

Telesales Compliance Guide

Telesales and Compliance

Medicare Communication and Marketing Guidelines (MCMG):

https://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/Downloads/CY2019-Medicare-Communications-and-Marketing-Guidelines_Updated-090518.pdf

Marketing Over the Phone (Page 9 of the MCMG):

40.3 – Marketing through Telephonic Contact

42 CFR §§ 422.2268, 423.2268

Plans/Part D sponsors and their agents/brokers may not make unsolicited telephone calls to prospective enrollees. However, they are permitted to contact their current enrollees to discuss plan business, but cannot market prior to October 1 under the pretense of plan business.

Plans/Part D sponsors, and their agents/brokers, may conduct the following specific telephonic activities:

- Call current enrollees, including those in non-Medicare products, to discuss plan business (examples of this include calls to enrollees aging into Medicare from commercial products offered by the same organization, calls to an organization's existing Medicaid/MMP plan enrollees to talk about its Medicare products, and calls to current MA enrollees to promote other Medicare plan types or to discuss plan benefits);
- Call beneficiaries who submit enrollment applications to conduct business related to enrollment;
- Call former enrollees after the disenrollment effective date to conduct disenrollment surveys for quality improvement purposes (disenrollment surveys conducted telephonically, email or conventional mail may not include sales or marketing information);
- Under limited circumstances with approval from the CMS Account Manager, call LIS-eligible enrollees that a plan is prospectively losing due to reassignment to encourage them to remain enrolled in their current plan;
- Call individuals who have given permission for a plan or sales agent to contact them (examples of permission include filling out a business reply card, emailing the Plan/Part D sponsor requesting a return call, or asking a customer service representative to have an agent contact them); and,
 - **Note:** Permission applies only to the entity from which the individual requested contact and for the duration and topic of that transaction.
- Return phone calls or messages from individuals or enrollees, as these are not considered unsolicited contacts.

Plans/Part D sponsors, and their agents/brokers, may not conduct telephonic activities that include, but are not limited to, the following:

- Unsolicited calls about other business as a means of generating leads for Medicare plans (e.g., bait and switch strategies);
- Calls based on referrals (if an individual would like to refer a friend or relative to an agent or Plan/Part D sponsor, the agent or Plan/Part D sponsor may provide contact information such as a business card that the individual could provide to a friend or relative);
- Calls to market plans or products to former enrollees who have disenrolled, or to current enrollees who are in the process of voluntarily disenrolling;
- Calls to beneficiaries who attended a sales event, unless the beneficiary gave express permission at the event for a follow-up call (there must be documentation of permission to be contacted); or,

Collecting a Scope: Page 54 of the MCMG:

Scope of Appointment (Communications)	
<i>To Whom Required:</i>	Must be documented for all marketing activities, in-person, telephonically, including walk-ins to Plan/Part D sponsor or agent offices.
<i>Timing:</i>	Prior to the appointment.
<i>Method of Delivery:</i>	Beneficiary signed hard copy, telephonic recording, or electronically signed .
<i>HPMS Timing and Submission:</i>	Not applicable.
<i>Format Specification:</i>	No model required, must include required content.
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> • The following requirements must be on the scope of appointment form or on the recorded call: <ul style="list-style-type: none"> ○ Product types to be discussed ○ Date of appointment ○ Beneficiary and agent contact information ○ Statement stating, no obligation to enroll, current or future Medicare enrollment status will not be impacted, and automatic enrollment will not occur. • A new SOA is required if, during an appointment, the beneficiary requests information regarding a different plan type than previously agreed upon.
<i>Translation Required (5% Threshold):</i>	Yes.

Submitting an Enrollment Form (Page 36 of the MCMG):

Enrollment Form/Request (Communications)	
<i>To Whom Required:</i>	Upon request. All organizations/sponsors must have available a paper enrollment form in addition to any other acceptable enrollment mechanisms.
<i>Timing:</i>	Not applicable.
<i>Method of Delivery:</i>	Paper enrollment forms may be in hard copy or electronic format (e.g., PDF file) and must be provided via email, online portal for current members, and upon request (e.g., if beneficiary does not want to enroll telephonically or electronically). Any enrollment mechanism outlined in enrollment guidance is acceptable for an enrollment request.
<i>HPMS Timing and Submission:</i>	Submission required by statute. Code 1070 or 1072.
<i>Format Specification:</i>	Model provided, modification permitted. Must follow requirements for enrollment mechanisms and required data elements outlined in enrollment guidance.
<i>Guidance and Other Needed Information:</i>	Eligibility, Enrollment, and Disenrollment – Medicare Managed Care Manual-Chapters 2 and 17D, and Medicare Prescription Drug Manual-Chapter 3.
<i>Translation Required (5% Threshold):</i>	Yes.

MCMG FAQ's:

<https://www.ncoa.org/wp-content/uploads/FAQ-Medicare-Marketing-and-Communications-Guidelines.pdf>

5. What are Medicare's rules for how and when Medicare Advantage and Part D plan representatives can call beneficiaries?

An agent or broker **can**:

- Call current plan enrollees
- Call beneficiaries who submit enrollment applications to provide guidance related to enrollment
- Call former enrollees to discuss why they disenrolled
- Call individuals who have given permission for a plan agent or broker to contact them
- Return phone calls and messages from individuals or plan enrollees

An agent or broker **cannot**:

- Make unsolicited calls
- Call based on referrals
- Call to market a plan or product to an enrollee who is in the process of disenrolling or has already disenrolled
- Call an individual who attended a marketing event, unless the individual gave the plan agent or broker permission
- Call an individual to ask if they received mailed information