

WHAT AGENTS NEED TO KNOW ABOUT THE CMS FINAL RULE



On Wednesday April 5, CMS added the 2024 Policy and Technical Changes for Medicare Advantage and Prescription Drugs to the Federal Register for public inspection. It contained both finalized changes as well as summaries and responses to comments received by CMS. The majority of these changes take effect September 30, 2023 for marketing 2024 plans. Here are some of the most impactful finalizations from the rule in summary format.

EDUCATIONAL EVENTS

- No sales events may take place within 12 hours of an educational event in the same location
- You may NOT set future marketing appointments or collect Scope of Appointments (SOAs) at an educational event.
- You CAN collect Business Reply Cards / Permission to Contact if requested by an attendee.

MARKETING MATERIALS

- Third-Party Marketing Organizations (TPMOs) must get approval from carriers prior to submitting marketing materials in HPMS.
- Marketing materials cannot advertise benefits in areas they are not available
- Marketing materials cannot advertise beneficiary savings based on comparisons to an uninsured individual.
- Benefits mentioned in materials must mention specific benefit amounts and identify the plan(s) offering them.
- Plans represented by a marketing material must be listed on the material.

MEDICARE NAME, MARKS, & LOGO

- CMS finalized a strengthening of rules regarding the use of the word Medicare and other federally owned brand marks in a way that could confuse beneficiaries.
- CMS will require prior authorization to use certain marks or assets, including the image of the Medicare Card.

SCOPE OF APPOINTMENT

- Agents must obtain a scope of appointment no less than 48 hours prior to presenting and enrolling a beneficiary into a plan.
- SOAs are considered valid until used in the presentation of a plan, or for 12 months from the signature date, whichever comes first.
- There are two exceptions to the 48 hour rule; the 48 hour rule is waived if a beneficiary is in the last 4 days of their valid enrollment period or if they are an in-person walk-in appointment.

DOOR KNOCKING

- CMS upholds the prohibition on unsolicited contact for MA / PDP products and has finalized that a Business Reply Card or Permission to Contact form does not constitute permission to show up unscheduled at a beneficiary's home. Agents may only show up at a beneficiary's home with a scheduled appointment.

CALL RECORDING

- CMS is amending the requirement to record all calls. Only sales and enrollment calls are needed to be recorded starting September 30, 2023. CMS further clarified that virtual meetings, such as Zoom or Facetime, DO constitute a call, and the audio must be recorded as applicable.

DISCLAIMERS

- The required disclaimer now applies to ALL TPMOs, including those offering only one plan for all plans in an area.
- Agents must add SHIPs to the list of resources for all of their options.
- TPMOs must list the number of plans and products they represent in the area the beneficiary is in.

Sample NEW disclaimer: “We do not offer every plan available in your area. Currently, we represent [insert number of organizations] organizations which offer [insert number of plans] products in your area. Please contact Medicare.gov, 1-800-MEDICARE, or your local State Health Insurance Program (SHIP) to get information on all of your options.”

There are several other provisions of the rule, such as enhanced Pre-Enrollment Checklist rules, a requirement that plans to create more robust oversight systems and annual opt-outs from plan business. There are still many clarifications and unanswered questions we expect to be answered in future sub-regulatory guidance. Agents will face new challenges with these updated guidelines, but are still presented with amazing opportunities to assist beneficiaries in choosing the Medicare plan that is right for them!

For resources or questions, please reach out to
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