

## **New Marketing Guidelines for 2011**

MA organizations and Part D sponsors (CMS Contractors) are responsible for the actions of plan representatives including subcontractors and downstream entities like brokers and agents. As result, it is critical that we all comply with the regulations of the Marketing guidelines and the Medicare Improvement for Patients and Providers Act (MIPPA).

There are two main types of marketing/sales events – formal and informal. All marketing events, modifications and cancellations must be submitted to CMS. All cancellations must be reported to CMS at least 48 hours prior to the scheduled event.

**Formal marketing/sales events** are typically structured in an audience/presenter style with a sales person or plan representative formally providing specific plan sponsor information via a presentation on the products being offered. In this setting, the presenter usually presents to an audience that was previously invited to attend.

**Informal marketing/sales events** consist of a less structured presentation and/or environment to an audience and/or passersby. They typically utilize a table or kiosk manned by a plan sponsor sales person who can discuss the merits of the plan's products.

Below are key points to remember. For a more detailed understanding, please plan to attend one of our webinars or visit <http://www.cms.hhs.gov/HealthPlansGenInfo/>.

### **Marketing Events**

- Meals may be provided at educational events only.
- Light snacks may be provided to prospective enrollees (fruit, raw vegetables, etc.).
- Gifts worth \$15 or less can be provided to attendees.
- **May** conduct sales activities in common areas only in health care settings (i.e., cafeterias, recreational rooms, etc.).
- **May** distribute health plan brochures and enrollment advertising materials (including enrollment forms).
- **May** accept and perform enrollments.
- **May** contribute cash toward prize money to a foundation or another entity if the event is jointly sponsored.
- **Cannot** claim to be the sole donor of the prize and it must be clear that the prize is attached to the event and not the individual organization.
- **Cannot** conduct sales activities or take enrollment in areas where patients primarily intend to receive health care service.
- **Cannot** compare one plan sponsor to another by name unless both plan sponsors have concurred.
- **Cannot** require beneficiaries to provide any contact information as a prerequisite for attending the event. Plans should clearly indicate on any sign-in sheets that completion of any contact information is optional.

### **Marketing Calls**

- **Do not** place any outbound marketing calls to members or to beneficiaries unless the beneficiary requested it.
- **Do not** place calls to members who have or are in the process of voluntarily disenrolling.

- **May** contact members only that they previously enrolled into a plan, to discuss plan issues and market plan options, and is not required to set up an appointment to discuss other available plans/products with the beneficiary.

### **Beneficiary Walk-ins to a Plan or Agent/Broker Office**

- The plan sponsor or agent/broker should complete a scope of appointment form and secure the beneficiary's signature prior to discussing MA, PDP or cost plans.
- Plan sponsors and agents/brokers should note on the scope of appointment form that the beneficiary was a walk-in. In this instance, the forty-eight (48) hour waiting period does not apply.

### **Scope of Appointment**

- When scheduling an appointment with a potential enrollee, the Scope of Appointment must be documented before the appointment.
- The documentation must be in writing, in the form of a signed agreement by the beneficiary, or a recorded oral agreement.
- A plan or agent documenting the agreement is not acceptable, whether done in writing or using an electronic contact documentation system; it must have the beneficiary's agreement included.
- Only discuss information agreed to in the Scope of Appointment documentation.
- If potential enrollee wants information on a product outside of the original scope, a separate meeting must be scheduled at least 48 hours later.
- Exceptions apply to appointments validated with a signed scope of appointment form following marketing an event and can be arranged immediately, and the 48-hour waiting period does not apply.
- May leave marketing materials for next meeting as long as no enrollment application is left.

### **Auditing/Oversight**

- CMS can monitor through an audit of Scope of Appointment documentation.
- The Health Plan will be conducting audits as well to ensure compliance with the CMS regulations.

### **Certification**

- The Centers for Medicare and Medicaid Services (CMS) requires all internal and external sales personnel to be certified prior to writing an MA/MAPD or PDP application.

A health plan with a Medicare contract.

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