

All agents and brokers must adhere to CMS Medicare Regulations and Marketing Guidelines in the execution of their day-to-day marketing activities. It is important to be familiar with these regulations and guidelines and understand how they govern an agent's business and conduct. These guidelines apply to Medicare age-ins, as well as existing beneficiaries. This document is intended to summarize agent responsibilities, but is not intended to be all inclusive.

### Who is CMS?

The Centers for Medicare and Medicaid Services (CMS) is the Federal agency responsible for administering Medicare, Medicaid, and other Federal health programs. CMS is an agency under the U.S. Department of Health & Human Services (HHS).

### What is your responsibility to CMS as an agent?

- To adhere to CMS Medicare Marketing Guidelines and other CMS regulations. This includes, but is not limited to, all of the information presented in Coventry's Contract, Broker Training Program, Code of Conduct, Producer Manual and other CMS guidance issued for agents.
- To comply with Federal and State laws and regulations related to insurers, general agents and brokers that are specific to Medicare Advantage (MA) and Medicare Prescription Drug Plans (PDP).
- To prevent fraud, waste, and abuse, including but not limited to, applicable provisions of Federal criminal law and the False Claims Act.
- To comply with the Anti-Kickback Statute of the Social Security Act and the Civil Monetary Penalty prohibiting inducements to beneficiaries.
- To adhere to State license and appointment laws.

### How will you remain compliant with CMS marketing guidelines?

- **Marketing Materials**
  - Agents selling Medicare Advantage and Part D products must only use CMS and Coventry-approved marketing/presentation materials, sales scripts and inbound/outbound call scripts.
  - CMS requires specific disclaimers and information to be present on materials seen by beneficiaries in any format (electronic, written hardcopy, website). Do **not** use any materials unless the approval notation and an actual date of approval or use are indicated; approval is indicated on each piece with a notation that states the date it was CMS approved or allowed for use.
  - All beneficiary advertisements and communications must be approved by Coventry **prior** to use, including materials generic in nature, or materials previously CMS approved for another Plan and website content. Unique materials that you would like to use must be provided to Coventry for review and possible CMS filing/approval; review requests and final produced copy of all marketing materials must be submitted to Coventry's Medicare Marketing Department at [marketing.medicare@cvty.com](mailto:marketing.medicare@cvty.com).
  - Use only the pre-approved sales kit provided, which has the following items: Cover Letter, Summary of Benefits, Comparison Chart, Enrollment Application and Checklist, Formulary and Sales Brochure.

- Do **not** make erroneous or misleading written or oral statements, including any statement, claim, or promise that conflicts with, materially alters, or erroneously expands upon the information contained in CMS-approved materials.
- **Potential Enrollee Contact**
  - CMS **prohibits** unsolicited contact to any Medicare beneficiary potential enrollee. Therefore, do **not** conduct door-to-door solicitation or "*cold calling*."
  - Do **not** contact any beneficiary unless the beneficiary initiates the contact or has given permission to be contacted.
  - May contact members that you enrolled in our Plan to discuss issues and/or market other available Coventry plans and products.
  - **No** contacts to former members who have disenrolled or to current members that are in the process of disenrolling.
  - Agents may **not** approach beneficiaries in common areas (i.e., parking lots, hallways, lobbies). Beneficiaries must initiate contact.
  - Do **not** send emails to eligible Medicare recipients unless they agree to receive them at the time of providing their email address. The consent must be documented.
  - Do **not** buy, acquire or rent email lists to distribute information about MA plans.
- **Outbound Telemarketing Activities**
  - Outbound calls are permitted to beneficiaries requesting contact (i.e., a beneficiary completed/submitted a business reply card).
  - Outbound calls are permitted to existing members to: 1) conduct normal business related to enrollment in the Plan; 2) resolve eligibility issues; and 3) to perform disenrollment surveys.
  - Must adhere to the Federal Communication Commission rules and Federal Trade Commission requirements for sellers and telemarketers and applicable State laws.
  - Must comply with regulations for both National and State *Do-Not-Call* Registries, and honor "do not call again" requests. Must abide by Federal and State calling hours.
  - Enrollment by outbound telemarketers is **not** permitted.
  - For circumstances where outbound calls are permitted, outbound scripts must be submitted for review and approval by Coventry and CMS **prior** to use in the marketplace. Scripts must include a privacy statement clarifying that the beneficiary is not required to provide any information to the Plan representative, and that the information provided will in no way affect the beneficiary's membership in the plan.
  - An agent may initiate a call to confirm an appointment that has already been agreed to by the beneficiary.
  - Do **not** call to confirm receipt of mailed information.
- **Inbound Telemarketing**
  - May **not** perform telephone enrollment activities without special contractual approval from Coventry. Contact Coventry for more details.
- **Scope of Scheduled Appointment**
  - All in-home or personal/individual sales presentation meetings **must be agreed to by the beneficiary in advance**, including the types of products to be discussed

at the appointment (scope of products such as MAPD or PDP), and that agreement must be documented as the *Scope of Appointment*.

- The Scope of the Appointment should be completed by the beneficiary and must be returned prior to any personal or individual appointment with a beneficiary, whether they are new/existing members or clients. If extenuating circumstances prevent the Scope of Appointment form from being executed prior to the appointment (such as if a same day request is made), an agent may have the beneficiary sign the form at the beginning of the marketing appointment.
- If the *beneficiary requests that another MA or PDP product type be discussed during a personal or individual appointment* that exceeds the original Scope of Appointment, the *beneficiary may complete a new Scope of Appointment form and the cooling-off period (48 hour waiting period) does not apply*. A new appointment is not required. The newly requested product can be discussed once the new Scope of Appointment is completed.
- If the *beneficiary requests that another health care line of business be discussed (i.e., Long Term Care) during a personal or individual appointment*, agent may leave product information, and *a follow-up appointment is required*. The follow-up appointment cannot be scheduled until *at least 48 hours after the initial appointment*.
- A Scope of Appointment form is required under the following circumstances:
  - § Face-to-face appointment in any location such as home, office, coffee shop or other similar locations;
  - § When a plan or agent sells more than one type of product.
- The Scope of Appointment form can be documented in the following ways such as:
  - § CMS-approved Scope of Appointment form;
  - § Recording of oral agreement resulting from CMS-approved script of the Sales Appointment Confirmation;
  - § CMS-approved business reply card (BRC) identifying products and beneficiary's agreement to meet.
- **Public or group sales events** do not require documentation of beneficiary agreement, because the scope of products to be discussed should be indicated on all event advertising materials. Therefore, beneficiaries are not required to complete and sign a Scope of Appointment form prior to participating at a sales event.
- The scope of all products to be discussed during a sales event must be indicated on all promotional and advertising event materials.
- During a **public sales presentation**, a beneficiary may sign a Scope of Appointment form for a follow-up appointment. (The follow-up appointment does not need to be 48 hours later; it may be held at the venue immediately following the sales presentation.)
- **Sales Presentations/ Sales Activities/ Sales Seminar Events**
  - All sales events/seminars must be reported to Coventry on a monthly basis prior to events being held for CMS reporting purposes. In addition, any cancellations and/or revisions must be immediately reported to Coventry. Special processes must be followed for seminar cancellations per CMS guidance.
  - Do not ask for personal information (i.e., Medicare number, bank account or credit card numbers) during sales presentations.
  - Marketing non-health care related products (i.e., annuities, life insurance, etc.) during any MA or Part D sales meeting/presentation is considered *cross-selling* and

is **prohibited**. This prohibition eliminates beneficiary confusion and the implication that the health and non-health products are a package.

- Marketing in health care settings (areas where patients' primary intent is to receive health care services) is **prohibited**, including accepting enrollees' applications. Restricted areas include, but are not limited to: waiting rooms, exam rooms, hospital patient rooms, dialysis centers and pharmacy counter areas.
  - Agents may conduct sales activity, presentations, or distribute/collect plan applications in non-healthcare setting areas (i.e., hospital or nursing home cafeterias, community/recreational rooms and conference rooms).
  - Agents may **not** conduct any form of marketing activity in any type of nursing home, institutional settings, group homes or subsidized housing units **without prior approval from Coventry**.
  - Upon beneficiary's request, broker/agent is permitted to schedule appointments with beneficiaries residing in long-term care facilities.
  - Do **not** use providers, provider groups or pharmacies to distribute printed information comparing benefits of different Medicare Advantage (MA) plans, unless the materials have the concurrence of all MA plans involved **and** materials have received prior approval from CMS.
  - Do **not** use providers to accept enrollment applications or offer inducements to persuade beneficiaries to join plans or to select them as a provider.
  - Do **not** accept or solicit applications from potential Coventry Medicare Plan enrollees for Annual Election Period (AEP) until November 15<sup>th</sup> of any year. **All applications for AEP received prior to November 15<sup>th</sup> will not be paid commissions.**
  - Agents are **prohibited** from providing meals or having meals subsidized for prospective enrollees at any meeting or event where Plan material is being discussed or distributed. (Refreshments and light snacks are permitted.)
- **Other Marketing Guidelines**
    - Do **not** mislead or misrepresent the products (i.e., a Medicare Advantage plan is *not* a Medicare Supplement policy).
    - Do **not** claim that Coventry's Plans are recommended or endorsed by CMS, Medicare, or the Department of Health & Human Services; may use "Medicare-approved" to describe our benefits and services.
    - Do **not** market any Coventry Medicare Plan **designated for AEP until October 1<sup>st</sup>** of any year.
    - Do **not** intimidate, nor use high-pressure tactics (aggressive marketing behavior), or scare tactics during a sales call to enroll a beneficiary into a plan or to acquire an in-home appointment - if a prospect says they are not interested, end the visit/conversation immediately.
    - Do **not** engage in any discriminatory marketing practices, such as targeted marketing to Medicare beneficiaries from higher-income areas without making comparable efforts to enroll Medicare beneficiaries from lower-income areas, focusing on aged beneficiaries only and not the disabled, or focusing on healthy vs. non-healthy individuals; "*cherry-picking*" is prohibited.
    - Do **not** state or share any member information, financial or otherwise, specific to the low-income subsidy with any entity not directly involved in the outreach process.
    - Do **not** infer in any written materials or other contact with Plan members that the Plan has the authority to determine the member's eligibility for low-income subsidy programs.

- Do ensure that HIPAA privacy rules are always followed.
- **Promotional Activities**
  - Any promotional item/s offered by brokers/agents on behalf of Coventry, including those used for retention of members, must be:
    - § of nominal value (currently \$15 dollar retail value or less, regardless of actual cost);
    - § offered to all eligible beneficiaries;
    - § **not** in the form of cash or other monetary rebates.
  - May **not** offer or give remuneration to induce the referral of a Medicare beneficiary; nor induce a person to purchase, arrange for, or recommend the purchase or ordering of an item or service paid in whole or in part by the Medicare program.
  - When using drawings, prizes, or giveaways:
    - § Any gratuity must be available to all participants regardless of enrollment.
    - § Prizes or giveaways must have a nominal worth of \$15 or less, based on the retail purchase price of the item, regardless of actual cost, and must state, ". . . eligible for a free drawing and prizes with no obligation," or ". . . free drawing without obligation."
    - § If more than one item is offered, the combined value of all items offered to participants must not exceed \$15.

- **Educational Events**

Brokers/Agents have the following obligations and responsibilities when participating in educational events:

- May provide objective information about the Medicare program and/or MA products, *as long as any materials made available to the beneficiary are free of plan-specific information (this includes plan-specific premiums, copayments, contact information), or any bias toward one plan type over another.*
- Must include a disclaimer on event advertising materials that indicates *"This event is only for educational purposes and no plan-specific benefits or details will be shared."*
- **No** marketing materials or pre-enrollment materials, including enrollment forms, can be made available.
- May **not** make sales presentations at the event, nor ask participants if they want information about specific plans, nor schedule personal sales appointments, or get permission for an outbound call to the beneficiary.
- May inform an inquiring prospective enrollee how they may contact you, or present them your business card if they want to obtain information on the plan options available to them, *as long as the business card is free of plan marketing or benefit information.*
- May **not** collect names, addresses or phone numbers of potential enrollees.
- May **not** discuss or compare benefits.
- May **not** distribute or display business reply cards, Scope of Appointment forms, or sign-up sheets.
- May **not** attach business cards or plan/agent contact information to educational materials.
- Promotional items, including those with plan name, logo and toll-free

customer service number and/or website may be distributed, *but must be free of benefit information.*

- **Health Fairs/ Health Promotional Events/ Senior Expo Fairs**

Brokers/Agents have the following obligations and responsibilities when participating in health fairs or other health promotional events:

- May participate in such events as either a sole sponsor or co-sponsor of the event hosted by multiple organizations.
- Events should be social and must not include a sales presentation.
- May respond to questions asked at the event. Response by a plan sponsor's representative to questions asked at the event will not be considered a sales presentation as long as *no enrollment form is accepted at the event.*
- Advertisements for the event may be distributed to either enrollees, non-enrollees or both.
- *May have pre-enrollment materials available, including enrollment forms.*
- *Enrollment forms may not be accepted during these types of events, including the collection of completed enrollment forms.*
- May provide give-a-ways or free items including entertainment, but cannot exceed \$15 per attending person based on the retail purchase price of all items provided by the plan sponsor.

- **Soliciting Referrals**

Brokers/Agents have the following obligations and responsibilities when soliciting referrals for Coventry's products:

- May obtain referrals from active members, including names and addresses to be used in soliciting by direct mail; may not collect phone numbers; may not conduct unsolicited phone calls to beneficiaries who have been referred to you.
- May give a one-time gift with a retail value (regardless of actual cost) up to \$15 per member, per year when an enrollee responds to a plan solicitation for referrals.
- May not use cash promotion as part of the referral program.
- May not announce that a gift will be offered for a referral when soliciting leads from a member.

Source: CMS Chapter 3 Medicare Marketing Guidelines and other CMS Guidance