

MEDICARE DRUG & HEALTH PLAN CONTRACT ADMINISTRATION GROUP

MEMORANDUM

DATE: June 28, 2024

TO: Medicare Advantage Organizations, Prescription Drug Plan Sponsors, Section 1876 Cost Plans, and Medicare-Medicaid Plans

FROM: Kathryn A. Coleman
Director

SUBJECT: Contract Year 2025 Agent and Broker Compensation Rates, Referral/Finder's Fees, and Training and Testing Requirements

This memorandum provides Contract Year (CY) 2025 compensation and referral/finder's fee limits for agents and brokers. We have also included guidance on how Plans develop individual training and testing that satisfies the training and testing requirements provided in §§422.2274(c) and 423.2274(c) as well as direction for plans in reporting agent/broker non-compliance with Marketing regulations.

Reporting of Agent/Broker Non-compliance with Marketing Regulations

Per §§422.2272(e) and 423.2272(e), as well as §§422.2274(c) and (g) and 423.2274(c) and (g), CMS requires MA plans and Part D sponsors to have a mechanism for oversight of all agents, brokers, and other third-party marketing organizations (TPMOs) who engage in sales and marketing on their behalf. MA plans and Part D sponsors must ensure that this mechanism is robust enough to capture and report, at least monthly, to the organization's CMS account manager violations of CMS requirements by agents, brokers, and other TPMOs who engage in sales and marketing on their behalf, such as repeat violations and those that have the potential to harm beneficiaries. Examples of non-compliance that CMS expects to be reported include, but are not limited to, the following:

- Credentialing issues, (e.g., licensing, appointment situations (e.g., failure to obtain scope of appointment), testing requirements (e.g., failure to achieve 85% on annual testing), termination for cause),
- Failing to comply with CMS's marketing requirements (e.g., misleading information, cherry picking, unsolicited contact),
- Fraudulent enrollment (e.g., enrolling beneficiaries without their consent, failing to record telephonic enrollments), and
- Repeat offenses, such as:
 - Scope of Appointment (SOA) issues (e.g., SOA missing or not completed prior to a scheduled personal marketing appointment)
 - Permission to contact documentation (e.g., agent could not produce documentation of valid permission to contact)

- Cross-selling (e.g., marketing non-healthcare related products)
- Failing to record sales calls with beneficiaries.

Compensation Rates and Referral/Finder’s Fees for CY 2025

As provided in 42 C.F.R. §§ 422.2274(d)(1)(ii) and 423.2274(d)(1)(ii), the compensation amount an organization pays to an independent agent or broker for an initial enrollment must be equal to the fair market value (FMV). 42 C.F.R. §§ 422.2274(d)(3) and 423.2274(d)(3) establish renewal compensation at 50% of the FMV. 42 C.F.R. §§ 422.2274(f) and 423.2274(f) limit the amount an organization may pay for referrals.

Each year, CMS publishes the FMV amounts for initial and renewal compensation as well as referral fees. The amounts are as follows:

MA and Section 1876 Cost Plans

Compensation Type	National	Connecticut, Pennsylvania, District of Columbia	California New Jersey	Puerto Rico, U.S. Virgin Islands
Initial Year	\$726	\$805	\$880	\$528
Renewal Years	\$363	\$403	\$440	\$264

PDPs

Compensation Type	Compensation Amount
Initial Year	\$209
Renewal Years	\$105

Referral Fees

Plan Type	Referral Payment Amount
MA Plans	\$100
PDP Plans	\$25

NOTE: CMS rounded the FMV amounts for CY 2025 up to the nearest dollar. The Initial Year amount is the maximum allowable amount that organizations may pay for enrollments during compensation cycle-year 1. The renewal amount is the maximum allowable amount that organizations may pay for enrollments during compensation cycle-years 2 and beyond, for a like-plan type.

Curricula for Training and Testing Agents and Brokers for CY 2025

Regulations at 42 C.F.R. §§ 422.2274(b)(2) and 423.2274(b)(2) require that organizations train and test all agents and brokers selling Medicare products, including employees, subcontractors, downstream entities, and/or delegated entities annually on Medicare Parts A, B, C, D, and plan specific information. Per §§ 422.2274(b)(2) and 423.2274(b)(2), agents and brokers must achieve an 85% or higher score in order to satisfy the testing requirement.

To assist MA organizations in ensuring the quality of agent and broker training and testing programs, CMS annually provides minimum training and testing guidelines to organizations. Organizations should review these guidelines before developing their own agent and broker training and testing programs to understand the scope of the required training and testing requirements. CMS encourages organizations, as well as third-party training and testing vendors used by plans, to include other relevant topics in addition to the minimum elements provided in CMS's annual guidelines.

CMS will make the CY 2025 CMS training and testing guidelines available at:

[https://www.cms.gov/Medicare/Health-](https://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/MarketngModelsStandardDocumentsandEducationalMaterial)

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Please note that CMS has updated portions of the guidelines and sample test questions to reflect the Medicare Program; Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Program for Contract Year 2024--Remaining Provisions and Contract Year 2025 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All Inclusive Care for the Elderly (PACE) final rule (89 FR 30812), which appeared in the Federal Register on April 23, 2024, and which finalized regulatory changes applicable to the 2025 coverage year, including the marketing and communication activities for 2025 coverage beginning on October 1, 2024.

We thank all organizations for their continued commitment in ensuring that all agents and brokers complete the required training and testing.

If you have any questions, please contact your CMS Account Manager. If your organization requires technical assistance, please contact the HPMS Help Desk at hpms@cms.hhs.gov, or 1-800-220-2028.