



# AGENT MARKETING GUIDE

BEST PRACTICES IN MEDICARE ADVERTISING

# TABLE OF CONTENTS

<b>Medicare Advantage and Part D Marketing Requirements</b> .....	<b>3</b>
Communications and Marketing Definitions.....	4
Enrollment Periods.....	4
Electronic Communications.....	7
Prohibited Terminology.....	7
Endorsements & Testimonials.....	8
Font Size.....	8
Plan Comparisons.....	8
Activities in a Healthcare Setting.....	9
Social Media.....	9
Permitted Agent Activities.....	10
CMS Submissions.....	10
Disclaimers.....	11
Marketing Best Practices.....	12
<b>Resources and Contacts</b> .....	<b>14</b>





# **MEDICARE ADVANTAGE & PART D MARKETING REQUIREMENTS**

*The Center for Medicare and Medicaid Services (CMS) provides guidance on the marketing and communications rules for Medicare Advantage and Medicare Prescription Drug Plans. This section provides highlights of those rules and regulations.*

# MEDICARE ADVANTAGE & PART D MARKETING REQUIREMENTS

## COMMUNICATIONS AND MARKETING DEFINITIONS

As you develop marketing and advertising materials for Medicare audiences, it's important to know that CMS makes a distinction between "Communications" and "Marketing."

**Communications** are all activities and materials used to provide information that is targeted to current and prospective enrollees, including their caregivers and other decision makers.

**Marketing** is a subset of communications and is determined based on both the content and intent of the activity or materials. Marketing includes activities and materials with the intent to draw a beneficiary's attention to a specific plan or plans and to influence a beneficiary's decision-making process when selecting a plan for enrollment or deciding to stay enrolled in a plan (retention-based marketing). Additionally, marketing contains information about the plan's benefits, cost sharing, measuring, or ranking standards.

**Note:** CMS excludes materials that might meet the definition of marketing based on content, but do not meet the intent requirements of marketing.

## ENROLLMENT PERIODS

### **Initial Enrollment Period (IEP)**

The IEP is unique to each individual and is the timeframe when they are first eligible for Medicare, based on age. Also known as Age-In or T-65, this enrollment period is a seven-month window when an individual may enroll in an MA/MAPD plan – from three months before their birthday month, the actual month of the birthday, and three months after their birthday month.

**MARKETING TIP: Agents may market to people turning 65 year-round, providing ongoing educational information, positioning yourself as a source of expertise, and building the relationship in the months leading up to their IEP. Some carriers enroll more new members through their Age-In campaigns than they do during AEP.**

# MEDICARE ADVANTAGE & PART D MARKETING REQUIREMENTS

## Annual Enrollment Period (AEP) October 15 – December 7

You cannot market for an upcoming plan year prior to October 1, but you are permitted to simultaneously market the current and prospective years starting on October 1, provided marketing materials clearly indicate what plan year is being discussed. Enrollments in the new plan year may be taken beginning October 15.

**MARKETING TIP: Fueled by planners and procrastinators, most new enrollments and plan switches happen in the first and last weeks of AEP.**

## Open Enrollment Period (OEP) January 1 through March 31.

During OEP agents may not knowingly target or send unsolicited marketing materials to any MA or Part D enrollee. “Knowingly” takes into account the intended recipient as well as the content of the message.

### During OEP, agents may:

- Conduct marketing activities based on other enrollment opportunities, such as:
  - Marketing to age-ins (who have not yet made an enrollment decision),
  - Marketing for a 5-star plan, and
  - Marketing to dual-eligible and LIS beneficiaries who, in general, may make changes once per calendar quarter during the first nine months of the year.
- Send marketing materials when a beneficiary makes a proactive request; and
- Have one-on-one meetings at the beneficiary’s request.

### During the OEP, agents may not:

- Conduct activities or send unsolicited materials advertising the ability/opportunity to make an additional enrollment change or referencing the OEP;
- Specifically target individuals who are in the OEP because they made a choice during Annual Enrollment Period (AEP) by purchase of mailing lists or other means of identification;
- Call or otherwise contact former enrollees who have selected a new plan during the AEP.

# MEDICARE ADVANTAGE & PART D MARKETING REQUIREMENTS

**MARKETING TIP:** OEP is a great time to shift to Age-In or other SEP activities. It's also a nice time to reach out to your clients to check in to confirm they know how to use their benefits as sometimes that can spark a request for permissible marketing information.

## Special Enrollment Period (SEP)

In addition to the regular enrollment periods described previously, beneficiaries can make changes in their health or drug plan coverage when certain events happen in their lives, including, but not limited to:

- Being diagnosed with a severe or chronic condition and there's a Medicare chronic care Special Needs Plan (SNP) available that serves people with that condition. For example:
  - Diabetes
  - Cardiovascular disorders
  - Chronic heart failure
  - Lung disease
- Moving into a different county that's not in their plan's service area
- Losing their current MA/PDP Plan in their area
- Qualifying for Extra Help with the cost of their prescription medicines
- Losing their retiree health coverage
- Receiving Medicaid assistance

**MARKETING TIP:** Purchased leads, targeted mailing lists, and provider-initiated activities can help connect you with prospective new clients.

# MEDICARE ADVANTAGE & PART D MARKETING REQUIREMENTS

## ELECTRONIC COMMUNICATIONS

Agents are allowed to initiate contact via email to prospective clients as long as they include an opt-out process on each communication so clients may elect to no longer receive emails. However, text messaging, including messaging on social media platforms, falls under unsolicited contact and is not permitted.

## PROHIBITED TERMINOLOGY

It is essential that agents not send out communications that may be misleading, are materially inaccurate, or otherwise make misrepresentations or could confuse beneficiaries.

### **Agents may not:**

- Claim that they are recommended or endorsed by CMS, Medicare, or the Department of Health & Human Services (DHHS);
- Use unsubstantiated absolute or qualified superlatives or pejoratives;
- Use the term “free” to describe a zero-dollar premium, reduction in premiums (including Part B buy-down), reduction in deductibles or cost sharing, low-income subsidy (LIS), cost sharing for individuals with dual eligibility.

### **Agents are permitted to:**

- State that the Plan they represent is approved to participate in Medicare programs and/or is contracted to administer Medicare benefits;
- Use the term “Medicare-approved” to describe the carrier’s benefits and/or services within their marketing materials; and,
- Use the term “free” in conjunction with mandatory, supplemental, and preventive benefits that are provided at a zero-dollar cost sharing for all enrollees.



# MEDICARE ADVANTAGE & PART D MARKETING REQUIREMENTS

## ENDORSEMENTS & TESTIMONIALS

Product endorsements and testimonials are permitted but must adhere to the following requirements:

- The speaker must identify the Plan's/Part D sponsor's product or company by name
- Medicare beneficiaries endorsing or promoting a Plan/Part D sponsor must be enrolled in the Plan/Part D sponsor at the time the endorsement or testimonial was created
- If an individual is paid or has been paid to endorse or promote the plan or product, the advertisement must clearly state this (e.g., "paid endorsement")
- If an individual, such as an actor, is paid to portray a real or fictitious situation, the advertisement must clearly state it is a "Paid Actor Portrayal"
- The claims made in the endorsement or testimonial must be able to be substantiated

**Note:** Reuse of an individual's content or comment from social media sites that promotes a product is considered an endorsement/testimonial and must adhere to the guidance in this section.

## FONT SIZE

All copy on required member communications materials must be in a font size the equivalent to, or larger than, **Times New Roman 12pt.** and the font may not be condensed.

While CMS guidelines no longer include requirements of 12pt font on marketing materials, due to the vision realities of people as they age, it is still recommended and the practice of most carriers to use the larger font size in their marketing materials.

## PLAN COMPARISONS

Agents may compare various MA/Part D plans in their marketing materials, provided you can support the statements (e.g., by studies or statistical data) and such comparisons are factually based and not misleading.



# MEDICARE ADVANTAGE & PART D MARKETING REQUIREMENTS

## ACTIVITIES IN A HEALTHCARE SETTING

CMS distinguishes between provider-initiated activities and plan-initiated activities in a healthcare setting.

### **Provider-Initiated Activities**

Agents who have relationships with Providers may have a referral opportunity as Providers are permitted to refer patients to other sources of information, including to plan marketing representatives.

**MARKETING TIP: Offer to be a presenter at an educational event in conjunction with a provider. Providers are often looking to fill up their community calendars and agents are permitted to provide business reply cards at educational events. Win Win.**

### **Plan/Part D Sponsor Activities**

Sales activities, including sales presentations, the distribution of marketing materials, and the distribution and collection of enrollment forms, may be conducted in common areas of a healthcare setting. Common areas include, but are not limited to common entryways, vestibules, waiting rooms, hospital or nursing home cafeterias, and community, recreational, or conference rooms.

Marketing activities cannot take place in restricted areas where care, treatment or Provider interaction occurs, such as: exam rooms, hospital patient rooms, and pharmacy counter areas.

Communication materials may be distributed and displayed in all areas of the healthcare setting.

## SOCIAL MEDIA

Social media posts that meet the definition of marketing must be submitted to CMS for approval by the carrier.

# MEDICARE ADVANTAGE & PART D MARKETING REQUIREMENTS

## PERMITTED AGENT ACTIVITIES

**Permitted agent activities include, but are not limited to:**

- Conducting sales presentations
- Holding one-on-one sales appointments with potential enrollees
- Providing business reply cards at educational events
- Creating and distributing communication materials
- Distributing marketing materials as long as CMS has accepted/approved those materials as submitted to CMS for approval through the carrier with whom the broker contracts
- Using CMS-created materials provided the materials are not modified in any way

## CMS SUBMISSIONS

If an agent would like to create materials defined as marketing, the carrier with whom they are contracted must submit that material to CMS for approval. Be aware that materials have a potential review timeframe of 10 or 45 days, which begins on the date the material is submitted.

# MEDICARE ADVANTAGE & PART D MARKETING REQUIREMENTS

## DISCLAIMERS

When promoting a specific carrier’s product(s), you may be required to include additional legal lines or disclaimers, as instructed by the carrier. The table that follows reflects the most commonly required disclaimers for marketing materials. Disclaimers are not required on the following material types: call scripts, banners and banner-like ads, envelopes, outdoor advertising, text messages, and social media.

DISCLAIMER	EXAMPLE OR REQUIRED TEXT	APPLICABLE DOCUMENTS
Federal Contracting Statement (marketing materials)	<b>Example Text:</b> “[carrier’s legal or marketing name] is a [plan type] with a Medicare contract. Enrollment in [carrier’s legal or marketing name] depends on contract renewal.”	Required on all materials except those specifically excluded by CMS  Required elements in statement: <ul style="list-style-type: none"> <li>• Legal or marketing name</li> <li>• Type of plan (e.g., HMO, PPO, PFFS, PDP)</li> <li>• Enrollment depends on contract renewal</li> </ul>
Star Ratings (marketing)	<b>Required Text:</b> “Every year, Medicare evaluates plans based on a 5-star rating system.”	Required on any document that references Star Ratings.
Promoting Drawings, Prizes or Free Gifts (marketing)	<b>Example Text:</b> “Eligible for a free drawing, gift, or prizes with no obligation to enroll.”  <b>Example Text:</b> “Free gift without obligation to enroll.”	Required when promoting drawings, prizes, or free gifts.  The statement must make it clear that there is no obligation to enroll in the plan.
Materials Developed by a Third Party (marketing)	<b>Required Text:</b> “For a complete list of available plans please contact 1-800-MEDICARE (TTY users should call 1- 877-486-2048), 24 hours a day/7 days a week or consult <a href="http://www.medicare.gov">www.medicare.gov</a> .”	Required on third party materials when the material lists or markets a subset of plans.

# MEDICARE ADVANTAGE & PART D MARKETING REQUIREMENTS

## **BEST PRACTICES IN MEDICARE MARKETING**

With 10,000 people aging into Medicare every day, there's never been a greater opportunity to reach and serve this demographic. And remember, the people turning 65 today are among the youngest of the Boomer generation. These are smart, vibrant consumers who are roaring into Medicare like none other. Think Bill Gates. Whoopi Goldberg. Billie Idol. So get ready to build your business by following some of these best practices in Medicare marketing.

- It all starts and ends with the trust your clients have in YOU so be sure to build and stay true to your personal brand. If something doesn't feel authentic to you, don't do it or say it. Always act with integrity and let your personality shine through.
- Position yourself as a valuable resource that your clients will feel comfortable going to with any questions - and especially when they're ready to make an enrollment decision.
- Create your own library of content and offer to be a presenter at an educational event. Whether it's the A, B, C and Ds of Medicare or a health and wellness topic -- providers, faith-based organizations and local senior centers are often eager to fill up their community calendars and agents are permitted to provide business reply cards at these events.
- If you don't already, you should have a year-round strategy for reaching people who are turning 65. Although prospects can only enroll during their 7-month IEP, a nurturing, educational campaign can start any time giving you plenty of time to build your relationship and position yourself as a Medicare expert. Simple direct mail or email drips, or a combination of both, that provide progressively more information and a sense of urgency are a great way to go.
- Direct Mail is still an industry workhorse, but you definitely need to up your digital game. Develop your own content calendar and use social media. Integrity Marketing Group has a great social media guide that can help with ideas and tactics to expand your influence.
- To avoid the cost and aggravation of returned mail, work with a best-in-class list vendor and ensure the mail list is scrubbed against the SSA list of deceased individuals, the national change of address data base, and any other suppression lists.

# MEDICARE ADVANTAGE & PART D MARKETING REQUIREMENTS

- Follow other industry leaders. Like and Share their posts.
- Subscribe to industry research to stay abreast of consumer trends.

## When it comes to creative, make sure yours gets noticed.

- **Photos** – Most people see themselves as 10-15 years younger than they really are. Select photos that are a little younger than your target audience but keep them realistic. Most 65- to 70-year olds aren't jogging along a beach or riding tandem bikes. Photos should convey emotion, be relatable, and take into consideration local flavor and diversity.
- **Colors** – Be careful using subtle shades as background elements. As people age, their ability to discern lighter shades and certain colors diminishes and a graphic element like a shaded box may look like a blur, or may not be seen at all.
- Other images, such as icons, are helpful in creative layouts to help guide readers efficiently through different copy sections to your call to action.
- **Reverse Type** – It's highly recommended to only use reverse/white type with large fonts, such as headlines and sub heads. Stay away from using reversed type on lightly colored backgrounds (especially yellow) or reversing out smaller type at all. Same with reversing type out of a photo.
- When it comes to direct mail, you want your piece to stand out in the mailbox. Envelopes the size of standard greeting cards or oversized postcards are more noticeable from standard business mail.
- As mentioned, while CMS guidelines no longer include requirements of TNR 12pt font on marketing materials, due to the vision realities of people as they age, it is still recommended and a best practice to use this font size in marketing materials.
- Help keep your copy compliant by staying away from superlatives and absolutes.



# RESOURCES & CONTACTS

CMS updates their Marketing and Communications Guidelines annually but at the time this Guide was produced, the 2020 MCMGs had not been released.

It's a good practice to check the links below and stay familiar with the Medicare Marketing Guidelines and Managed Care Manuals.

If you have questions, reach out to your Compliance team. We're here to help with any questions you may have.

**[Medicare Marketing Guidelines for MA and Part D](#)**

**[Medicare Managed Care Manual - Chapters 13 and 21](#)**