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# 2013 Medicare Marketing Guidelines Overview

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# Course Objectives

1. Identify the 2013 Medicare Marketing Guidelines Guiding Principles
2. Recognize Key Focus Areas within the 2013 Medicare Marketing Guidelines
3. Comprehend Policy Clarifications within the 2013 Medicare Marketing Guidelines

# Guiding Principles

## The 2013 MMG centers around three guiding principles:

- Plan sponsors are responsible for ensuring compliance with CMS' current marketing regulations and guidance, including monitoring and overseeing the activities of their subcontractors, downstream entities, and/or delegated entities.
- Plan sponsors are responsible for full disclosure when providing information about plan benefits, policies, and procedures;
- Plan sponsors are responsible for documenting compliance with all applicable MMG requirements.

# 20 – Materials Not Subject To Review

*New!*

- Ad-Hoc Enrollee Communication Materials
  - OMB Forms
  - VAIS Materials
  - Communicating preventive services to members
  - Mid-year Change Enrollee Notifications
- \* Please Note: Although not a new regulation, Group Enrollment marketing materials are not subject to CMS review.

## 30.7.1- Multi-Language Insert

The Multi-Language Insert is a document that contains the following statement translated into multiple languages. ***New!***

**“We have free interpreter services to answer any questions you may have about our health or drug plan. To get an interpreter, just call us at [1-xxx-xxx-xxxx]. Someone who speaks [language] can help you. This is a free service.”**

- Plans must include the Multi-Language Insert with the Summary of Benefits (SB) and the ANOC/EOC.
- If the Summary of Benefits and the ANOC/EOC documents are sent separately to beneficiaries, then the Multi-Language Insert must be sent with each document. Insert must also be made available online and when the beneficiary is provided with enrollment instructions or enrollment forms.

## 30.7.1- Multi-Language Insert (Continued)

- Plan sponsors have the option to incorporate the Insert as part of these materials or to provide as a separate document.
- Plan sponsors have the option of placing the insert anywhere within the document.
- The Multi-Language Insert cannot be modified except to include additional languages. If additional language are included, the statement must be translated.
- Multi-language insert will require file and use submission. Upload code within HPMS will be implemented in early July.

## 30.8 - Required Materials with an Enrollment Form

When a beneficiary is provided with enrollment instructions and/or form, she/he must also receive:

- Plan Ratings information (as specified in 30.12)
- Summary of Benefits
- Multi-Language Insert (see Section 30.7.1)

The above materials must also be made available online prior to the member enrolling

## 30.9-Required Materials for New and Renewing Members at Time of Enrollment and Thereafter

The following items must be sent to new and renewing Enrollees at the time of enrollment and thereafter:

- Annual Notice Of Change/Evidence Of Coverage (ANOC/EOC)
- Comprehensive formulary or abridged formulary
- Pharmacy directory (least every three years after that)
- Provider directory (least every three years after that)
- Membership Identification Card



## 30.9.1 Mailing Materials to Addresses with Multiple Members

Every member must receive the materials noted in 30.9 at the time of enrollment. Thereafter, plan sponsors have the option of mailing these materials to either every member or every address where up to four member reside.

- Must include all names on the envelope, or list one name on the envelope and include all others on a cover letter accompanying the mailing.
  
- ID cards are excluded.

## 30.11 – Member Referral Programs

Gifts for referrals must be available to all members that provide a referral and cannot be conditioned on actual enrollment of the person being referred.

- A plan sponsor can ask for referrals from members, including names and addresses, but cannot request phone numbers. Plan sponsors may use member provided referral names and addresses to solicit potential new members by mail only.
- Any solicitation for leads, including letters sent from plan sponsors to members, cannot announce that a gift will be offered for a referral.
- Gifts must be of nominal value (refer to §70.1- Nominal Gifts).

## 30.12 – Plan Ratings Information from CMS

- The standardized Plan Ratings information document must be distributed with any enrollment form, Summary of Benefits and be available on plan websites - *New!*
- Plan sponsors may only reference the contract's individual measures in conjunction with its overall performance rating in marketing materials - *New!*
- Plans may add their logo to the document
- Annually, plans will be required to use updated Plan Ratings information within 15 days of the release - *New!*

## 30.12.1 – Referencing Plan Ratings in Marketing Materials

- Plan sponsors' marketing may not reference or include poor performance status information as a means to circumvent enrollment and disenrollment election period rules. *New!*
- Plan sponsors with an overall Five-Star rating have the option to include CMS' gold star icon on marketing materials

# 40.1 - Marketing Material Identification

- Material ID is made up of two parts:
  - Plan sponsor's contract or MCE number (H,R,S, or Y) followed by an underscore
  - Any series of alpha numeric characters
  - Example: "Y1234\_drugx38 CMS Approved"
- Date is no longer required -**New!**

## 40.1 - Marketing Material Identification (continued)

All marketing materials must have the marketing material ID number with the following exceptions:

- The member ID card (although PDP or MA-PD member ID cards must include the CMS contract number and PBP number on them)
- Envelopes
- Radio ads
- Outdoor advertisements
- Banner or banner-like ads
- Social media comments and posts
- AD-Hoc materials
- VAIS
- OMB Forms

## 30.5 - Plan Sponsor Responsibility for Subcontractor Activities and Submission of Materials for CMS Review

- Materials created by agents or brokers that mention plan specific benefits must be submitted by the plan sponsor to CMS.
- Materials that only indicate the products, (e.g., HMO, PPO, or PDP), an agent sells are not required to be submitted to CMS.
- Please note that this guidance in no way precludes the application by the plan sponsors of more stringent rules or contractual obligations in order to further restrict agent or broker communication and activities."

## 40.8 - Hours of Operation Requirements for Marketing Materials

- Hours of operation must be listed on all materials where a customer service number is provided for current and prospective enrollees to call.
- Hours of Operation must be listed once, not every time -**New!**



# 50.0 Disclaimers

Marketing materials are grouped into two distinct categories:

- Materials directed to potential enrollees
- Communications to existing members

Plans are not required to resubmit existing materials to reflect these changes

## 50.0 Disclaimers (Continued)

Disclaimers that have been modified:

- Federal Contracting Statement-modified to include Plan Sponsor's name or marketing name.
- When benefits are mention disclaimers-updated to incorporate plain language.
- Disclaimer on Advertisements and Invitations to Sales/Marketing Events-Removed requirement to include product types to be discussed on invitations

## 50.0 Disclaimers (Continued)

Disclaimers that have been added:

- Disclaimer for Plans Accepting Online Enrollment Requests- this disclaimer is ONLY required on Plan Sponsor's website

Disclaimers that have been removed:

- Part D Extra Help Disclaimer
- Educational Event Disclaimer
- VAIS Disclaimer

## 50.0 Disclaimers (Continued)

### Clarification of Disclaimers:

- Disclaimer on Availability of Non-English Translations-Non-English Disclaimers on all materials as required in 30.8; 30.9 & 30.12. It is not needed in other member communications such as advertising.
- Disclaimer When Referencing Plan Ratings Information-Disclaimer is now a requirement not an option all Plan Rating materials.

## 60.0 Directories

- Plan sponsors must send a Provider or Pharmacy Directory at the time of enrollment and at least every three years after that - **New!**
- Change pages no longer required - **New!**
- Plans must make directories available upon request and websites must contain current directories at all times.

# 60.0 Directories (Continued)

## Updates to the Directory

- Written notice of termination for providers and pharmacists to members that use them
- Significant changes to the provider/pharmacy network
  - Significant changes defined by the plans
  - CMS may also direct plans if a mailing is needed

## 60.2.1 Health Plan ID Card Requirements

Health plans must have member identification cards - **New!**

The member identification card must comply with the most recent version of the Workgroup for Electronic Data Interchange (WEDI) *Health Identification Card Implementation Guide*.

CMS will issue Health Plan ID (HPID) numbers to all plan sponsors

Health plan ID cards must include:

- The plan sponsor/plan website address
- The plan sponsor's customer service number
- The phrase "Medicare limiting charges apply" (on MA PPO or PFFS cards only)
- The CMS ID card must contain the CMS contract and PBP number

## 60.7 Annual Notice of Coverage/Evidence of Coverage (ANOC/EOC)

- ANOC/EOC must be received by members no later than September 30 of each year.
- Employer group plans must send ANOC/EOC for ANOC with SB for receipt by September 30
- ANOC/EOC are now subject to a 5 day file and use rather than 10-day.
- CMS has waived the 5 day wait and we may distribute immediately.



## 70.1 Nominal Gifts

- Plan sponsors must track and document items given to current members.
- Plan sponsors are not required to track pre - enrollment promotional items on a per person basis; however, they may not willfully structure pre - enrollment activities with the intent to give people more than \$50 per year.

## 70.3 Rewards and Incentives

- Rewards and incentives may only be offered to current members for any Medicare covered preventive services that have a zero dollar cost share. Examples include:
  - Preventive screenings,
  - Immunizations,
  - Welcome to Medicare visit.
- \$50 cap no longer applicable - **New!**

## 70.3 Rewards and Incentives (Continued)

Reward and incentive items must:

- Be offered in connection with the whole service\*
- Be offered to all eligible members without discrimination
- Have a monetary cap not to exceed \$15 per reward item (based on the retail value of the item)
- Be tracked and documented through the contract year
- Comply with all relevant fraud and abuse laws
  - Anti-kick back statute
  - Civil monetary penalty prohibiting inducements to beneficiaries

\*\*Example, a plan sponsor may offer a reward for participating in the smoking cessation program but not offer multiple awards for attending each smoking cessation class.

## 70.3 Rewards and Incentives (Continued)

Reward items can not:

- Be items that are considered a health benefit (e.g., a free checkup)
- Be items that consist of lowering or waiving co-pays
- Be offered in the form of cash or monetary rebates
- Be used to target potential enrollees (e.g., used in pre-enrollment, advertisement, marketing or promotion of the plan)
- Be structured to steer enrollees to particular, provider, practitioners, suppliers
- Be tied directly or indirectly to the provision of any other covered item or service.

# 70.8 Outbound Enrollment and Verification Requirements

- All plan sponsors must verify enrollments facilitated by independent and employed agents/brokers.
- Plans must ensure that enrolling beneficiaries understand the plan rules.
- Plan sponsors must make a minimum of three documented attempts to contact the applicant by telephone within fifteen (15) calendar days of receipt of the application; the first two attempts must be made within the first 10 days.

## 70.8 Outbound Enrollment and Verification Requirements

- If the enrollment application is incomplete, plan sponsors should concurrently conduct the OEV process while obtaining the missing information needed to complete the application.
- Plan sponsors that do not successfully reach the beneficiary on the first or second attempt must send the applicant an enrollment verification letter in addition to making the third documented outbound verification call attempt within the 15 day timeframe.

\* Incomplete enrollment applications should be completed concurrently with the OEV process as applicable.

## 70.9 Educational Events

- Educational events may not have marketing, including plan specific benefits -
- If plan sponsors hold member only events, they may not conduct enrollment or sales activities at these events.
- Any marketing of these events must be done in a way that reasonably targets only existing members (e.g. direct mail flyers), and not the mass marketplace (e.g., radio or newspaper ad).

## 70.10.1 – Notifying CMS of Scheduled Marketing Events

- If a sales event is cancelled less than forty - eight (48) hours before its originally scheduled date and time, the plan must notify the RO of the cancellation and cancel the event in HPMS.
  - Clarification - Plans must only notify the RO if they are unable to cancel the event directly in HPMS.
- Submission of Educational Events is now an option not a requirement.
- Please Note: Aetna will continue to submit Educational Events to CMS.



## 70.10.3 - Scope of Appointment

- In conducting marketing activities, for MA or Part D products, plan sponsor may not market any health care related product during a marketing appointment beyond the scope agreed upon by the beneficiary, and documented by the plan, prior to the appointment (48-hours in advance when practicable).
- BRC used for documenting beneficiary SOA or agreement to be contacted must contain language informing the beneficiary that a sales person may call as a result of their returning a BRC.

# 80.1 Call Center Requirements

- CMS has removed AEP timeframes. Plans are now required to operate a toll-free call center for both current and prospective enrollees seven (7) days a week, at least from 8:00 A.M. to 8:00 P.M., according to the time zones for the regions in which they operate.
- From Feb 15 to Sept 30 Plan sponsors may use alternative technologies on Sat, Sun, and Federal Holidays.
- We must now inform callers that interpreter services are "free".

## 80.2 - Expectations for Scripts & 80.3 Requirements for Informational Scripts

- Plan sponsors are only required to enter sales/enrollment scripts into HPMS; however, they must retain all other scripts and make them available upon CMS request.
- Inbound Informational Calls now can be transferred to the enrollment department when the beneficiary request it. "CMS recognizes that, in some instances, a beneficiary may initiate a request for information and subsequently request enrollment into a plan. CMS expects that informational calls will only lead to sales/enrollment calls (or transferred to the appropriate sales/enrollment department) at the proactive request of the beneficiary."
- Plan Sponsor still may not transfer outbound calls to inbound lines for telephone enrollment.

## 90.2.2 - Submission of Websites for Review

- Websites are available for public use during the CMS review period.
- If any portion of the website is disapproved, the plan sponsor must remove the disapproved portion immediately
  - **New!**
- Guidance has been consolidated for website requirements-  
**New!**

# 100 - Plan Sponsor Websites and Social/Electronic Media

- Plan sponsors are allowed to use social/electronic media (e.g., Facebook, Twitter, Scan Code, or QR Code).
- These tools are considered marketing materials and are subject to these guidelines

# 100.1 - General Website Requirements & 100.2 Required Content

- CMS clarifies plans must post the actual material, rather than duplicating the material's content on the website.
- Various required content has been added:
  - Information on beneficiaries' and plan's rights and responsibilities upon disenrollment;
  - Information on how to obtain an aggregate number of grievances, appeals, and exceptions filed with the plan sponsor;
  - contact numbers that enrollees and/or physicians can use to process or status questions;
  - a direct link to the medicare.gov website where a beneficiary can enter a complaint in lieu of calling 1-800-Medicare.

# 100.2.1 – Required Documents for All Plan Sponsors

CMS has added the following required documents to be posted on the Plan Sponsor's website:

- CMS Plan performance rating document (star rating)
- Any form developed to be used by physicians when providing a supporting statement for an exceptions request
- Any form developed by the plan sponsor to be used by a physician or enrollee to satisfy a prior authorization or other utilization management requirement.

## 120.2 Plan Reporting of Terminated Agents

- When plan sponsors discover incidents of unlicensed agents or brokers submitting applications they must:
  - Terminate the agent/broker,
  - Report them to the authority in the State where the application was submitted, and
  - Notify any beneficiaries enrolled by the unqualified agent to advise of the agent's status.
- Beneficiaries may request to make a plan change.



## 120.4.7 - Adjustments to Compensation Schedules

- Plan sponsors must notify CMS annually whether they intend to use independent agents/brokers for the upcoming plan year and the amounts they will pay them.
- Plan sponsors must pay independent agents/brokers an amount that is at or below the adjusted fair market value cut - off amounts (released each spring by CMS) – **New!**

## 120.7 Activities That Do Not Require the Use of State-Licensed Marketing Representatives

CMS has shortened this section to only include the following activities that do not require the use of a State-licensed marketing representative.

- Providing factual information
- Fulfilling a request for materials
- Taking demographic information in order to complete an enrollment application at the initiative of the prospective enrollee

# Resources

2013 Medicare Marketing Guidelines

<http://www.cms.hhs.gov/ManagedCareMarketing/>

CMS Medicare Marketing Guidelines Training & Transcripts

[www.CMSDrugHealthPlanEvents.org](http://www.CMSDrugHealthPlanEvents.org)

Thank you

**aetna**<sup>SM</sup>