

MEDICARE DRUG & HEALTH PLAN CONTRACT ADMINISTRATION GROUP

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To: Medicare Advantage Organizations, Section 1876 Cost Plans, and Prescription Drug Plans

From: Danielle R. Moon, J.D., M.P.A.
Director

Subject: Surveillance, Compliance, and Marketing Update

The purpose of this memorandum is to provide updates on surveillance, compliance, and marketing to keep you informed and ensure compliance with our requirements. Below are a number of updates and clarifications:

1. Medicare Marketing Guidelines Training Q&A Update
 - We have updated the Q&As posted following the Medicare Marketing Guidelines (MMG) training based on the valuable feedback we received from Plans/Part D Sponsors. We clarified answers regarding:
 - alternate language disclaimers in model materials and scripts;
 - posting ANOCs to websites;
 - members requesting enrollment during a requested outbound call from an agent; and
 - submission of multi-plan materials, business reply cards, and standard templates.

These changes are included in the updated document available at the following link:
http://cms.gov/Outreach-and-Education/Training/CTEO/Downloads/CMS-Final-Contract-Year-2014-Medicare-Marketing-Guidelines/CMS_2014_MMG_Questions-Responses_Final_v11.pdf.

2. Procedures for Plan Questions about Marketing Practices and the MMG
 - In an effort to streamline the process for submitting questions through the CMS marketing mailbox (Marketing@cms.hhs.gov) and ensure consistency and timeliness of responses, plans are strongly encouraged to direct all questions concerning Medicare marketing policy and operational practices to their Account Manager (AM) or designated marketing reviewer before submitting a question to the mailbox. Since CMS Regional Office staff has direct access to CMS subject matter experts (SMEs), they will be able to provide you with a timely response. This process also ensures that your AM is notified of policy decisions.
 - In addition, we are taking an inventory of the questions that have been answered since the release of the Contract Year 2014 MMG and will provide frequently asked

questions to the AMs and marketing reviewers to better assist them in responding to your inquiries. Plans/Part D Sponsors with outstanding questions should follow-up with their AMs or marketing reviewers.

3. Clear use of Superlatives and Star-Ratings in Marketing Materials

- Section 40.4 of the MMG states that Plans/Part D Sponsors may not use absolute superlatives unless they are substantiated with supporting data provided during the marketing review process. This means that the superlatives used and the data provided must be used in context and may not mislead consumers. For example, a Plan/Part D Sponsor that is the only plan in the area that received a 5-Star Rating in customer service, but received an overall rating of 3 stars, may not promote itself as the highest ranked plan in a service area where other plans have a higher overall rating.
- Plans/Part D Sponsors may not reference a non-CMS study or statistical data in their marketing materials to imply that it has a higher overall CMS Star Rating in their marketing materials. This is misleading and confusing to beneficiaries, given that CMS disseminates and requires star rating information in certain plan materials.

4. Oversight of Third Parties

- Plans/Part D Sponsors are responsible for all downstream marketing. This includes information produced by agents, whether in hard copy or web based. CMS has found a number of internet marketing cites that do not have the proper disclaimers. Please ensure that all downstream entities, including those engaged in third party marketing, adhere to the Medicare Marketing Guidelines.

5. Sales Events

- CMS has received questions regarding information removed from the 2014 MMG pertaining to formal and informal marketing events that are entered into HPMS for Employer Group Health Plan (EGHP) members. Please note that our guidance has not changed. EGHP formal and informal marketing events for EGHP members should not be entered into HPMS.

6. Surveillance Module

- The surveillance module in HPMS allows Plans/Part D Sponsors to upload documents for review regarding preliminary secret shopping deficiencies. As a reminder, please ensure that the notes specifically mention the event that correlates to the uploaded data.

If you have any questions regarding the information provided, please contact your Account Manager or designated marketing reviewer.