

2025

Medicare Marketing Compliance Quick Reference Guide

As a licensed health agent, it is important to ensure your Medicare marketing complies with regulations outlined by the Centers for Medicare & Medicaid Services (CMS) to ensure accuracy and fairness in promoting Medicare products. Currently, Medicare marketing is subject to the following key guidelines.

This checklist helps ensure that all marketing activities are compliant with CMS rules.

Understand and Follow CMS Marketing Requirements:

- a. Be familiar with and adhere to the Marketing Communications and Marketing Guidelines (MCMGs)
- b. Stay up to date with any current CMS rules and regulations.
(Please note rules are subject to change at any time)
- c. Understand what can be marketed and when
 - i. Do not promote plans outside of designated times unless specifically allowed (ex., Special Enrollment Periods (SEPs), Annual Enrollment Period, etc.)
 - ii. Review the dates for the 2025 AEP (Annual Enrollment Period), OEP (Open Enrollment Period), and other relevant periods

Make sure your Marketing Content has Accurate Information:

- a. Avoid intentionally misleading content
 - i. CMS prohibits agents from using material that may mislead, confuse, or provide materially inaccurate information to current or potential enrollees
- b. Avoid scare-tactics
 - i. Agents are prohibited from using words or phrasing that create fear or anxiety, scare tactics, or high-pressure tactics such as "Call immediately" or "You must call within 7 days."
- c. No use of "bait-and-switch" tactics
 - i. Do not use terms like "free" or "no-cost," unless it can be substantiated
- d. Avoid false implications
 - i. Materials cannot imply that the beneficiary must call or respond to the agent/agency to implement their Medicare Advantage plan or benefits

Branding and Identification Requirements:

- a. Clearly identify who is distributing the material
 - i. Materials should clearly indicate who the material is from as well as who they may speak with should they call, or provide information for someone to call them
- b. Phone number requirements
 - i. If the material includes a phone number for the agent or agency, it must be clear that calling that number will direct the caller to a licensed agent
 - ii. Phone numbers should include the TTY number. If agents do not have their own, they can use TTY: 711
 - iii. If the number directs the caller to a call center or agency, it must include hours of operation
 - iv. Carrier Name and/or logo use requirements
 - v. If a material includes a carrier's name and/or logo, its usage must be approved by all the carriers included before use

Rules for Communicating with Prospects:

a. Unsolicited Contact Rules

- i. Agents may only make unsolicited direct contact with potential clients (including individuals that are referred to you) using the following methods:
 1. Conventional mail and other print media (e.g., advertisements, direct mail)
 2. Email – provided all emails contain an opt-out function and the TPMO Disclaimer
- ii. All other unsolicited contact is prohibited when making contact with potential clients (including individuals that are referred to you). Examples of unsolicited contact include:
 1. Door-to-door solicitation or “Door Knocking”
 2. Reply Card or Permission to Contact form with the consumer’s address listed
 3. Leaving flyers, leaflets, door hangers, etc. at residences or on cars (Note: this is only permissible if you have a pre-scheduled appointment who is a “no-show”)
 4. Telephonic or electronic solicitation (cold-calling, robocalling, voicemails, Text messaging, sending messages on social media platforms, etc.)

b. Agent Conduct

- i. Agents must be trained on appropriate sales conduct, including avoiding aggressive tactics, as all options should be presented and explained in a balanced way
- ii. Scripted Calls
- iii. If calls are being made, ensure sales scripts are approved by CMS and align with guidelines.
- iv. Permission to Contact (PTC)
- v. If the material is capturing an individual’s phone number or email, it must include a compliant TCPA disclaimer such as:
- vi. “I understand that <Agent Name> may contact me regarding Medicare Health Plans including Medicare Supplement, Medicare Advantage, and Part D Plans.”

- i. All materials capturing PTC must be submitted through the proper channels, contracted Agent Pipeline agents can submit their materials to compliancemarketmaterials@agentpipeline.com

Website and Digital Marketing Requirements:

- a. Website Disclosures
 - i. Ensure that any website referencing Medicare Advantage or Part D Prescription Drug Plans includes clear and accurate information about Medicare plans and any associated costs.
 - ii. TPMO Disclaimer (Websites and landing pages, Email communication, Online chats)
 - 1. **For TPMOs that do not sell all carriers in a service area:**
"We do not offer every plan available in your area. Currently we represent [number] organizations which offer [number] 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."
 - 2. **For TPMOs that do sell all carriers in a service area:**
"Currently, we represent [number] organizations which offer [number] products in your area. You can always contact Medicare.gov, 1-800-MEDICARE, or your local State Health Insurance Program (SHIP) for help with plan choices."

Please note: The TPMO Disclaimer cannot be housed in the footer of websites as it is not deemed a prominent enough location. It must be housed on the main part of the webpages of websites.

iii. It must be clear to beneficiaries that you are not affiliated with or endorsed by the Federal Medicare program or the government.

Recommended disclaimer (and required in some states so we always suggest to use some variation of it) is:

1. "NOT AFFILIATED WITH OR ENDORSED BY THE GOVERNMENT OR FEDERAL MEDICARE PROGRAM."

b. Digital Advertising Guidelines

- i. **Search (i.e., Adwords)** – Due to search engine constraints, disclaimers cannot appear on the ads themselves. All applicable disclaimers are required on landers/websites the beneficiary is directed to after clicking on the search engine link.
- ii. **Social Media** – Disclaimers are required to be embedded in the image. If an image is not present, disclaimers will be required to be on a landing page or via a link the beneficiary can click on to review.
- iii. **Display** – The last frame should have a rollover which exposes all disclaimers. If this is not possible, beneficiaries should be directed to a link or landing page including all disclaimers.

c. Disclose any lead generation efforts clearly and comply with consent rules.

Third-Party and Referral Compliance:

a. Third-Party Relationships:

- i. If using third parties (e.g., referral networks, lead generation companies, etc.), ensure that they are fully compliant with CMS regulations.

b. Referral Tracking:

- i. If you refer individuals to brokers, agents, or other plan representatives, ensure tracking mechanisms are in place and that referrals are properly documented.

Marketing Material Review and Approval:

There are two types of materials used to communicate information to clients and prospects in the Medicare space. Communication Materials and Marketing Materials.

Communication Materials refer to activities and the use of materials that have been made to give information to current or prospective enrollees. They do not reference benefits, premiums, or specific plans.

Marketing Materials refer to activities that are drawing attention to a specific plan or plans, intend to influence a beneficiary's decision making process when making plan selections, reference a plan's benefits, benefit structure, premiums, or cost sharing amounts, reference any plan measurements or ranking standards, or reference any rewards or incentives for cost plans.

Marketing materials must be submitted to all carriers the material will be used to market for review and approval prior to being submitted to CMS. Please note this process can take anywhere from 45-90 days depending on the number of carriers, with extended turnaround time during AEP. The material cannot be used until CMS has accepted the material and all carriers have opted-in. We recommend avoiding discussion of plans and additional benefits by using language such as ("This plan may offer benefits above and beyond that of Original Medicare")

a. Plan Benefits and Costs:

- i. Clearly explain benefits, premiums, co-pays, and other costs.
- ii. Ensure any changes to premiums, benefits, or co-pays are clearly communicated.

b. Retain Records:

- i. Retain copies of all marketing materials for a minimum of 10 years for auditing purposes.

Specific 2025 updates:

- a. Review 2025 Changes in Enrollment Periods
 - i. Be aware of any updates to the AEP, OEP, or Special Enrollment Period (SEP) for 2025.
- b. New CMS Rules for Communication Methods
 - i. Adhere to any changes in how digital media (e.g., social media or text messages) can be used for marketing.
- c. Health Equity and Inclusion
 - i. Incorporate inclusive language and ensure marketing is accessible to diverse audiences, in compliance with CMS's emphasis on health equity.

Other General Best Practices:

- a. Clear Identification of Plan Type(s)
 - i. Materials used for MA and/or PDP lead generation must clearly indicate the type(s) of plans the agent represents and may discuss with them.
 - Medicare Advantage Plans
 - Medicare Supplement Plans
 - Part D Prescription Drug Plans
- b. General Font Size
 - i. To comply with Centers for Medicare & Medicaid Services (CMS) guidelines, all text included on materials "must be printed with a font size equivalent to or larger than Times New Roman twelve (12)-point." The height and width of the font must be equivalent or larger, even for footnotes and disclaimers.
- c. Agent Titles
 - i. CMS prohibits use of titles that may mislead individuals into thinking they work for, or on behalf of, Medicare or a government agency. This includes use of words such as Specialist, Advisor, Advocate, etc. CMS approved titles include the following: Licensed Sales Agent, Licensed Sales Representative, or Licensed Insurance Agent.

d. Use of the Word “Senior” or “65+”

- i. CMS prohibits materials from using the word “senior” when referring to benefits, plans, or demographics. For example, “Are you are senior?” or “Helping seniors since 1999.” The same will apply to use of phrases such as “65+” or “over 65” as both, along with “seniors” exclude individuals who are under age 65 and on Medicare disability.

e. SEP Qualifiers

- i. Material must include SEP qualifiers such as “Turning 65, New to Medicare, Moving or Losing Coverage, Medicare and Medicaid beneficiaries, etc.” when being used outside of AEP.

f. Use of Clear and Easy Language

- i. Ensure all materials are written in simple, accessible language, and include alternative formats when necessary (e.g., large print).

g. Transparency

- i. Clearly disclose the terms, limitations, and conditions of the Medicare plan in all marketing materials.

h. Avoiding High-Pressure Sales Tactics

- i. Use respectful, informative, and non-coercive methods to engage potential enrollees.

Post Marketing Compliance:

a. Tracking Complaints and Feedback

- i. Develop mechanisms to track complaints from beneficiaries and respond promptly to resolve issues.

Marketing Review and Auditing:

a. Regularly audit marketing activities to ensure compliance with CMS requirements.

b. Conduct self-audits to identify potential risks in marketing practices.

Final Notes:

CMS Enforcement: CMS actively monitors marketing efforts and can issue penalties or take corrective actions against non-compliant marketing.

Documentation: Ensure all compliance steps are documented and easily accessible in case of a compliance review or audit.

By following this checklist and adhering to CMS Medicare Communications and Marketing Guidelines, you can ensure that your Medicare marketing efforts meet the necessary standards and protect both your company and beneficiaries from legal or compliance issues.

You understand that CMS compliance rules and regulations for communications and marketing materials are subject to change at any time and it is your responsibility to determine if this product is suitable for use in accordance with CMS compliance rules and regulations for communications and marketing materials.

This is not an exhaustive list of the Medicare Marketing and Communication Guidelines. To see more information on the rules and regulations CMS has communicated for 2025 please see the [Medicare Marketing and Communications Guidelines e-book here.](#)