2013 CMS AGENT/BROKER TRAINING GUIDELINES

Introduction

Agent and broker training is one of the most critical aspects to the successful management of a Medicare Plan. Agents and brokers must possess in-depth knowledge of Medicare health and drug plans, operation, and regulations in order to protect the beneficiary from inappropriate sales or misinformation. In order to ensure consistency and quality across all agent and broker training programs, the Centers for Medicare & Medicaid Services (CMS) provides these guidelines to organizations and sponsors offering Medicare Advantage plans, Prescription Drug Plans, and Section 1876 Cost Contracts for creating agent and broker training for the 2013 contract year (CY). This document offers high-level guidance and references to materials that contain detailed information on the topics and regulations plan sponsors must cover in their 2013 agent and broker training and testing materials. Plan sponsors are responsible for ensuring all agents and brokers that sell Medicare products, including employees, subcontractors, downstream entities, and/or delegated entities, are trained and tested annually.

The following topics are covered in this document:

- Agent and Broker Requirements
- Overview of Medicare Basics
- Plan Enrollment and Disenrollment (Medicare Part C and Part D)
- Beneficiary Protections
- Medicare Marketing Regulations
- Medicare Sales and Marketing or Educational Events

Content for these training guidelines is based on information from CMS' Medicare Managed Care Manual (MMCM), CMS' Medicare Prescription Drug Benefit Manual (MPDBM), and regulations (i.e., Title 42 of the Code of Federal Regulations, Parts 422 and 423).[1] Each general topic area listed below will be followed by the documents or regulatory information to reference. As CMS releases frequent updates regarding its rules and requirements, the content of the 2013 training should reflect the most current guidance available.

[1] References are to the most recent final version of each of the cited chapters (as of August 7, 2012):

- MMCM Chapter 1 – General Provisions, dated January 7, 2011
- MMCM Chapter 2 – Medicare Advantage Enrollment & Disenrollment, dated August 7, 2012
- MMCM Chapter 3 – Medicare Marketing Guidelines, frequently referred to as the Medicare Marketing Guidelines (MMG), dated June 22, 2012
- MMCM Chapter 4 – Benefits & Beneficiary Protections, dated June 22,2012
- MMCM Chapter 17 – Subchapters A-F, as of August 7, 2012
- MPDBM Chapter 2 – Medicare Marketing Guidelines, frequently referred to as the Medicare Marketing Guidelines (MMG), dated June 22, 2012
- MPDBM Chapter 3 – Eligibility, Enrollment & Disenrollment, dated August 7, 2012
- MPDBM Chapter 5 – Benefits & Beneficiary Protections, dated September 20, 2011
- MPDBM Chapter 6 – Part D Drugs & Formulary Requirements, dated February 19, 2010
- MPDBM Chapter 13 – Premium & Cost-Sharing Subsidies for Low-Income Individuals, dated July 29, 2011

I. Agent/Broker Requirements

- Training and testing [42 CFR, 422 Subpart V—Medicare Advantage Marketing Requirements, 423, Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]
    - Specifications for training/testing criteria and documentation requirements are provided annually by CMS.
    - Plan sponsors are responsible for ensuring all agents and brokers that sell Medicare products, including employees, subcontractors, downstream entities, and/or delegated entities, are trained and tested annually.
    - Plan sponsors must ensure that their training and testing programs are designed and implemented in a way that maintains the integrity of the training and testing, and must have the ability to provide information on training and testing programs to CMS upon request. Information requested by CMS may include, but is not limited to, training tools, training exams, policies and procedures, and documentation demonstrating evidence of completion. Plans that use third party vendors to facilitate the training and testing must be able to obtain this information when requested by CMS.

- Appointment requirements [42 CFR, 422 Subpart V—Medicare Advantage Marketing Requirements, 423, Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]

II. Medicare Basics

- Overview of Medicare
    - Description of Original Medicare [42 CFR, 422 Subpart A—General Provisions, MMCM Chapter 1]
    - Description of Medicare Advantage [42 CFR, 422 Subpart A—General Provisions, MMCM Chapter 1]
    - Description of Part D-Prescription Drug Benefit [42 CFR, 423 Subpart A—General Provisions, Subpart C—Benefits and Beneficiary Protections, MPDBM Chapter 5]
    - Eligibility requirements and applicable premiums for Parts A, B, C, D, including Section 1876 cost plans [MMCM Chapter 2, MPDBM Chapter 3]
        - Part A [42 CFR, 406 Subpart A—General Provisions, Subpart B—Hospital Insurance Without Monthly Premiums, Subpart C—Premium Hospital Insurance]
        - Part B [42 CFR, 407 Subpart B—Individual Enrollment and Entitlement for Supplementary Medical Insurance (SMI), 408 Subpart B—Amount of Monthly Premiums]
        - Part C [42 CFR, 422 Subpart B—Eligibility, Election, and Enrollment, Subpart F—Submission of Bids, Premiums, and Related Information and Plan Approval]
        - Part D [42 CFR, 423 Subpart B—Eligibility and Enrollment, Subpart F—Submission of Bids and Monthly Beneficiary Premiums; Plan Approval,

Subpart P—Premiums and Cost-Sharing Subsidies for Low-Income Individuals]
        - Section 1876 cost plans [42 CFR, 417 Subpart K—Enrollment, Entitlement, and Disenrollment under Medicare Contract]
    - Description of Medigap [42 CFR, 403 Subpart B—Medicare Supplemental Policies (General Provisions)]
    - Options for receiving Medicare:
        - Original Medicare only
        - Original Medicare + PDP
        - MA-PD
        - MA or cost plan without stand-alone PDP
        - Private Fee-for-Service MA or cost plan with stand-alone PDP

- Overview of Medicare Advantage Health Plans and Coverage [42 CFR, 422 Subpart A—General Provisions, MMCM Chapter 1]
    - Description of Coordinated Care Plans (e.g., HMO, PPO, RPPO, SNPs)
        - Description of Provider networks
    - Description of Private Fee-for-Service Plans Description of Medicare Medical Savings Accounts (MSA) [MMCM Chapter 1]
    - Description of Maximum Out-of-Pocket (MOOP) Limits [42 CFR 422 Subpart C—Benefits and Beneficiary Protections, MMCM Chapter 4]

- Overview of Other Plan Types and Coverage
    - Employer Group Plans [42 CFR, 422 Subpart C—Benefits and Beneficiary Protections, MMCM Chapters 1, 9, MPDBM Chapter 12]
    - Medicare Cost Plans [42 CFR 417, MMCM Chapters 1, 17]
    - OPTIONAL: Programs of All-Inclusive Care for the Elderly (PACE) [42 CFR 460]

- Overview of Medicare Prescription Drug Plan Coverage [42 CFR, 423 Subpart A—General Provisions, Subpart C—Benefits and Beneficiary Protections MMCM Chapter 1, MPDBM Chapters 5, 6]
    - Plan types (MA-PD, Stand-alone)
    - Standard benefit
        - TrOOP, Coverage Gap, Catastrophic Coverage
        - Medicare Coverage Gap Discount Program
    - Part D utilization management
        - Formulary and formulary requirements, Co-pay tiers, Step therapy, Prior authorization
    - Pharmacy networks
        - In-network versus out-of-network coverage
        - Preferred in network coverage
    - Help for lower-income individuals [42 CFR 423 Subpart P—Premiums and Cost-Sharing Subsidies for Low-Income Individuals, Subpart S—Special Rules for States-Eligibility Determinations for Subsidies and General Payment Provisions, MPDBM Chapter 13]

III. Medicare Part C, Section 1876 Cost Plans, and Part D Enrollment and Disenrollment[2]

- Enrollment procedures [42 CFR, 417 Subpart K—Enrollment, Entitlement, and Disenrollment under Medicare Contract, 422 Subpart B—Eligibility, Election, and Enrollment, 423 Subpart B—Eligibility and Enrollment, MMCM Chapters 2, 17, MPDBM Chapter 3]
    - Format of enrollment requests (use of approved enrollment mechanism)
    - Appropriate use of short enrollment forms or model plan selection forms (Parts C and D)
    - Enrollment mechanism used requires beneficiary to acknowledge and consent of required key elements.

- Processing the Enrollment request [42 CFR, 417 Subpart K—Enrollment, Entitlement, and Disenrollment under Medicare Contract, 422 Subpart B—Eligibility, Election, and Enrollment, 423 Subpart B—Eligibility and Enrollment, MMCM Chapters 2, 17, MPDBM Chapter 3]
    - Enrollment effective dates
    - Notifications

- Non-discrimination requirements for enrollment and marketing [42 CFR, 417 Subpart K—Enrollment, Entitlement, and Disenrollment under Medicare Contract, 422 Subpart C—Benefits and Beneficiary Protections, Subpart V—Medicare Advantage Marketing Requirements, 423 Subpart V—Part D Marketing Requirements, MMCM Chapters 3, 4, 17, MPDBM Chapter 2]

- Enrollment Periods and Process [42 CFR, 417 Subpart K—Enrollment, Entitlement, and Disenrollment under Medicare Contract, 422 Subpart B—Eligibility, Election, and Enrollment, Subpart V—Medicare Advantage Marketing Requirements, 423 Subpart B—Eligibility and Enrollment, Subpart V—Part D Marketing Requirements, MMCM Chapters 2, 3, 17, MPDBM Chapter 2, 3]
    - Section 1876 Cost plan open enrollment
    - Part C and Part D enrollment
        - Clarify that there are very limited circumstances under which a beneficiary can make a mid-year change in enrollment.
        - Initial Coverage Election Period
        - Annual Election Period (AEP)
        - Initial Enrollment Period for Part D (IEP for Part D)
        - Open Enrollment Period (including institutionalized individuals)
        - Special Election Period (SEP)
            - 5-Star Special Enrollment Period (SEP)
        - Medicare Advantage Disenrollment Period (MADP)

[2] The guidelines in this section are applicable to both Part C and Part D plans, unless otherwise noted.

- Outbound Education and Verification to New Enrollees [42 CFR, 422 Subpart V—Medicare Advantage Marketing Requirements, 423 Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]

- Disenrollment [42 CFR, 417 Subpart K—Enrollment, Entitlement, and Disenrollment under Medicare Contract, 422 Subpart B—Eligibility, Election, and Enrollment, 423 Subpart B—Eligibility and Enrollment, MMCM Chapters 2, 17, MPDBM Chapter 3]
  - Voluntary Disenrollment
  - Involuntary

IV. Beneficiary Protections

- Guaranteed rights of the beneficiary include: [42 CFR, 422 Subpart C—Benefits and Beneficiary Protections, Subpart M—Grievances, Organization Determinations and Appeals, 423, Subpart C—Benefits and Beneficiary Protections 423 Subpart M—Grievances, Coverage Determinations, Redeterminations, and Reconsiderations]
  - Network requirements
  - Get a treatment plan (Part C only)
  - Know how doctors are paid (Part C only)
  - Grievance and Appeal Rights Under Medicare Part C
  - Grievance and Appeal Rights Under Medicare Part D
  - Explain plan-specific member complaint process in the product-specific training

- Aggressive Marketing [42 CFR, 417 Subpart K—Enrollment, Entitlement, and Disenrollment under Medicare Contract, 422 Subpart K—Application Procedures and Contracts for Medicare Advantage Organizations, Subpart V—Medicare Advantage Marketing Requirements, 423 Subpart K—Application Procedures and Contracts with Part D plan sponsors, Subpart V—Part D Marketing Requirements, MMCM Chapters 3, 17, MPDBM Chapter 2]
  - Definition
  - Potential consequences of engaging in aggressive marketing
    - Report requirements
    - Disciplinary actions
    - Termination
    - Forfeiture of future compensation

V. Medicare Part C, Part D, and Section 1876 Cost Plan Marketing and Educational Events, and Other Marketing Activities

- Marketing [42 CFR, 417 Subpart K—Enrollment, Entitlement, and Disenrollment under Medicare Contract, 422 Subpart C—Benefits and Beneficiary Protections, Subpart V—Medicare Advantage Marketing Requirements, 423 Subpart C—Benefits and Beneficiary Protections, Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]
  - Definition
  - Description of marketing activities and examples

        - Formal and informal
        - Dos and Don’ts
            - Scripts and presentations
            - Health screenings
            - Contact information
    - Provision of Plan Ratings information, including instructions on how to access and use the information
    - Information on how to access and use the most current Provider/Pharmacy directory and formulary, as applicable.

- Sales Events [42 CFR, 422 Subpart V—Medicare Advantage Marketing Requirements, 423 Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]
    - Definition
    - Appropriate promotion of sales events
    - Dos and Don’ts
        - Provision of refreshments, snacks, and meals (See MMG 3: 70.4 for complete details and examples)
        - Solicit enrollment applications prior to the start of the AEP
    - Notification requirements for cancelled events

- Personal/Individual Marketing Appointments [42 CFR, 422 Subpart V—Medicare Advantage Marketing Requirements, 423 Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]
    - Definition
    - Scope of Appointment
        - Documentation
    - Discussion/marketing of non-health care products
    - Solicitation of referrals
    - Unsolicited contact

- Educational Events [42 CFR, 422 Subpart V—Medicare Advantage Marketing Requirements, 423 Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]
    - Definition
    - Appropriate promotion of educational events
    - Sponsorship, promotion
    - Dos and Don’ts
        - Topics (Medicare, plan-specific premiums and/or benefits, etc.)
        - Display and/or distribution of advertising and explanatory materials
        - Sales activities
        - Provision of refreshments, snacks, and meals (See MMG 3: 70.4 for complete details and examples)

- Rewards and Incentives [42 CFR, 422 Subpart V—Medicare Advantage Marketing Requirements, 423 Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]

    - Definitions
    - Dos and Don'ts
        - Eligibility (e.g., current members)
        - Type of item/ service
        - Monetary restrictions
        - Tracking and documentation

- Nominal Gifts [42 CFR, 422 Subpart V—Medicare Advantage Marketing Requirements, 423 Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]
    - Definitions
    - Dos and Don'ts
        - Eligibility (e.g., all potential enrollees, regardless of enrollment in specific plan(s))
        - Value (e.g., $15 or less)
        - Refreshments, snacks, and meals
        - Cash, charitable contributions, and gift certificates/cards that can be readily converted to cash

- Cross-selling – definition [42 CFR, 422 Subpart V—Medicare Advantage Marketing Requirements, 423 Subpart V—Part D Marketing Requirements, 45 CFR 160, MMCM Chapter 3, MPDBM Chapter 2]
    - HIPAA Privacy Rule
    - Health care related products – definition and "dos and don'ts"
    - Non-health care related products – definition and "dos and don'ts"

- Unsolicited contact, outside of advertised sales or educational events or mailings [42 CFR 422 Subpart V—Medicare Advantage Marketing Requirements, 423 Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]

- Referrals – solicitation of leads from members for new enrollees [42 CFR, 422 Subpart V—Medicare Advantage Marketing Requirements, 423 Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]
    - Any solicitation for leads-all communication types (requirements and restrictions)
    - Gifts for referrals (requirements and restrictions)