Alignment Healthcare

Date Goes Here

Medicare Marketing Guidelines
Do’s and Don’ts
AGENDA

• Understanding HIPAA
  *(Health Insurance Portability and Accountability Act)*
• Understanding FWA (Fraud, Waste and Abuse)
• Defining Marketing Events
• Defining Provider Setting
• Defining Marketing Activities in the Health Care Setting
• Reminders
HIPAA

(Health Insurance Portability and Accountability Act)
HIPAA Privacy Requirements

HIPAA (effective 1996):

- Restricts the Use and Disclosure of Protected Health Information (PHI) by Covered Entities

When is Disclosure okay?

- Treatment
- Payment
- Healthcare operations
Remember to Protect Confidentiality

Carefully handle all data that can identify the member (PHI), such as:

- Social Security#, HIC# or Health Plan ID#
- Member Name, Address, Phone, Date of Birth
- Medical Record#/Patient Account #
Secure/Safeguard all Beneficiary PHI/PII Information
Best Practice:

1. Call (discuss beneficiary information by phone)
2. FAX (fax beneficiary Information & verify fax number)
3. Mail (use Registered mail to ensure delivery of beneficiary documents)
4. Personal Delivery of Beneficiary documents (ask recipient to sign for documents)
5. Email (MUST Encrypt/Password Protected ALL Emails containing Beneficiary PHI/PII)
Fraud, Waste & Abuse (FWA)
Fraud, Waste & Abuse Defined

**Fraud:**
Fraud is the intentional misrepresentation of data for financial gain.

**Waste:**
Waste is overutilization: the extravagant, careless or needless expenditure of healthcare benefits or services that results from deficient practices or decisions. (1)

**Abuse:**
Abuse involves payment for items or services where there was no intent to deceive or misrepresent but the outcome of poor insufficient methods results in unnecessary costs to the Medicare program. (2)

**Source:**
1. CMS Glossary; CMS Medicare Learning Network (MLN)
Examples of Health Care Fraud

- Unnecessary care (Home Health, DME, etc.)
- Fraudulent Diagnosis
- Billing for services not rendered
- Misrepresents facts in order to deny or grant benefits
- Selling members or providers identification
- Forging members signatures for enrollment purposes
- Misrepresenting drugs or benefits
- Kickbacks/Solicitation
**FWA Web Resources**

Federal government websites are sources of information regarding detection, correction, and prevention of fraud, waste, and abuse:

- **Resource**
  - Department of Health and Human Services Office of Inspector General:
  - Centers for Medicare and Medicaid Services (CMS):
  - CMS Prescription Drug Benefit Manual
  - Medicare Learning Network (MLN) Fraud & Abuse Job Aid

- **Link**
  - [http://oig.hhs.gov/fraud/hotline/](http://oig.hhs.gov/fraud/hotline/)
  - [http://www.cms.hhs.gov/FraudAbuseforProfs/](http://www.cms.hhs.gov/FraudAbuseforProfs/)
  - [http://www.cms.hhs.gov/MLNProducts/downloads/081606_Medicare_Fraud_and_Abuse_brochure.pdf](http://www.cms.hhs.gov/MLNProducts/downloads/081606_Medicare_Fraud_and_Abuse_brochure.pdf)
Violations of the code of conduct, ethics or any fraud, waste or abuse must be reported. Not reporting fraud or suspected fraud can make you a party to a case by allowing the fraud to continue.

• AHP HMO has internal mechanisms for reporting compliance & FWA concerns by contacting the Compliance Hotline at 562-207-4575 (Confidential 24/7)

• Call 1-800-MEDICARE

• Everyone has the right and responsibility to report possible FWA

Remember: You may report anonymously and retaliation is prohibited when you report a concern in good faith.
The KEY to Compliance

Compliance with CMS Medicare Marketing Guidelines is important!
- Protect Medicare beneficiaries
- Protect business from sanctions and penalties
- Prevent fraud

- Sales Agents can be subject to fines and penalties for violations.
- Plans can also be subject to liability based on Sales Agent activities.
- Sales Agents can be audited by CMS and/or health plans.
Medicare Marketing Guidelines
Do’s and Don’ts
CMS Definition of Marketing

• Marketing is the act of steering, or attempting to steer, a potential enrollee towards a plan or limited number of plans, or promoting a plan or a number of plans.
• The scope of the term “marketing,” extends beyond the public’s general concept of advertising materials.
• Marketing materials are any materials targeted to Medicare beneficiaries that:
  • Promote the plan sponsor, or any MA plan, MA-PD plan, section 1876 cost plan, or PDP offered by the plan sponsor.
  • Inform Medicare beneficiaries that they may enroll, or remain enrolled in, an MA plan, MA-PD plan, section 1876 cost plan, or PDP offered by the plan sponsor.
  • Explain the benefits of enrollment in an MA plan, MA-PD plan, section 1876 cost plan, or PDP or rules that apply to enrollees.
  • Explain how Medicare services are covered under an MA plan, MA-PD plan, section 1876 cost plan or PDP plan, including conditions that apply to such coverage.
Medicare Marketing Guidelines

October 1, 2016

1st day of October, 2017 Benefits may be displayed to the general public and interested beneficiaries
70.8 Educational Events Defined

These events are designed to:

• Inform beneficiaries about MA programs, health conditions, etc.
• These events cannot be held at an in-home nor one-on-one settings
• **NOT** include any marketing nor sales nor benefit solicitation
• Must be advertised as “educational”
• Materials must be free of plan-specific information, and any bias toward one plan type over another.
• Acceptable materials: A banner with the plan name and/or logo displayed.
• Promotional items, including those with plan name, logo, and toll-free customer service number and/or website. Promotional items must be free of benefit information and consistent with CMS’ definition of nominal gift.
• Respond to questions asked at an educational event.
70.8 Educational Events

Agents are **NOT** allowed to:

- Include any sales activities
- Discuss plan-specific premiums and/or benefits.
- Distribute plan specific materials.
- Distribute or display business reply cards, scope of appointment forms, enrollment forms, or sign-up sheets.
- Set up individual sales appointments or get permission for an outbound call to the beneficiary.
- Attach business cards or plan/agent contact information to educational materials, unless requested by the beneficiary.
- Advertise an educational event and then have a marketing/sales event immediately following in the same general location, (e.g., same hotel).
70.9 Marketing/Sales Events

Two Types of Marketing/Sales Events:

– Formal (structured)
  • Audience/Presenter style

– Informal (less structured)
  • Table or Kiosk
Marketing / Sales Event

• Marketing/sales events are events designed to steer, or attempt to steer, potential enrollees toward a plan or a limited set of plans.

• Marketing /Sales events may include:
  – promoting specific benefits / premiums and/or services
  – a formal event with a presentation
  – an informal event where brochures and pre-enrollment materials are distributed
  – distributing and accepting enrollment forms
Agents are allowed to:

- Discuss plan specific benefits
- Distribute plan brochures and enrollment materials
- Accept and perform enrollment
- Beneficiary may fill out an SOA form or Lead Card for a subsequent meeting
- Any sign-in sheets must clearly indicate that completion of any contact information is optional.
- Provide a nominal gift with a nominal value (i.e., not to exceed retail value of $15) with no obligation
Promotional Activities

- Promotional activities are those designed to attract the attention of prospective members and/or encourage retention of current members. Must be NOMINAL VALUE of $15 or less with a maximum aggregate of $50 per person, per year.
- May not be in the form of cash or other monetary rebates (i.e. charitable contributions, gift certificates and gift cards that can be readily converted to cash)
- Must be offered to all people regardless of enrollment and without discrimination.
- Must not be items that are considered a health benefit, (e.g., a free checkup).
- Must not consist of lowering or waiving co-pays.
- Must not inappropriately influence the beneficiary’s selection of a provider, practitioner, or supplier of any item or service.
- Must not be tied directly or indirectly to the provision of any other covered item or service.
- **Nominal value is defined as an individual item/service worth $15 or less - based on the retail value of the item.** Please work with compliance and legal before developing any programs involving items/services over nominal value.
70.9 Sales/Marketing Events

Agents **MUST:**

- Clearly identify type of product to be discussed prior to marketing to beneficiaries

- Submit all sales scripts and presentations to CMS

- Discuss Eligibility Requirements

- Provide a description of how drug coverage works

- Review health plan Drug Formulary and how to use
Agents are **NOT** allowed to:

- Provide Meals
- Conduct health screening or other like activities that could give that impression of “cherry picking”
- Require:
  - Contact information to attend or RSVP
  - Contact Information for a “Raffle” as a means to collect a LEAD
  - Contact information on event sign-in sheet
    - Sign-in sheet MUST indicate:
      “Completion of any contact information is OPTIONAL”
Alignment Health Plan HMO Marketing Events

AHP HMO Event Submission Standards:

- Submit events by the 14th of each month
- Arrival 30 minutes prior to event
- If cancellations under 48 hours notice:
  - A plan representative MUST attend event for up to 30 minutes after scheduled time
  - MUST show up to event even if cancelled to notify prospects of cancelation and provide alternative dates and times for event
70.9.3 Scope of Appointment (SOA)

SOA forms MUST be agreed upon prior to appt.
- 48 hour waiting period applies to most sales when practical

48 hour waiting period does not apply to:
- Sales events, SOA forms and sales may be completed immediately following presentation/same day

- Walk-ins, SOA forms are to be executed prior to conducting presentation/same day. Please include prospect requested same day appointment as a “walk in”.
70.11 Marketing Guidance for Health Care Setting

**Provider**: is a broad term that includes but is not limited to:

- physicians
- staff
- hospitals
- nursing homes
- pharmacies
- sub-contactors
- vendors contracted with the plan to provide services to plan members
70.11 Marketing Guidance for Health Care Setting

Agent may conduct sales in:

- Common areas: cafeterias, recreation or community rooms, and conference rooms

- Providers are permitted to display posters or other materials in provider’s waiting rooms

Agents are prohibited from conducting sales in:

- Areas where patients primarily receive health care services or are waiting to receive health care services. Such as, waiting rooms, exam rooms, hospital patient rooms, dialysis center counter areas, pharmacy counter areas...etc.

- EXTENDS to these area (mentioned above) outside of normal business hours
CMS is concerned with Plans/Part D Sponsors engaging in provider-based marketing activities because:

- Providers may not be fully aware of all plan benefits and costs
- Providers may confuse the beneficiary if the provider is perceived as acting as an agent of the plan versus acting as the beneficiary’s provider
- Providers may face conflicting incentives when acting as a Plan/Part D Sponsor representative

**PROVIDERS MAY NOT:**
- Offer scope of appointment forms
- Accept Medicare enrollment applications
- Make phone calls or direct, urge or attempt to persuade beneficiaries to enroll in a specific plan based on financial or any other interests of the provider
- Mail marketing materials on behalf of Plans/Part D Sponsors
- Offer anything of value to induce plan enrollees to select them as their provider
- Offer inducements to persuade beneficiaries to enroll in a particular plan or organization
- Conduct health screening as a marketing activity
- Accept compensation directly or indirectly from the plan for beneficiary enrollment activities
- Distribute materials/applications within an exam room setting
Providers at Sales / Marketing Events

At Events, Provider can **NOT**:

- Promote health plans
- Providers can refer to their affiliation with the plan but should not provide additional information – e.g., why provider contracted with plan.
- Distribute sales materials or assist with enrollment forms
- Speak to or answer questions related to the health plan or benefits.
- Use superlatives to promote practice – e.g., best clinical quality.
- Provide health screenings
- Providers should not promote their practice at events marketing a specific health plan. This could be seen as the provider steering towards that particular plan.
Providers at Marketing Sales Events

Providers are allowed to:

- Attend health plan sales events
- Can provide general health information (i.e. diabetes)
- Can discuss their practice in generic, factual terms
- Providers can state their name, clinic affiliation, areas of medical expertise as it relates to the topic being discussed.
- Can leave information about their practice on a table for attendees to take
- Can promote their practice IF the event is not marketing one specific plan (i.e. sales agent that is licensed to sell multiple health plans).
Plans/Part D Sponsors may use and allow contracted Providers to:

• Provide the names of Plans/Part D Sponsors with which they contract and/or participate (see section 70.11.2 for additional information on provider affiliation)

• Provide information and assistance in applying for the LIS

• Make available and/or distribute plan marketing materials

• Refer their patients to other sources of information, such as SHIPs, plan marketing representatives, their State Medicaid Office, local Social Security Office, CMS’ website at http://www.medicare.gov/ or 1-800-MEDICARE

• Share information with patients from CMS’ website, including the “Medicare and You” Handbook or “Medicare Options Compare” (from http://www.medicare.gov), or other documents that were written by or previously approved by CMS
Providers ONLY Events

- Providers may hold provider-only events for patients or prospective patients about the provider group, Medicare in general, or other topics not related to health plan. All events must be approved by compliance.

- **If asked** how to join the provider group: providers may list the plans that the provider is affiliated with (must include all).

- If provider participates with Medicare, inform that they can also have Original Medicare.

- Advise the individual to contact the plan or medicare.gov for additional information.

- Inform about partnership with sales agents (if applicable).

- Provider-only events can be held at provider offices and are not limited to common areas.
CMS Medicare Marketing Guidelines
40.4 – Prohibited Terminology/Statements

CMS prohibits the distribution of marketing materials that are materially inaccurate, misleading, or otherwise make misrepresentations.

Plans/Part D Sponsors **may not:**

- Claim that they are recommended or endorsed by CMS, Medicare, or the Department of Health & Human Services (DHHS).

- Use absolute superlatives (e.g., “the best,” “highest ranked,” “rated number 1”) and/or qualified superlatives (e.g., “one of the best,” “among the highest rank”) unless they are substantiated with supporting data provided to CMS as part of the marketing review process or they are used in logos/taglines. The superlatives used and the data provided must be in context and may not mislead consumers. For example, a Plan/Part D Sponsor that is the only plan in the area that received a 5-star rating in customer service, but received an overall rating of 3 stars, may not promote itself as the highest ranked plan in a service area where other plans have a higher overall rating.
CMS Medicare Marketing Guidelines
40.4 – Prohibited Terminology/Statements

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Plans/Part D Sponsors may not continued:

• Market that they will not disenroll members due to failure to pay premiums.

• Other than the exceptions noted in section 40.3, compare their Plan/Part D Sponsor to another Plan/Part D Sponsor by name without written concurrence from all Plans/Part D Sponsors being compared. This documentation must be included when the material is submitted in HPMS.
Summary and Reminders

- Sales and marketing activities are permitted in: cafeterias,
- community or recreational rooms,
- and conference rooms.
- Sales events can **NOT** take place in the **waiting room** (or areas where patients receive health care services). This applies to both formal or informal events, and both during and after business hours.

- Sign-in Sheets and Contact Forms must be **OPTIONAL**.
- Promotional items must be Nominal value = $15 or less *retail value*.
- Providers must remain neutral in assisting patients with health plan choices and enrollment decisions.
- Materials, including BRC/Lead Forms can be made available in the waiting room and common areas. Provider can **NOT** collect BRC/Lead Forms.
- Providers **CANNOT** provide Sales Agents with leads.
- Cannot market that a health plan will not disenroll members due to failure to pay premiums.
For more information go to...

www.alignmenthealthcare.com

Questions?