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# 2014 CMS AGENT/BROKER TRAINING AND TESTING GUIDELINES

## Introduction

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 417, 422, and 423).<sup>1</sup> Each general topic area (listed below) will be followed by references to key documents or regulations.

The following topics are covered in this document:

- Agent and Broker Requirements
- Medicare Overview
- Medicare Part C and Part D Enrollment and Disenrollment
- Benefits, Beneficiary Rights and Protections
- Medicare Part C, Part D, and 1876 Cost Plan Marketing Regulations and Other Requirements

## I. Agent/Broker Requirements

- Training and Testing [42 CFR Part 422 Subpart V—Medicare Advantage Marketing Requirements and Part 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.
  - Plans/Plan sponsors are responsible for ensuring all agents and brokers (including employed) that sell Medicare products, including employees, subcontractors, downstream entities, and/or delegated entities, are trained and tested annually on Medicare rules and regulations and details specific to the plan products that are being sold.
  - Plans/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.
  - Plans/Plan sponsors must have the ability to provide information on training and testing programs to CMS or obtain the information from third party vendors, if applicable, 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.

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<sup>1</sup>References are to the most recent final version of each of the cited chapters (as of 2013):

- 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 28, 2013
- MMCM Chapter 4 – Benefits & Beneficiary Protections, dated June 7, 2013
- MMCM Chapter 17 – Subchapters A-D and F, dated November 2012
- MPDBM Chapter 2 – Medicare Marketing Guidelines, frequently referred to as the Medicare Marketing Guidelines (MMG), dated June 28, 2013
- MPDBM Chapter 3 – Eligibility, Enrollment & Disenrollment, dated August 7, 2012
- MPDBM Chapter 5 – Benefits & Beneficiary Protections, dated September 30, 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

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- Licensure and Appointment Requirements [42 CFR Part 422 Subpart V—Medicare Advantage Marketing Requirements and Part 423 Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]
    - Plans/Plan sponsors must ensure that agents and brokers are licensed and appointed according to State laws.

## II. Medicare Basics Overview

- Medicare
  - Description of Original Medicare [42 CFR Part 422 Subpart A—General Provisions, MMCM Chapter 1]
  - Description of Medicare Advantage [42 CFR Part 422 Subpart A—General Provisions, MMCM Chapter 1]
  - Description Prescription Drug Benefit [42 CFR Part 423 Subpart A— General Provisions and 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 Part 406 Subpart A—General Provisions, Subpart B—Hospital Insurance Without Monthly Premiums and Subpart C—Premium Hospital Insurance]
    - Part B [42 CFR Part 407 Subpart B—Individual Enrollment and Entitlement for Supplementary Medical Insurance (SMI) and Part 408 Subpart B—Amount of Monthly Premiums]
    - Part C [42 CFR Part 422 Subpart B—Eligibility, Election, and Enrollment]
    - Part D [42 CFR Part 423 Subpart B—Eligibility and Enrollment, Subpart F—Monthly Beneficiary Premiums and Subpart P—Premiums and Cost-Sharing Subsidies for Low-Income Individuals]
    - Section 1876 cost plans [42 CFR Part 417 Subpart K—Enrollment, Entitlement, and Disenrollment under Medicare Contract]
  - Description of Medigap [42 CFR Part 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
- Medicare Advantage Health Plans and Coverage [42 CFR Part 422 Subpart A— General Provisions, Subpart C— Benefits and Beneficiary Protections, MMCM Chapters 1, 4]
  - 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 and Savings Accounts (MSA)
  - Description of Maximum Out-of-Pocket (MOOP) Limits C—Benefits and Beneficiary Protections

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- Other Plan Types and Coverage
    - Employer Group Plans [42 CFR Part 422 Subpart C—Benefits and Beneficiary Protections, MMCM Chapters 1, 9, MPDBM Chapter 12]
    - Medicare Cost Plans [42 CFR Part 417, MMCM Chapters 1, 17]
    - OPTIONAL: Programs of All-Inclusive Care for the Elderly (PACE) [42 CFR Part 460]
  - Medicare Prescription Drug Plan Coverage [42 CFR Part 423 Subpart A—General Provisions, Subpart C—Benefits and Beneficiary Protections, MMCM Chapter 1, MPDBM Chapters 5, 6]
    - Plan Types (MA-PD, Prescription Drug Plan)
    - 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
    - Medicare Part D Medication Therapy Management (MTM) Program
      - Overview of MTM program requirements, including the eligibility criteria and services offered as part of the MTM program.
      - Provision of the written summary of the comprehensive medication review in CMS' standardized format.
      - Availability of MTM information on Medicare.gov and Medicare Plan Finder, in the Medicare & You handbook, and plan specific information including plan websites.
    - Pharmacy Networks
      - In-network versus out-of-network coverage
      - Referred and non-preferred network coverage
    - Help for lower-income individuals [42 CFR Part 423 Subpart P—Premiums and Cost-Sharing Subsidies for Low-Income Individuals and 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<sup>2</sup>**

- Enrollment procedures [42 CFR Part 417 Subpart K—Enrollment, Entitlement, and Disenrollment under Medicare Contract, Part 422 Subpart B—Eligibility, Election, and Enrollment, Part 423 Subpart B—Eligibility and Enrollment, MMCM Chapters 2, 17d, 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 to require beneficiary to acknowledge and consent to required key elements

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<sup>2</sup> The guidelines in this section are applicable to both Part C and Part D plans, unless otherwise noted.

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- Processing the Enrollment Request [42 CFR Part 417 Subpart K—Enrollment, Entitlement, and Disenrollment under Medicare Contract, Part 422 Subpart B—Eligibility, Election, and Enrollment and Part 423 Subpart B—Eligibility and Enrollment, MMCM Chapters 2, 17d, MPDBM Chapter 3]
    - Enrollment effective dates
    - Notifications
  
  - Non-discrimination requirements for enrollment and marketing [42 CFR Part 417 Subpart K—Enrollment, Entitlement, and Disenrollment under Medicare Contract Part 422 Subpart C—Benefits and Beneficiary Protections, Subpart V—Medicare Advantage Marketing Requirements, and Part 423 Subpart V—Part D Marketing Requirements, MMCM Chapters 3, 4, 17d, MPDBM Chapter 2]
  
  - Enrollment Periods and Process [42 CFR Part 417 Subpart K—Enrollment, Entitlement, and Disenrollment under Medicare Contract, Part 422 Subpart B—Eligibility, Election, and Enrollment, Subpart V—Medicare Advantage Marketing Requirements, and Part 423 Subpart B—Eligibility and Enrollment, Subpart V—Part D Marketing Requirements, MMCM Chapters 2, 3, 17d, MPDBM Chapters 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 for institutionalized individuals (OEPI)
      - Special Election Periods (SEP)
        - 5-Star Special Enrollment Period (SEP)
      - Medicare Advantage Disenrollment Period (MADP)
  
  - Disenrollment [42 CFR Part 417 Subpart K—Enrollment, Entitlement, and Disenrollment under Medicare Contract, Part 422 Subpart B—Eligibility, Election, and Enrollment, and Part 423 Subpart B—Eligibility and Enrollment, MMCM Chapters 2, 17d, MPDBM Chapter 3]
    - Voluntary disenrollment
    - Involuntary disenrollment

#### **IV. Benefits, Beneficiary Rights and Protections**

- Guaranteed rights of the beneficiary include: [42 CFR Part 422 Subpart C—Benefits and Beneficiary Protections, Subpart M—Grievances, Organization Determinations and Appeals, Part 423 Subpart C—Benefits and Beneficiary Protections, and Part 423 Subpart M—Grievances, Coverage Determinations, Redeterminations, and Reconsiderations, MCMC Chapters 4, 13, 17f, MPDBM Chapters 5, 18]
    - Network Requirements
    - 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
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## V. Medicare Part C, Part D, and Section 1876 Cost Plan Marketing Regulations and other Requirements

- Marketing [42 CFR Part 417 Subpart K—Enrollment, Entitlement, and Disenrollment under Medicare Contract, Part 422 Subpart C—Benefits and Beneficiary Protections, Subpart V—Medicare Advantage Marketing Requirements, and Part 423 Subpart C—Benefits and Beneficiary Protections, Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]
    - Description of marketing activities
    - Provision of Star Ratings information, including instructions on how to access and use the information
    - Information on how to access and use the Summary of Benefits, current Provider/Pharmacy directory, Evidence of Coverage, and formulary, as applicable.
  - Standards for Marketing-Inappropriate/Prohibited Marketing Activities [42 CFR Part 422 Subpart V—Medicare Advantage Marketing Requirements and Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2] Examples of prohibited activities include some of the following:
    - Conducting health screenings
    - Providing cash or monetary rebates
    - Making unsolicited contact
  - Potential Consequences of Engaging in Inappropriate or Prohibited Marketing Activities (examples of prohibited activities include conducting health screenings, providing cash or monetary rebates and making unsolicited contact), including
    - Report requirements
    - Disciplinary actions
    - Termination
    - Forfeiture of future compensation
  - Sales Events [42 CFR Part 422 Subpart V—Medicare Advantage Marketing Requirements and Part 423 Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]
    - Definition of sales events
    - Appropriate promotion of sales events
    - Examples of Do's and Don'ts, including:
      - Provision of refreshments, snacks, and meals
      - Solicit enrollment applications prior to the start of the AEP
      - Requiring information as a prerequisite for events (e.g., contact information)
    - Notification requirements for sales events
  - Personal/Individual Marketing Appointments [42 CFR Part 422 Subpart V—Medicare Advantage Marketing Requirements and Part 423 Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]
    - Scope of Appointment
    - Examples of Do's and Don'ts, including:
      - Discussion/marketing of non-health care products
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- Solicitation of referrals
  - Discuss products not agreed upon by the beneficiary
  - Educational Events [42 CFR Part 422 Subpart V—Medicare Advantage Marketing Requirements and Part 423 Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]
    - Appropriate promotion of educational events
    - Sponsorship, promotion
    - Example of Do’s and Don’ts, including:
      - Topics (Medicare, plan-specific premiums and/or benefits, etc.)
      - Display and/or distribution of advertising, Summary of Benefits, Provider and Pharmacy Directory
      - Sales activities
      - Provision of refreshments, snacks, and meals
  - Nominal Gifts [42 CFR Part 422 Subpart V—Medicare Advantage Marketing Requirements and Part 423 Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]
    - Examples of Do’s and Don’ts, including:
      - 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 Part 422 Subpart V—Medicare Advantage Marketing Requirements, Part 423 Subpart V—Part D Marketing Requirements, and 45 CFR Part 160, MMCM Chapter 3, MPDBM Chapter 2]
    - HIPAA Privacy Rule
    - Health care related products – definition and “do’s and don’ts”
    - Non-health care related products – definition and “do’s and don’ts”
  - Unsolicited contact, outside of advertised sales or educational events or mailings [42 CFR Part 422 Subpart V—Medicare Advantage Marketing Requirements and Part 423 Subpart V—Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]
  - Referrals – solicitation of leads from members for new enrollees [42 CFR Part 422 Subpart V— Medicare Advantage Marketing Requirements and Part 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)
  - Marketing in Health Care Setting [42 CFR Part 422 Subpart V—Medicare Advantage Marketing Requirements and Part 423 Subpart—V Part D Marketing Requirements, MMCM Chapter 3, MPDBM Chapter 2]
    - Examples of Do’s and Don’ts, including:
      - Conducting sales activities in common areas
      - Conducting activities where patients get care
      - Conducting activities in long term care facilities
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