

Final CY 2013 Marketing Guidance for Massachusetts Medicare-Medicaid Plans

Revised: July 16, 2013

Introduction

All Medicare Advantage-Prescription Drug (MA-PD) plan sponsor requirements in the CY 2013 Medicare Marketing Guidelines (Chapter 3 of the Medicare Managed Care Manual and Chapter 2 of the Prescription Drug Benefit Manual), apply to Medicare-Medicaid plans (MMPs) participating in the Massachusetts Capitated Financial Alignment Demonstration, except as noted or modified in this guidance document.¹

This guidance document provides information only about those sections of the Medicare Marketing Guidelines that are not applicable or that would be different for MMPs in Massachusetts; therefore, this guidance document should be considered an addendum to the CY 2013 Medicare Marketing Guidelines (MMGs). This MMP guidance will be applicable to all marketing done for CY 2013 benefits.

Table 1: Summary of Clarifications, Modifications, or Replacements of MMG Guidance

Medicare Marketing Guidelines (MMGs) Section	Change in this Guidance Document
Section 10 – Introduction	Clarifies guidance on marketing start dates for CY 2013 and CY 2014.
Section 30.3 – Disclosure of National Committee for Quality Assurance’s (NCQA) Approval Information	Extends this provision of the MMGs to MMPs.
Section 30.7 – Requirements Pertaining to Non-English Speaking Populations	Clarifies the requirements of this section for MMPs.
Section 30.7.1 – Multi-Language Insert	Clarifies the requirements of this section for MMPs.
Section 30.8 – Required Materials with an Enrollment Form	Clarifies that the requirements of this section are not applicable to MMPs.
Section 30.9 – Required Materials for New and Renewing Members at Time of Enrollment and Thereafter	Replaces current guidance in MMGs with new guidance for MMPs.

¹ Note that any requirements for Special Needs Plan (SNPs), Private Fee-for-Service (PFFS) plans, Preferred Provider Organizations (PPOs), and Section 1876 Cost-Based Plans (cost plans) in the Medicare Marketing Guidelines do not apply unless specifically noted in this guidance.

Section 30.12 – Plan Ratings Information from CMS	Clarifies that the requirements of this section are not applicable to MMPs.
Section 30.12.1 – Referencing Plan Ratings in Marketing Materials	Clarifies that the requirements of this section are not applicable to MMPs.
Section 30.12.2 – Plans with an Overall Five-Star Rating	Clarifies that the requirements of this section are not applicable to MMPs.
Section 40.6 – Identification of All Plans in Materials	Replaces current guidance in this section with new guidance for MMPs.
Section 40.8 – Hours of Operation Requirements for Marketing Materials	Adds new requirements for MMPs to current MMG requirements of this section.
Section 40.11.3 – Non-Benefit/Non-Health Service-Providing Third Party Marketing Materials	Clarifies that these requirements of this section do not apply to materials produced by the State and MassHealth’s customer service vendor.
Section 40.13. – Standardization of Plan Name Type	Clarifies the requirements of this section for MMPs.
Section 50.1 – Federal Contracting Disclaimer	Replaces current disclaimer in this section with a new Federal-State disclaimer for MMPs.
Section 50.2 – Disclaimers When Benefits are Mentioned	Replaces current disclaimers in this section with new disclaimers for MMPs.
Section 50.3 – Disclaimers When Plan Premiums are Mentioned	Clarifies that the requirements of this section are not applicable to MMPs.
Section 50.4 – Disclaimer on Availability of Non-English Translations	Replaces current disclaimer in this section with a new disclaimer for MMPs.
Section 50.5 – SNP Materials	Clarifies that MMPs must include a disclaimer regarding the NCQA approval of their model of care and replaces current disclaimer in this section with a new disclaimer for MMPs.
Section 50.6 – Dual Eligible SNP Materials	Replaces current disclaimer in this section with a new disclaimer for MMP materials that include Part D benefit information.

Section 50.12 – Disclaimer for Plans Accepting Online Enrollment Requests	Clarifies that the requirements of this section are not applicable to MMPs.
Section 50.13 – Disclaimer When Using Third Party Materials	Replaces current disclaimer in this section with a new disclaimer for MMPs.
Section 50.14 – Disclaimer When Referencing Plan Ratings Information	Clarifies that the requirements of this section are not applicable to MMPs.
Section 60.1 – Summary of Benefits	Replaces current guidance in this section with new guidance for MMPs.
Section 60.2 – ID Card Requirements	Clarifies the requirements of this section for MMPs.
Section 60.4 – Directories	Clarifies the requirements of this section for MMPs and provides additional flexibility regarding the requirements for providing MMP directories to enrollees at the time of enrollment and thereafter.
Section 60.5 – Formulary and Formulary Change Notice Requirements	Clarifies the requirements of this section for MMPs. Extends the requirements for formulary change notifications to Medicaid-covered drugs.
Section 60.7 – Annual Notice of Change (ANOC) and Evidence of Coverage	Replaces current guidance in this section with new guidance for MMPs.
Section 60.8 – Mid-Year Changes Requiring Enrollee Notification	Extends the requirements of this section to mid-year changes in Medicaid benefits.
Section 70.1 – Nominal Gifts	Clarifies that these requirements are not applicable to MMPs due to the prohibition on nominal gifts.
Section 70.2 – Promotional Activities	Clarifies that these requirements are not applicable to MMPs due to the prohibition on promotional activities.
Section 70.6 – Marketing Through Unsolicited Contacts	Clarifies that, in addition to the requirements of this section, MassHealth’s customer service vendor’s information should be included on marketing materials under certain circumstances.
Section 70.8 – Outbound Enrollment and Verification Requirements	Clarifies that the requirements of this section are not applicable to MMPs.

Section 70.10 - Marketing/Sales Events	Adds new requirements for MMPs to current MMG requirements of this section.
Section 70.10.2 – Personal/Individual Marketing Appointments	Adds new requirements for MMPs to current MMG requirements of this section.
Section 70.12 – Marketing in the Health Care Setting	Extends the requirements of this section to MMPs in long-term care facilities, and chronic and psychiatric care hospitals.
Section 70.12.5 – Comparative and Descriptive Plan Information Provided by a Non-Benefit/Non-Health Service-Providing Third Party	Clarifies that the requirements of this section vis-à-vis State agencies also apply to MassHealth’s customer service vendor.
Section 70.12.6 – Providers/Provider Group Websites	Replaces current guidance in this section with new guidance for MMPs.
Section 80.1 – Customer Service Call Center Requirements	Replaces current guidance in this section regarding permissible use of alternate call center technologies with new guidance for MMPs.
Section 80.3 – Requirements for Informational Scripts	Clarifies requirements in this section for MMPs.
Section 90 – The Marketing Review Process	Clarifies that references in this section (and subsections) to CMS in its role in marketing reviews also apply to the State.
Section 90.3 – Material Dispositions; Section 90.5 – Time Frames for Marketing Review	Clarifies the requirements of these sections with respect to the lack of “deeming” for jointly reviewed materials.
Section 90.6 – File & Use Program	Clarifies the File & Use certification process for MMPs.
Section 90.6.1 – Restriction on the Manual Review of File & Use Eligible Materials	Clarifies that the requirements of this section are not applicable to MMPs.
Section 100.2 – Required Content	Adds new requirements for MMPs to current MMG requirements of this section.
Section 100.2.1 – Required Documents for All Plan Sponsors	Clarifies that the requirements of this section are not applicable to MMPs.

Section 100.2.2 – Required Documents for Part D Sponsors	Clarifies that the requirements of this section are not applicable to MMPs.
Section 100.3 – Online Enrollment	Clarifies that the requirements of this section are not applicable to MMPs.
Section 100.5 – Online Formulary and Utilization Management (UM) Requirements	Extends the formulary change notice requirements of this section to non-Part D drug formulary changes.
Section 120 – Marketing and Sales Oversight and Responsibilities	Clarifies that the requirements of this section (and subsections) are not applicable to MMPs.
Section 150 – Use of Medicare Mark for Part D Plans	Clarifies the requirements of this section for MMPs.
Section 160.4 – Sending Non-plan and Non-health Information Once Prior Authorization is Received	Replaces current disclaimer in this section with a new disclaimer for MMPs.

In addition, we clarify that all requirements applicable to independent agents/brokers throughout the Medicare Marketing Guidelines will be inapplicable to MMPs in Massachusetts, because the use of independent agents/brokers will not be permitted and all MMP enrollment transactions must be processed by MassHealth’s customer service vendor.

We refer MMPs to the following available model materials. We note that materials created by MMPs should take into account the reading level requirements established in the three-way contract. Available model materials reflect acceptable reading levels. Current Part D models will be acceptable for use as currently provided.

- MMP-specific model materials, including an Annual Notice of Change (ANOC), Evidence of Coverage (Member Handbook), comprehensive integrated formulary, combined provider/pharmacy directory, ID card, and welcome letter for passively enrolled individuals: <http://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/Downloads/ModelMarketingMaterialsforMassachusettsMedicareMedicaidPlans.zip>. MMP-specific model materials tailored to MMPs in Massachusetts will be added to this website on a flow basis as they are finalized and will also be disseminated via the Health Plan Management System (HPMS).
- Required Part D models, including the Part D Explanation of Benefits, Excluded Provider Letter, Prescription Transfer Letter, and Transition Letter: <http://cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/Part-D-Model-Marketing-Materials.html>.
- Part D appeals and grievances models in Chapter 18 of the Prescription Drug Benefit Manual: <http://cms.gov/Medicare/Appeals-and-Grievances/MedPrescriptDrugApplGriev/index.html>.

- Part C appeals and grievances models in Chapter 13 of the Medicare Managed Care Manual: <http://cms.gov/Medicare/Appeals-and-Grievances/MMCAG/Guidance.html>
- ANOC/EOC (Member Handbook) errata model: <http://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/MarketngModelsStandardDocumentsandEducationalMaterial.html>

Following are the Massachusetts MMP-specific modifications to the Medicare Marketing Guidelines for CY 2013.

Section 10 – Introduction

The prohibition on marketing for an upcoming year prior to October 1 will only apply when the upcoming plan year begins on January 1. Given the mid-year demonstration start in Massachusetts, for CY 2013, MMPs may not begin marketing activity prior to September 1, 2013, or once the MMP has entered into a three-way contract with CMS and EOHHS, has passed the CMS/EOHHS readiness review, and is connected to CMS enrollment and payment systems such that the MMP is able to receive payment and enrollments, whichever is later. Marketing activity for CY 2014 may begin no earlier than October 1, 2013 and must be consistent with the CY 2014 Medicare Marketing Guidelines, with the exceptions articulated in this guidance as appropriate.

Section 30.3 – Disclosure of National Committee for Quality Assurance’s (NCQA) Approval Information

The guidance for special needs plans (SNPs) in this section also applies to MMPs.

Section 30.7 – Requirements Pertaining to Non-English Speaking Populations

The standard articulated in this section for translation of marketing materials into non-English language will be superseded to the extent that Massachusetts’ standard for translation of marketing materials is more stringent. The Massachusetts translation standard – which requires translation of materials into “prevalent languages” (i.e., Spanish and any language that is the primary language of 5% or more of the ICO service area population) – exceeds the Medicare standard for translation in Massachusetts MMP services areas for CY 2013.² For CY 2013, Massachusetts’ standard requires translation of required marketing materials (which, for Massachusetts MMPs will be the Summary of Benefits, ANOC/EOC (Member Handbook), formulary (List of Covered Drugs), provider/pharmacy directory (Provider and Pharmacy Network Directory), and the Part D transition letter) into Spanish in all service areas.³ Therefore, the Massachusetts standard for translation will apply to Massachusetts MMPs for CY 2013.

Section 30.7.1 – Multi-Language Insert

We clarify that MMPs will need to include a Multi-Language Insert with their demonstration-specific Summary of Benefits (SB) and Annual Notice of Change (ANOC)/Evidence of Coverage (Member Handbook) documents, as is the case for other plan sponsor types with their Medicare Advantage and Part D SBs and ANOC/EOC documents. Massachusetts MMPs must use the Multi-Language Insert in Appendix 4 of the Medicare Marketing Guidelines and add the required language in two additional languages -- Cambodian and Laotian. We clarify that we consider French Creole, which is a language included on the CMS multi-language insert, to be equivalent to Haitian Creole, which is required by Massachusetts to be included in the Multi-Language Insert.

² Refer to April 10, 2013 HPMS memorandum, “Translation Requirements for CY 2013 Medicare-Medicaid Plans (MMPs)” at <http://cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/Downloads/CY2013MMPTranslationHPMSMemoFinal041013.pdf> for more information.

³ CMS will make available Spanish translations of the Massachusetts MMP formulary, provider/pharmacy directory, and ANOC/EOC (Member Handbook). CMS makes available a Spanish translation of the Part D transition letter to all Medicare health plans at <http://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/Part-D-Model-Marketing-Materials.html>.

Section 30.8 – Required Materials with an Enrollment Form

Because MMPs will be too new to measure under the CMS plan (star) rating system, they will not be required to include the Plan Ratings Information document when a beneficiary is provided with pre-enrollment information. We further clarify that the responsibility for sending enrollment and disenrollment notices to enrollees will be delegated to MassHealth’s customer service vendor.

Section 30.9 – Required Materials for New and Renewing Members at Time of Enrollment and Thereafter

This section is replaced with the following revised guidance:

Section 30.9 – Required Materials for New and Renewing Members at Time of Enrollment and Thereafter

42 CFR 422.111, 423.128, 422.2264, 423.2264

The following materials must be provided to enrollees at the time of enrollment and annually thereafter:

- Annual Notice of Change/Evidence of Coverage (EOC) (Member Handbook), or simply an Evidence of Coverage (Member Handbook), as applicable and described in the replacement guidance below for section 60.7 of the Medicare Marketing Guidelines.
- A comprehensive integrated formulary (List of Covered Drugs) that includes Medicare and Medicaid outpatient prescription drugs and over-the-counter pharmacy drugs or products provided under the MMP.
- A combined provider and pharmacy directory (Provider and Pharmacy Network Directory) that includes all providers of Medicare, Medicaid, and additional benefits (required at the time of enrollment; see section 60.4 for additional information about provision of a directory post-enrollment).
- A single identification (ID) card for accessing all covered services under the plan (required at the time of enrollment and as needed or required by the MMP post-enrollment).
- For individuals enrolled through passive enrollment, a demonstration plan-specific Summary of Benefits (SB) containing a concise description of the important aspects of enrolling in the plan, as well as the benefits offered under the plan, including co-pays, applicable conditions and limitations, and any other conditions associated with receipt or use of benefits. Because the EOC (Member Handbook) may not be provided until just prior to the effective date of a passive enrollment, the SB must be provided to individuals enrolled through passive enrollment prior to receipt of the EOC (Member Handbook) to ensure that they have sufficient information about plan benefits to make an informed decision prior to the passive enrollment effective date. Refer to the

revised guidance for section 60.7 contained in this document for more information about when an MMP must send an SB to current enrollees post-enrollment.

MMPs must provide enrollees who self-select into the demonstration the following materials no later than ten (10) calendar days from receipt of CMS confirmation of enrollment or by the last day of the month prior to the effective date, whichever occurs later. We clarify that this group of enrollees who self-select includes individuals who are eligible for passive enrollment but select a different MMP or initiate an earlier enrollment date than their passive enrollment effective date. For late month enrollment transactions (those for which CMS confirmation of enrollment is received less than ten (10) calendar days before the end of the month prior to the effective date), MMPs must send these materials no later than ten (10) calendar days from receipt of CMS confirmation of enrollment. MMPs should refer to the date of the Transaction Reply Report (TRR) that has the notification to identify the start of the ten (10) calendar day timeframe.

- A comprehensive integrated formulary
- A combined pharmacy/provider directory, or information about how to access or receive the pharmacy/provider directory, consistent with section 60.4 of this guidance.
- A single ID card

MMPs must provide enrollees who are passively enrolled the following materials no later than 30 calendar days prior to the effective date of enrollment:

- A welcome letter consistent with a model developed jointly by CMS and the State
- A comprehensive integrated formulary
- A combined pharmacy/provider directory, or information about how to access or receive the pharmacy/provider directory, consistent with section 60.4 of this guidance
- A Summary of Benefits (SB)

We clarify that individuals eligible for passive enrollment who select a different MMP or initiate an earlier enrollment date than their passive enrollment effective date must receive the materials listed above (and on the same timeline as) enrollees who self-select into the demonstration. Additional materials may not be included in this mailing, unless the MMP chooses to mail the EOC (Member Handbook) and ID card early along with the materials in this mailing.

In addition, MMP must provide enrollees who are passively enrolled a single ID card for receipt by the end of the month preceding the month the enrollment will take effect (e.g., the ID card must be received by a beneficiary by July 31 for an August 1 effective enrollment date).

For both enrollees who are passively enrolled and enrollees who self-select into the demonstration, the Annual Notice of Change and EOC (Member Handbook) must be provided at

the time of enrollment and annually thereafter consistent with the replacement guidance below for section 60.7 of the Medicare Marketing Guidelines.

The following tables summarize the requirements of this section.

Table 2: Required Materials for New Members

Enrollment Mechanism	Required Materials for New Members	Timing of beneficiary receipt
Passive enrollment	<ul style="list-style-type: none"> • Welcome letter • Formulary • Pharmacy/provider directory (or information about how to access or receive the directory) • SB 	30 calendar days prior to the effective date of enrollment
	<ul style="list-style-type: none"> • ID card • EOC (Member Handbook) 	No later than the day prior to the effective date of enrollment
Self-selected enrollment (with enrollment confirmation received more than 10 calendar days before the end of the month)	<ul style="list-style-type: none"> • Formulary • Pharmacy/provider directory (or information about how to access or receive the directory) • ID card • EOC (Member Handbook) 	No later than the last day of the month prior to the effective date.
Self-selected enrollment (with enrollment confirmation received less than 10 calendar days before the end of the month)	<ul style="list-style-type: none"> • Formulary • Pharmacy/provider directory (or information about how to access or receive the directory) • ID card • EOC (Member Handbook) 	No later than 10 calendar days from receipt of the CMS confirmation of enrollment

Table 3: Required Materials for Renewing Members

Required Materials for Renewing Members	Timing of beneficiary receipt
<ul style="list-style-type: none"> • ANOC/EOC (Member Handbook) • Formulary <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> • ANOC • SB • Formulary 	September 30
<p>If only the ANOC, SB, and formulary are sent by September 30:</p> <ul style="list-style-type: none"> • EOC (Member Handbook) 	December 31
<ul style="list-style-type: none"> • ID card 	As needed
<ul style="list-style-type: none"> • Pharmacy/provider directory (or information about how to access or receive the directory) 	At least every three years, with change pages for major network changes as needed. The plan website’s directory must be kept up-to-date consistent with section 100.4.

Section 30.12 – Plan Ratings Information from CMS

Because MMPs will be too new to measure under the CMS plan (star) rating system, this section does not apply to MMPs.

Section 30.12.1 – Referencing Plan Ratings in Marketing Materials

Because MMPs will be too new to measure under the CMS plan (star) rating system, this section does not apply to MMPs.

Section 30.12.2 – Plans with an Overall Five-Star Rating

Because MMPs will be too new to measure under the CMS plan (star) rating system, this section does not apply to MMPs.

Section 40.6 – Identification of All Plans in Materials

The guidance in this section is replaced with the following guidance:

Section 40.6 – Identification of All Plans in Materials

42 CFR 422.2264, 423.2264, 422.2268, 423.2268

Organizations offering both MMPs and non-MMP Medicare health plan options in a service area may only market MMP offerings in their MMP materials.

Section 40.8 – Hours of Operation Requirements for Marketing Materials

In addition to the requirements of this section, MMPs must also provide the phone number and hours of operation information for MassHealth’s customer service vendor at least once in any marketing materials that are provided prior to the time of enrollment and where a plan customer service number is provided for current and prospective enrollees to call. Use of the disclaimer in revised section 70.6 in this document is adequate to meet this requirement for unsolicited marketing materials, such as mail and other print media. Enrollment materials sent to passively enrolled individuals would not need to include the disclaimer in revised section 70.6 in this document.

Section 40.11.3 – Non-Benefit/Non-Health Service-Providing Third Party Marketing Materials

In addition to the guidance in this section, CMS and the State clarify that materials produced by the State and distributed by MassHealth’s customer service vendor do not constitute non-benefit/non-health service-providing third party marketing materials. Therefore, such materials do not need to be submitted to the plan sponsor for review prior to their use. As indicated in the CMS “Announcement of Calendar Year (CY) 2013 Medicare Advantage Capitation rates and Medicare Advantage and Part D Payment Policies and Final Call Letter” released on April 2, 2012, CMS Medicare Marketing Guidelines do not apply to communication by State governments, and materials created by the State do not need to be reviewed or submitted in HPMS. However, CMS and the State agree to work together in the development of these materials.

Section 40.13 – Standardization of Plan Name Type

As is the case for other Medicare health plans, MMPs will be required to include the plan type in each plan’s name using standard terminology consistent with the guidance provided in this section. CMS has created the standardized plan type label “Medicare-Medicaid Plan” to refer generically to all plans participating in a Capitated Financial Alignment Demonstration. MMPs must use the “Medicare-Medicaid Plan” terminology consistent with the requirements of section 40.13 of the Medicare Marketing Guidelines.

CMS is unable to create State-specific plan type labels in HPMS for each State’s demonstration plans; therefore all MMPs will be referred to by the standardized plan name type “Medicare-Medicaid Plan” in CMS’ external communications – e.g., the Medicare & You handbook and the Medicare Plan Finder tool on www.medicare.gov. MMPs may also use any State-specific plan type terminology in their marketing materials, provided they comply with the guidance regarding use of the CMS standardized plan type in section 40.13, under which the MMP must use the “(Medicare-Medicaid Plan)” standardized plan type label following the plan name at least once on the front page or beginning of each marketing piece. The State has provided guidance on branding for the demonstration, which includes using the term “One Care plan” to refer to MMPs in Massachusetts. Thus, we clarify that MMPs must use the CMS

standardized plan type – <plan name> (Medicare-Medicaid Plan) – once in their materials but may use the term “One Care plan” elsewhere in the document.

In addition, we clarify that MMPs in Massachusetts that offer Medicare Advantage products, including SNPs, in the same service area as their MMPs, may not use the same plan marketing name for both those products in order to reduce beneficiary confusion. Thus, for example, an organization offering both a SNP and an MMP in the same service area could not use the same name – e.g., Acme Duals Care (HMO SNP) – for its SNP product as for its MMPs product – e.g., Acme Duals Care (Medicare-Medicaid Plan).

Section 50.1 – Federal Contracting Disclaimer

This section is replaced with the following revised guidance:

Section 50.1 – Federal and State Contracting Disclaimer

42 CFR 422.2264, 423.2264

All marketing materials must include the statement that the MMP contracts with both the Federal and the State government. The following statement must be used:

“<Plan’s legal or marketing name> is a health plan that contracts with both Medicare and MassHealth to provide benefits of both programs to enrollees.”

NOTE: Banner and banner-like ads, outdoor advertising, radio, television and Internet banner ads do not need to include the Federal and State contracting disclaimer.

Section 50.2 – Disclaimers When Benefits are Mentioned

This section is replaced with the following revised guidance:

Section 50.2 – Disclaimers When Benefits Are Mentioned

42 CFR 422.111(a), 422.111(b), 422.111(f), 423.128(b)

The following disclaimers must be used when benefit information is included in marketing materials:

Only for summary documents like the Summary of Benefits: “This is not a complete list. The benefit information is a brief summary, not a complete description of benefits. For more information contact the plan or read the Member Handbook.”

“Limitations [, copays,] and restrictions may apply. For more information, call <plan name> <Member Services> or read the <plan name> Member Handbook.”

“Benefits, List of Covered Drugs, pharmacy and provider networks [and/or copayments] may change on January 1 of each year.”

Section 50.3 – Disclaimers When Plan Premiums are Mentioned

This section does not apply to MMPs, as MMPs are not permitted to assess plan premiums, and States will pay Medicare Part B premiums on behalf of Medicare-Medicaid enrollees in MMPs.

Section 50.4 – Disclaimer on Availability of Non-English Translations

This section is replaced with the following revised guidance:

Section 50.4 – Disclaimer on Availability of Non-English Translations

42 CFR 422.2264(e), 423.2264(e)

Plan sponsors that meet either: (1) Medicare’s five (5) percent threshold for language translation (Refer to section 30.7); or (2) the relevant Medicaid translation standard must place the following alternate language disclaimer on all materials as required in section 30.7.

“You can get this document in Spanish, or speak with someone about this information in other languages for free. Call <toll-free number>. The call is free.”

The alternate language disclaimer must be provided in both English and Spanish. The Spanish disclaimer must be placed below the English version and in the same font size as the English version.

NOTE: ID cards are excluded from this requirement.

Section 50.5 – SNP Materials

We clarify that the prohibition on discussion of numeric Special Needs Plan (SNP) approval scores in marketing materials or press releases also applies to MMPs. MMPs may only include the following information related to their National Committee for Quality Assurance (NCQA) model of care approval:

“[Insert Plan Name] has a Model of Care approved by the National Committee for Quality Assurance (NCQA) and MassHealth until [insert last contract year of NCQA and State approval of model of care] based on a review of [insert Plan Name’s] Model of Care.”

Section 50.6 – Dual Eligible SNP Materials

This section is replaced with the following revised guidance:

Section 50.6 – MMP Materials Including Part D Benefit Information

42 CFR 422.2, 422.4(a)(1)(iv), 422.111(b)(2)(iii), 422.2264, 423.2264

The following disclaimer must be on any MMP materials that mention Part D benefits, unless the plan charges \$0 copays for all Part D drugs:

“Copays for prescription drugs may vary based on the level of Extra Help you receive. Please contact the plan for more details.”

Section 50.12 – Disclaimer for Plans Accepting Online Enrollment Requests

This section does not apply to MMPs, as the Online Enrollment Center on the Medicare Plan Finder website will not be available to MMPs.

Section 50.13 – Disclaimer When Using Third Party Materials

This section applies to MMPs with the following modification to the disclaimer language:

“Neither Medicare nor MassHealth has reviewed or endorsed this information.”

Section 50.14 – Disclaimer When Referencing Plan Ratings Information

Because MMPs will be too new to measure under the CMS plan (star) rating system, this section does not apply to MMPs.

Section 60.1 – Summary of Benefits

This section is replaced with the following revised guidance:

Section 60.1 – Summary of Benefits

42 CFR 422.111(b)(2), 422.111(f), 423.128(b)(2)

MMPs must use the Summary of Benefits (SB) model document provided to Massachusetts MMPs by CMS and the State. The SB must contain a concise description of the important aspects of enrolling in the plan, as well as the benefits offered under the plan, including applicable co-pays, applicable conditions and limitations, and any other conditions associated with receipt or use of benefits.

The Multi-Language Insert must be included with the SB, and the SB must be sent in Spanish to enrollees if the member’s primary language is known to be Spanish.

Section 60.2 – ID Card Requirements

MMPs are required to meet the ID card content requirements in sections 60.2, 60.2.1, and 60.2.2. We clarify, however, that MMPs must issue a single ID card meeting these requirements for all services offered under the plan. Separate pharmacy and health benefits ID cards will not be permitted. MMPs must use the model ID card document provided to Massachusetts MMPs by CMS and the State.

Section 60.4 – Directories

The pharmacy and provider directory requirements in sections 60.4, 60.4.1, 60.4.1.1, 60.4.2, and 60.4.3 apply to MMPs with the following modifications:

- MMPs are required to make available a single, combined pharmacy/provider directory. Separate pharmacy and provider directories will not be permitted;
- At the time of enrollment and then as required thereafter, MMPs have the option to either mail a pharmacy/provider directory or to mail a document that provides enrollees with information about how to access the directory on the MMP website, as well as how to call the plan's customer service call center to request assistance with locating providers and request that a pharmacy/provider directory be mailed to them.
- The combined pharmacy/provider directory must include all network providers and pharmacies, regardless of whether they provide Medicare, Medicaid, or additional benefits;
- For MMPs with multi-county service areas, the combined pharmacy/provider directory may be provided for all providers by county, provided the directory includes a disclaimer that the directory only includes providers in that particular county (or counties) and that the enrollee may contact the plan's customer service call center to request assistance with locating providers in other counties or to request a complete pharmacy/provider directory; and
- MMPs must use the model pharmacy/provider directory document provided to Massachusetts MMPs by CMS and the State.

Section 60.5 – Formulary and Formulary Change Notice Requirements

The requirements of section 60.5, 60.5.1, 60.5.2, 60.5.3, 60.5.4, 60.5.5, and 60.5.6 apply to MMPs with the following modifications:

- MMPs must provide a comprehensive integrated formulary that includes Medicare and Medicaid outpatient prescription drugs and pharmacy products provided under the plan;
- MMPs will only be permitted to provide comprehensive formularies, not abridged formularies;
- MMPs must use the model formulary document provided to Massachusetts MMPs by CMS and the State; and
- Formulary change notices must be sent for any negative formulary change (as described in section 30.3.3, "Midyear Formulary Changes," and section 30.3.4, "Provision of Notice Regarding Formulary Changes," of Chapter 6 of the Prescription Drug Benefit Manual), regardless of whether the negative formulary change applies to an item covered under Medicare or Medicaid, or as an additional drug benefit under the plan. Consistent with the guidance in the Medicare Marketing Guidelines, this notice must be provided to affected enrollees at least 60 calendar days prior to the change.

Section 60.7 – Annual Notice of Change (ANOC) and Evidence of Coverage

This section is replaced with the following revised guidance:

Section 60.7 – Annual Notice of Change (ANOC) and Evidence of Coverage (EOC) (Member Handbook)

42 CFR 422.111(a)(3), 422.111(d)(2), 423.128(a)(3)

MMPs are required to send an Annual Notice of Change (ANOC) summarizing all major changes to the plan's covered benefits from one contract year to the next prior to the beginning of the second contract year of the demonstration and annually thereafter. The MMP may send the ANOC and EOC (Member Handbook) as a combined document or separately, as provided below.

MMPs must send the ANOC for member receipt by September 30 each year. The EOC (Member Handbook) may be sent as a standalone document as follows:

- MMPs must send new enrollees (whether they self-select into the demonstration or are passively enrolled) an EOC (Member Handbook) for member receipt by the end of the month preceding the month the enrollment will take effect (e.g., the document must be received by a beneficiary by June 30 for a July 1 effective enrollment date). For late month enrollment transactions (those for which CMS confirmation of enrollment is received less than ten (10) calendar days before the end of the month prior to the effective date), MMPs must send these materials no later than ten (10) calendar days from receipt of CMS confirmation of enrollment.
- After the time of initial enrollment, MMPs must annually send an EOC (Member Handbook) for member receipt by December 31. MMPs choosing this option (rather than a combined ANOC/EOC (Member Handbook) by September 30) must also send an SB with the ANOC.

New enrollees with an effective date of October 1, November 1, or December 1 should receive both an EOC (Member Handbook) for the current contract year, as well as a combined ANOC/EOC (Member Handbook) document for the upcoming contract year.

Additional materials beyond the materials required to be sent with the ANOC/EOC or ANOC and EOC may not be included with the ANOC, EOC, or ANOC/EOC mailing.

To ensure that MMPs are mailing their annual ANOC/EOC (Member Handbook) in a timely manner, plan sponsors must indicate the actual mail date in HPMS within fifteen (15) calendar days of mailing. MMPs that mail in waves should enter the actual date for each wave. For instructions on meeting this requirement, refer to the *Update Material Link/Function* section of the Marketing Review Users Guide in HPMS.

MMPs must use the ANOC/EOC (Member Handbook) errata model to notify enrollees of any errors in their original mailings.

Section 60.8 – Mid-Year Changes Requiring Enrollee Notification

The notification requirements for mid-year Medicare benefit changes described in this section will also be applicable to mid-year Medicaid or required demonstration additional benefit changes.

Section 70.1 – Nominal Gifts

Under the Massachusetts demonstration, MMPs may not offer financial or other incentives, including private insurance, to induce enrollees or potential enrollees to enroll with the MMP or to refer a friend, neighbor, or other person to enroll with the plan. This includes nominal gifts offered at MMP-targeted educational events. Therefore, the guidance in section 70.1 does not apply, because MMPs will not be permitted to offer nominal gifts.

Section 70.2 – Promotional Activities

Under the Massachusetts demonstration, MMPs may not offer financial or other incentives, including private insurance, to induce enrollees or potential enrollees to enroll with the MMP or to refer a friend, neighbor, or other person to enroll with the plan. This includes promotional items offered at MMP-targeted educational events. Therefore, the guidance in section 70.2 regarding promotional items does not apply, because MMPs will not be permitted to offer nominal gifts or financial incentives.

Section 70.6 – Marketing Through Unsolicited Contacts

In addition to the requirements of section 70.6, MMPs conducting permitted unsolicited marketing activities such as mail and other print media are required to include the following disclaimer on all materials used for that purpose:

“For information on <Plan name> and other options for your health care, call the MassHealth Customer Service Center at 1-800-841-2900 (TTY: 1-800-497-4648), Monday through Friday, 8:00 am-5:00 pm or visit [www.mass.gov/masshealth/onecare].

For purposes of this section, enrollment materials sent to passively enrolled individuals are not considered marketing through unsolicited contact.

Section 70.8 – Outbound Enrollment and Verification Requirements

Since all enrollments into MMPs will be submitted by MassHealth’s customer service vendor, the requirements of this section do not apply.

Section 70.10 - Marketing/Sales Events

In addition to the requirements outlined in this section, if enrollment applications are distributed during the course of a marketing/sales event, any and all associated cover pages must remain attached to the application. If plan customer service staff assist potential enrollees in filling out enrollment applications, the staff must direct the potential enrollee to first read any and all associated cover pages attached to the application. The staff must also read the cover page(s) aloud to the enrollee if asked. Plan customer service staff that assist in completing an application must document their name on the application in accordance with the application’s instructions.

Section 70.10.2 – Personal/Individual Marketing Appointments

The provisions of this section apply to MMPs, with the following modifications:

- MMP sales agents are not permitted to conduct unsolicited personal/individual appointments. To the extent an MMP offers individual appointments, they must be staffed by trained Customer Service staff.
- An individual appointment must only be set up at the request of the member or his/her authorized representative. An MMP can offer an individual appointment to a member that has contacted the MMP to request assistance or information. However, MMPs are prohibited from making unsolicited offers of individual appointments.
- An MMP must make reasonable efforts to conduct an appointment in the member's preferred location. An MMP cannot require that an individual appointment occur in a member's home.

In addition to the requirements outlined in this section, if enrollment applications are distributed during the course of a personal/individual marketing appointment, any and all associated cover pages must remain attached to the application. If plan customer service staff assist potential enrollees in filling out enrollment applications, the staff must direct the potential enrollee to first read any and all associated cover pages attached to the application. The plan customer service staff must also read the cover page(s) aloud to the enrollee if asked. Plan customer service staff that assist in completing an application must document their name on the application in accordance with the application's instructions.

Section 70.12 – Marketing in the Health Care Setting

The flexibility provided in the last paragraph of this section for long-term care facility staff to provide residents meeting the eligibility criteria for an Institutional Special Needs Plan (I-SNPs) with an explanatory brochure for each I-SNP with which the facility contracts is also applicable to MMPs. This flexibility is also applicable to staff in chronic and psychiatric hospitals for MMP-eligible individuals, post-stabilization.

Section 70.12.5 – Comparative and Descriptive Plan Information Provided by a Non-Benefit/Non-Health Service-Providing Third Party

We clarify that the guidance in this section referring to materials provided by a "State agency" also applies to materials produced by the State and/or distributed by MassHealth's customer service vendor.

Section 70.12.6 – Providers/Provider Group Websites

This section is replaced with the following revised guidance:

Section 70.12.6 – Providers/Provider Group Websites

42 CFR 422.2268, 423.2268

Provider websites may not provide links to MMP enrollment applications or to the CMS Online Enrollment Center (which will not be enabled for MMPs). Providers may include a link to the Following website: <http://www.mass.gov/eohhs/consumer/insurance/contacting-masshealth.html>.

Section 80.1 – Customer Service Call Center Requirements

This section is replaced with the following revised guidance:

Section 80.1 – Customer Service Call Center Requirements

42 CFR 422.111(h)(1), 423.128(d)(1)

MMPs must operate a toll-free call center for both current and prospective enrollees seven (7) days a week, at least from 8:00 A.M. to 8:00 P.M. ET, except as provided below. During this time period, current and prospective enrollees must be able to speak with a live customer service representative. For CY 2013 and CY 2014, MMPs may use alternative technologies on Saturdays, Sundays, and Federal holidays in lieu of having live customer service representatives. For example, an MMP may use an interactive voice response system or similar technologies to provide the required information listed below, and/or allow a beneficiary to leave a message in a voice mail box. A customer service representative must then return the call in a timely manner, no more than one business day later.

Call centers must meet the following operating standards:

- Provide information in response to inquiries outlined in § 80.1.3.
- Follow an explicitly defined process for handling customer complaints.
- Provide interpreter service to all non-English speaking, limited English proficient and hearing impaired beneficiaries.
- Inform callers that interpreter services are “free.”
- Limit average hold time to two (2) minutes. The average hold time is defined as the time spent on hold by the caller following the interactive voice response (IVR) system, touch tone response system, or recorded greeting and before reaching a live person.
- Answer eighty (80) percent of incoming calls within thirty (30) seconds.
- Limit the disconnect rate of all incoming calls to five (5) percent.

For Pharmacy Technical Help or Coverage Determinations and Appeals Call Center requirements refer to Appendix 5.

Section 80.3 – Requirements for Informational Scripts

We clarify that informational calls to plan call centers that become sales/enrollment calls at the proactive request of the beneficiary must be transferred to MassHealth’s customer service vendor.

Section 90 – The Marketing Review Process

Any references in this section, and in all subsections thereunder, to CMS in its role in reviewing marketing materials are also references to the State for purposes of MMP marketing material review.

Section 90.2.3 – Service Area/Low-Income Subsidy Materials Functionality (SA/LIS) – Multiple Submissions of Materials

This section does not apply to MMPs.

Section 90.3 – Material Dispositions

We clarify that, for purposes of MMP materials, there will be no “deeming” of materials requiring either a dual review by CMS and the State or a one-sided State review, and materials will remain in a “pending” status. Materials that require a CMS-only review will deem after the respective 10- or 45-day review period. All other guidance in this section and its subsections applies.

Section 90.5 – Time Frames for Marketing Review

We clarify that, for purposes of MMP materials, there will be no “deeming” of materials requiring either a dual review by CMS and the State or a one-sided State review, and materials will remain in a “pending” status. Materials that require a CMS-only review will deem after the respective 10- or 45-day review period. All other guidance in this section and its subsections applies.

Section 90.6 – File & Use Program

We clarify that the File & Use program certification program for MMPs will be handled through the three-way contract. All other guidance in section 90.6 and all its subsections applies.

Section 90.6.1 – Restriction on the Manual Review of File & Use Eligible Materials

This section does not apply to MMPs.

Section 100.2 – Required Content

In addition to the requirements outlined in this section, MMPs must also include on their websites a direct link to the following website: <http://www.mass.gov/eohhs/consumer/insurance/contacting-masshealth.html>. MMPs must also include information on the potential for contract termination, and information that materials are published in alternate formats (e.g., large print, Braille, audio CD).

Section 100.2.1 – Required Documents for All Plan Sponsors

Because MMPs will be too new to measure under the CMS plan (star) rating system, MMPs will not be required to post a CMS plan ratings document on their websites.

Section 100.2.2 – Required Documents for Part D Sponsors

MMPs will not be required to post the LIS Premium Summary Chart, as this document will not be applicable to MMPs.

Section 100.3 – Online Enrollment

This section is not applicable to MMPs. The Online Enrollment Center will not be enabled for MMPs, and MMPs will not be permitted to directly enroll individuals through a secure Internet website. All enrollments will be processed via MassHealth’s customer service vendor.

Section 100.5 – Online Formulary and Utilization Management (UM) Requirements

Formulary change notices applicable to all formulary changes (not just Part D drug changes) must be maintained on MMPs’ websites as required in this section.

Section 120 – Marketing and Sales Oversight and Responsibilities

The provisions in this section and all its subsections applicable to independent agents/brokers does not apply to MMPs since the use of independent agents/brokers will not be permitted. All MMPs enrollments will be processed by MassHealth’s customer service vendor.

Section 150 – Use of Medicare Mark for Part D Plans

We clarify that MMPs will be required to sign a licensing agreement to use the official Medicare Mark as part of the three-way contract, rather than through the HPMS contracting module. All other guidance section 150 and all its subsections applies.

Section 160.4 – Sending Non-plan and Non-health Information Once Prior Authorization is Received

The disclaimer described in this section should be modified as follows:

“Neither Medicare nor MassHealth has reviewed or endorsed this information.”