMS-specified date each year.

2. CMS has established independent 1099 producer compensation limits in order to ensure that compensation does not create incentives for producers to assist beneficiaries with plan selection using criteria other than the beneficiaries’ health care needs and preferences. These limits apply to MA and PDP organizations, and are designed to eliminate inappropriate moves of beneficiaries from one plan to another. These compensation rules do not apply to company employed agents.

3. Referral/finder's fees are part of the total compensation and do not exceed the Fair Market Value (FMV) for the current year.
Captive producers, i.e., contracted producers who only represent WellCare, who receive compensation that does not vary based on enrollments, may be considered employed for the purpose of 120.4 regulations.

4. WellCare will abide by state licensure/appointment laws regarding commission payments.

5. Commission payments will not be paid to producers who:
   o Have not completed WellCare’s process for contracting and certification, as outlined in policy C29SO-001.
   o Have been terminated for cause.

6. WellCare will notify CMS annually of whether the company intends to use independent producers for the upcoming plan year and the amounts that the company will pay them.

7. WellCare will pay independent producers an amount that is at or below the adjusted fair market value cut–off amounts released each spring by CMS.

8. Bonuses (announced or unannounced prior to payment) will be calculated into the compensation structure and must fall within CMS rules for that contract year.

9. When a beneficiary enrolls in an MA-PD plan, compensation will be paid using the MA compensation amount. Plan sponsors should not pay both the MA and PDP compensation amounts.

10. When WellCare contracts with a third party entity to sell its products, it ensures payment is at or below the initial and renewal compensation maximum amounts. Payments made to third parties for services other than enrollment of beneficiaries (e.g. admin fees such as; training, customer service, or agent recruitment) must not exceed an amount that is commensurate with the amounts paid by the Plan/Part D Sponsor to a third party for similar services during each of the previous two (2) years.

11. It is WellCare’s responsibility to ensure that all of its contracted sales staff's compensation levels abide by CMS rules. WellCare establishes the compensation structure for new and replacement enrollments and renewals effective in a given plan year and that compensation structure is available upon CMS request for audits, investigations, and to resolve complaints. Compensation structures are in place by the beginning of Open Enrollment Period (OEP), October 15.

**Initial Commission Methodology**

1. Initial commission is the first of two types of producer compensation. Initial compensation, regardless of the enrollment effective date, will be calculated and paid through the end of the initial plan year (i.e., December 31 of year 1).

2. Initial commissions are paid for new enrollments into like or unlike plan types.
   a. At the plan’s discretion, enrollments with no prior plan history (according to MARX) can be paid the FULL initial commission OR can be pro-rated for the months the member is on Plan. WellCare will pay the FULL year Initial Payment for New to MA enrolls.
   b. Plan changes for Initial Year after January 1st will be pro-rated for the number of months remaining in the first Plan Year.

3. The first plan year will be “Advanced” with “As Earned” payments beginning in January of the next plan year.
   a. Plan Years start on January 1st and end on December 31st. The Initial Year begins in plan Year 1 with 5 years of Renewals.
Renewal Commission Methodology

1. Renewal commission is the second of two types of producer compensation. Renewal compensation, regardless of the enrollment effective date, will be calculated based on current plan/year rate tables and paid as earned on a monthly basis.
   
a. Renewal compensation is paid following the initial year compensation

b. Renewal compensation is also paid when a beneficiary enrolls in a new, “like plan type.” A new “like plan type” may be a change from one plan to another plan within WellCare or between different Plans.

NOTE: CMS permits WellCare to pay compensation for the current year enrollment to producers. Payments for the following plan year may not be paid until January 1 and must be paid in full by December 31 of the enrollment year. Plans/Part D Sponsors may pay compensation annually, quarterly, monthly or more frequently, but cannot pay more than one year at a time. WellCare will advance the first plan year for an initial enrollment. Renewal will be paid monthly beginning the first of the next plan year.

2. As indicated on the TRR Report, a new member to WellCare is deemed a renewal when enrolled from a “Like” plan. This applies to both, new enrollments within our organization or from another organization.
   
a. In the first year of a renewal, WellCare will pay a pro-rated amount equal to 1/12th for each month between the start date and the end of that plan year. If an enrollment is deemed to be within its initial year, a true-up payment will be made.

b. In renewal years, WellCare will make monthly renewal payments equal to 1/12th of the annual renewal rate. The renewal payment will cease when a disenrollment occurs. (“As Earned Payments”)
   
i. NOTE: Renewal compensation will apply whether the beneficiary is; (1.) Currently enrolled in a WellCare or WellCare brand plan for the current year and renews in that same plan or moves to a different plan with our organization (same parent organization), or (2.) moves from a plan under another parent organization to a WellCare or WellCare brand plan (receiving organization).

3. Renewal compensation is paid for subsequent years following the initial compensation year; however, if an enrollee moves to a plan of a different plan type, the producer may receive compensation at the initial rate again. CMS provides a monthly report that identifies beneficiary enrollment changes and the corresponding compensation cycle status. (TRR)

4. The aggregate compensation amount paid for selling or servicing an enrollee during renewal years must be fair-market value for the work performed, and no more, and no less than fifty (50) percent of the aggregate compensation amount paid for that beneficiary in the initial year as required under 42 C.F.R. 422.2274(a)(1)(iii) and 42 C.F.R. 423.2274(a)(1)(3), plus analyzed rate increase released by CMS.

Chargeback Methodology

1. Chargebacks are defined as recovering compensation that was “advanced” in a plan year for months the member was not on the plan. The first 3 months are considered “Rapid Disenrolls” (RDEs) and are charged back for 100% of the commission. Any disenrolls between 4 and 11 months are recovered on a pro-rated basis. Chargebacks will be utilized to recover compensation payments from agents any time a commission is advanced and the beneficiary disenrolls prior to commission advance proration hitting zero.
Exceptions:
a. October 1, November 1, and December 1 enrollments are not considered RDEs if the member disenrolls for a January 1 Effective. Standard RDE methodology applies for disenrolls prior to January 1 (i.e. October enrollment, but disenrolling for December effective).

b. Disenrolls from Part D due to:
   i. Other creditable coverage
   ii. Institutionalization

c. Exceptional Circumstances:
   i. Gains or drops employer sponsored coverage
   ii. In order to coordinate with Part-D enrollment periods
   iii. In order to coordinate with an SPAP
   iv. Retroactive notice of Medicare entitlement

d. Changes in Status:
   i. Becoming dual eligible
   ii. Qualifying for another plan based on special needs
   iii. Becoming LIS eligible
   iv. Qualifying for another plan based on chronic conditions
   v. Moving into or out of an institution
   vi. Due to an auto-facilitated enrollments

e. Involuntary DEs:
   i. Death
   ii. Out of Service Area
   iii. Non-payment of Premium
   iv. Loss of entitlement
   v. Retroactive notice of entitlement
   vi. CMS sanctions or Contract violation
   vii. Plan non-renewal or termination

f. 5 Star Score SEP