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# 42 U.S. Code § 1395w-112

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## Requirements for and contracts with prescription drug plan (PDP) sponsors

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### **(a) General requirements**

Each PDP sponsor of a prescription drug plan shall meet the following requirements:

#### **(1) Licensure**

Subject to subsection (c), the sponsor is organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a prescription drug plan.

#### **(2) Assumption of financial risk for unsubsidized coverage**

##### **(A) In general**

Subject to subparagraph (B), to the extent that the entity is at risk the entity assumes financial risk on a prospective basis for benefits that it offers under a prescription drug plan and that is not covered under section 1395w-115(b) of this title.

##### **(B) Reinsurance permitted**

The plan sponsor may obtain insurance or make other arrangements for the cost of coverage provided to any enrollee to the extent that the sponsor is at risk for providing such coverage.

#### **(3) Solvency for unlicensed sponsors**

In the case of a PDP sponsor that is not described in paragraph (1) and for which a waiver has been approved under subsection (c), such sponsor shall meet solvency standards established by the Secretary under subsection (d).

### **(b) Contract requirements**

#### **(1) In general**

The Secretary shall not permit the enrollment under section 1395w-101 of this title in a prescription drug plan offered by a PDP sponsor under this part, and the sponsor shall not be eligible for payments under section 1395w-114 or 1395w-115 of this title, unless the Secretary has entered into a contract under this subsection with the sponsor with respect to the offering of such plan. Such a contract with a sponsor may cover more than one prescription drug plan. Such contract shall provide that the sponsor agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

#### **(2) Limitation on entities offering fallback prescription drug plans**

The Secretary shall not enter into a contract with a PDP sponsor for the offering of a prescription drug plan (other than a fallback prescription drug plan) in a PDP region for a year if the sponsor—

(A) submitted a bid under section 1395w-111(g) of this title for such year (as the first year of a contract period under such section) to offer a fallback prescription drug plan in any PDP region;

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(B) offers a fallback prescription drug plan in any PDP region during the year; or

(C) offered a fallback prescription drug plan in that PDP region during the previous year.

For purposes of this paragraph, an entity shall be treated as submitting a bid with respect to a prescription drug plan or offering a fallback prescription drug plan if the entity is acting as a subcontractor of a PDP sponsor that is offering such a plan. The previous sentence shall not apply to entities that are subcontractors of an MA organization except insofar as such organization is acting as a PDP sponsor with respect to a prescription drug plan.

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