



CENTER FOR BENEFICIARY CHOICES

MEMORANDUM

To: Medicare Advantage (MA) Organizations, Medicare Prescription Drug Plans, Medicare Cost-based Plans, Prescription Drug Plans

From: Cynthia Tudor Ph. D, Director, Medicare Drug Benefit Group /s/
David Lewis, Acting Director, Medicare Advantage Group /s/

Subject: Marketing Activities for Organizations Employing or Contracting with Sales Agents

Date: December 1, 2006

CMS has received complaints concerning inappropriate marketing activities performed by sales agents. In particular, some of these marketing activities include: providing incomplete or inaccurate information about plans, not ensuring beneficiaries understand the rules associated with a particular plan and requiring face-to-face appointments in order to obtain plan information. These activities are in violation of regulations at 42 CFR 422.80 (e) and 42 CFR 423.50 (f). These regulations prohibit MA organizations and Part D sponsors from engaging in activities that could mislead or confuse Medicare beneficiaries, or misrepresent an MA or Part D plan. It is an important priority of CMS to ensure that beneficiaries have accurate information to make an informed choice about their Medicare benefits without being pressured by sales agents. CMS is closely monitoring and tracking complaints related to the activities of sales agents and has begun taking corrective actions as necessary.

The marketing guidelines provide requirements for MA organizations and Part D sponsors to follow as they engage in marketing plans to beneficiaries. Organizations and sponsors must ensure that any person directly employed or contracted to market a plan complies with all applicable MA and/or Part D laws, all other Federal health care laws, and CMS policies, including CMS marketing guidelines.

Organizations and sponsors must ensure that sales agents do not imply that a face to face meeting is required for a beneficiary to receive information about a Medicare plan. Additionally, beneficiaries must be informed about how to obtain plan information if a face-to-face meeting is not requested (e.g. mailing Summary of Benefits, referring to plan website or 1-800-MEDICARE). Furthermore, organizations and sponsors must ensure that sales agents clearly identify the types of products that will be discussed before marketing to the potential enrollee.

Organizations are reminded that they must conduct monitoring activities to ensure compliance with all applicable MA and/or Part D laws. The number of complaints we have received warrants that all organizations and sponsors review their guidance to sales agents to ensure that such persons understand and follow all Medicare marketing requirements.

CMS will be diligent in enforcing our regulations and policies to protect Medicare beneficiaries. We hope that your proactive measures will reduce the need for CMS to take action against organizations and sponsors for the inappropriate activities of their sales agents.