

A background image showing three call center agents sitting at desks with multiple computer monitors, wearing headsets, in a bright office environment.

Medicare Marketing Violations

Tips for Protecting Yourself and Medicare

Unlike Original Medicare, Medicare Advantage (MA, Part C) and Medicare Prescription Drug Plans (Part D) are administered, marketed, and sold by private insurance companies. The Centers for Medicare & Medicaid Services (CMS) has guidelines for marketing Part C and Part D insurance that protect Medicare beneficiaries from manipulative and deceptive sales and enrollment tactics.

Please note, these guidelines primarily focus on activities and materials related to agents, brokers, and direct plan communication, as opposed to television and radio commercials or advertising.

Plan sponsors and their representatives, including agents and brokers, must follow these guidelines when marketing to beneficiaries. Marketing is seen as equivalent to “steering” beneficiaries toward a plan.

What are Examples of Medicare Marketing Violations?

- Receiving an unsolicited phone call from a plan with whom they have no prior relationship or from which they disenrolled
- An agent or broker representing themselves as though they come from or were sent by Medicare, Social Security, or Medicaid
- Receiving an unsolicited home visit – i.e., “door-to-door cold call”
- Receiving information such as leaflets, flyers, door hangers, etc. on their car or at their residence from a company with whom they did not have an appointment
- An agent initiating a discussion about other insurance products, such as life insurance or annuities, during a visit or meeting about a Part C or Part D Medicare product
- An agent returning uninvited to a residence after missing an earlier appointment
- Requiring attendees to provide contact information as a prerequisite for attending a marketing event
- Marketing event attendees are later called without permission
- Prospective enrollees are called to confirm receipt of mailed information
- An agent signing a beneficiary up for a plan that is supposed to cover specific prescriptions or services but the beneficiary learning later that those prescriptions or services were actually not covered by the plan because they received a bill

What Can Plans and Agents Do?

- Call a beneficiary who has expressly given advanced permission
- Offer nominal gifts valued at \$15 or less (or \$75 in total, per person, annually) to beneficiaries, provided the gift is given regardless of whether a beneficiary enrolls in the plan
- Include information about rewards and incentives programs in their marketing materials
- Provide refreshments and light snacks, but not meals, at marketing/sales events
- Make unsolicited contact with potential enrollees using conventional mail and other print media (e.g., advertisements) and by email provided it contains an opt-out function
- Conduct marketing/sales activities in common areas of health care settings (i.e., waiting rooms, common entryways, vestibules, cafeterias, or community, recreational, or conference rooms)

What Can't Plans and Agents Do?

- Conduct marketing or sales activities at an educational event
- Require participants to provide contact information to attend an event
- Sell door-to-door or leave information like leaflets, flyers, door hangers, etc. on someone's car or at their residence (unless the beneficiary is a "no show" for a prescheduled appointment)
- State that they are approved, endorsed, or authorized by Medicare; are calling on behalf of Medicare; or that Medicare asked them to call or see the beneficiary
- Send unsolicited text messages, make unsolicited phone calls, or leave voicemail messages for potential enrollees
- Approach beneficiaries in public common areas (i.e., parking lots, hallways, lobbies, or sidewalks)
- Provide information that is inaccurate or misleading
- Offer health screenings or other activities that may be perceived as, or used for, "cherry-picking"

What About Medigap Policies?

Marketing of Medigap, or supplemental insurance, policies is regulated by each state's department of insurance restrictions, which may or may not be as strict as federal rules that govern the marketing of Part C or Part D plans.

How the Senior Medicare Patrol (SMP) Can Help

The local SMP is ready to provide beneficiaries and others with the information they need to **PROTECT** themselves from Medicare fraud, errors, and abuse; **DETECT** potential fraud, errors, and abuse; and **REPORT** concerns. SMPs and their trained volunteers help educate and empower Medicare beneficiaries in the fight against health care fraud. The SMP can help with questions, concerns, or complaints about potential fraud and abuse issues. It also can provide information and educational presentations.

To locate the state Senior Medicare Patrol (SMP):

Visit www.smpresource.org or call 1-877-808-2468.