

November 3, 2008

UPDATE: MIPPA Regulations



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Implementing the Medicare Improvements for Patients & Providers Act of 2008

Coventry Health Care offers broadened selling opportunities in 2009!

As you know, CMS has issued new regulations and guidelines for marketing Medicare Advantage and Part D Prescription Drug plans after being instructed to do so by law. Our goal is to help you stay focused and informed, and support you to appropriately market and assist Medicare beneficiaries in choosing the best possible solution for their individual needs.

The following is a consolidated summary of several recent Coventry Health Care broadcast emails to all of Coventry's brokers/agents and business partners detailing the requirements and guidance for the new CMS marketing regulations for implementing the Medicare Improvements for Patients & Providers Act of 2008 (MIPPA).

The Coventry Medicare Marketing Code of Conduct has been updated and is available when you log on to the Broker Portal at www.AdvantraFreedom.com. Agents, brokers and Coventry sales representatives may not engage in activities which have the potential to mislead, confuse or misrepresent Coventry Medicare products. When selling Coventry Medicare products, you must be a licensed agent and comply with all applicable Medicare laws and CMS regulations, CMS policies, including CMS Marketing Guidelines, all Federal health care laws (including the anti-kickback statute) and any applicable state laws. State appointment laws also apply to your participation with Coventry.

Marketing Through Unsolicited Contacts

Prohibited activities include, but are not limited to, the following:

- Outbound marketing calls, unless the beneficiary requested the call. This includes contacting existing members to market other Medicare products.
- Calls to market health plans or products to former members who have disenrolled, or to current members who are in the process of voluntarily disenrolling.
- Calls to beneficiaries to confirm receipt of mailed information.
- Approaching beneficiaries in common areas (i.e. parking lots, hallways, lobbies, etc.)
- Calls or visits to beneficiaries who attended a sales event, unless the beneficiary gave express permission at the event for a follow-up call or visit.
- Use of old lists or consents to satisfy the new MIPPA rules regarding unsolicited contacts is prohibited. While CMS understands plans might have previously received beneficiary consent to contact them for sales activities, they view that previous consent as limited in scope.
- Short-term, event-specific consent may not be treated as open-ended permission for future contacts.
- Referrals of beneficiaries and/or their contact information resulting in an unsolicited contact are prohibited.
- Members who are voluntarily disenrolling from a plan should not be contacted for sales purposes or be asked to consent in any format to further sales contacts.

Organizations may do the following:

- Conduct outbound calls to existing members to conduct normal business related to enrollment in the plan, including calls to members who have been involuntarily disenrolled to resolve eligibility issues.
- Agents/brokers who enrolled a beneficiary in a plan may call that beneficiary while they are a member of that organization to discuss products sold by the organization.
- You may initiate a call to confirm an appointment that has already been agreed to by the beneficiary.
- Call former members after the disenrollment effective date to conduct disenrollment survey for quality improvement purposes. Disenrollment surveys may be done by phone or sent by mail, but neither calls nor mailings may include sales or marketing information.
- Under limited circumstances and subject to advance approval from the appropriate CMS Regional Office, call LIS-eligible members that a plan is prospectively losing due to reassignment to encourage them to remain enrolled in their current plan.
- Call beneficiaries who have expressly given permission for a plan or sales agent to contact them, for example by filling out a business reply card or asking a Customer Service Representative (CSR) to have an agent contact them. This permission applies only to the entity from whom the beneficiary requested contact, for the duration of that transaction, or as indicated by the beneficiary.

- Exception for Medicare Supplement policy (outbound telephone calls only): Due to the nature and relation of Medicare Supplement and MA/PDP product options, if during the course of an outbound call for a Medicare Supplement product the beneficiary initiates interest in an MA or PDP product, then that MA or PDP product may be discussed, as long as the call is recorded, including the beneficiary-initiated request for MA or PDP information. Again, this is for calls only, not face-to-face meetings.

Sales / Marketing in Health Care Settings or Educational Events

- **Educational Event** is an event that is sponsored by the Medicare plan or by outside entities, and promoted to be educational in nature, not to steer toward specific plans, and have multiple vendors. (Examples: health information fairs, conference expositions, state- or community-sponsored events.)
- **Sales Event** is an event that is sponsored by the Medicare Advantage plan or another entity with the purpose of marketing to potential members and steering, or attempting to steer potential members toward a specific or limited number of plans.

Beginning September 18, 2008, educational events may not include sales activities such as the distribution of marketing materials or the distribution or collection of plan applications.

CMS has clarified that the purpose of educational events is to provide objective information about the Medicare program in general (not specific plans) and/or health improvement and wellness. These requirements apply regardless of whether the events are already scheduled.

Agents and/or Brokers who sponsor or participate in educational events must include a disclaimer on event advertising materials that *“This event is only for educational purposes and no plan specific benefits or details will be shared.”*

Sales or marketing activity, presentations, or distribution/collection of plan applications and/or business reply cards in the following areas or events are prohibited:

- In health care settings unless in common areas; common areas include areas such as hospital or nursing home cafeterias, community or recreational rooms, and conference rooms; areas where patients primarily intend to receive health care services.
- Restricted areas, include, but are not limited to: waiting rooms, exam rooms, hospital patient rooms, dialysis centers, and pharmacy counter areas. If a pharmacy counter is located within a retail store, common areas would include the space outside where patients wait for services or interact with pharmacy providers and obtain medications.
- Only upon a beneficiary’s request, the broker/agent is permitted to schedule an appointment with the beneficiary residing in long-term care facilities. Appropriate documentation of the beneficiary’s request and agreement for the appointment is required.
- Medicare and/or health educational materials must contain no marketing information.

Nominal Gifts

Agents and/or Brokers, or an organization may only offer gifts of nominal value, based on retail purchase price regardless of actual cost, which is currently \$15.00*, to potential enrollees only if:

- The item/ gift is not readily convertible to cash **and**
- The item/gift is provided to all whether or not the individual enrolls in the plan.

* CMS will update the nominal value in guidance as necessary to account for inflation and other relevant factors.

Prohibition of Meals

Effective September 18, 2008, prospective enrollees to a Medicare Advantage and/or Medicare Prescription Drug Plan may not be provided meals, or have meals subsidized, at any event or meeting at which plan benefits are being discussed and/or plan materials are being distributed.

- Agents and/or Brokers are allowed to provide refreshments and light snacks to prospective enrollees and must use their best judgment on the appropriateness of food products provided.
- Agents and/or Brokers must ensure that items provided could not be reasonably considered a meal, and/or that multiple items are not being “bundled” and provided as if a meal.
- CMS does not intend to define the term “meal” or create a comprehensive list of food products that qualify as light snacks. Items similar to the following could generally be considered acceptable: fruit, raw vegetables, pastries, cookies or other small dessert items, crackers, muffins, cheese, chips, yogurt and nuts.

Cross-Selling

Marketing non-health care related products (such as annuities and life insurance) to prospective enrollees during any MA or Part D sales activity or presentation is considered cross-selling and is prohibited. (The purpose for prohibiting cross-selling is to eliminate confusion and the implication that the health and non-health products are a package.)

- Plans may sell non-health related products on inbound calls in situations when a beneficiary when a beneficiary makes a request for the information about other non-health related products.
- Marketing to current plan members of non-MA plan covered health care products, and/or non-health care products, is subject to Health Insurance Portability and Accountability Act (HIPAA) rules and anti-kickback rules.

Scope of Appointments

Effective for all CY2009 sales, scope of appointments, must be documented in writing or by recorded phone conversation prior

to the appointment. For your convenience, Coventry provides a CMS-approved Sales Appointment Confirmation form that is posted on the Broker Portal at www.AdvantraFreedom.com.

If the prospective member has walked-in off the street then this should be noted on a scope of appointment form and signed by the prospective member prior to beginning the sales activity.

Under current Medicare Marketing Guidelines and MIPPA, marketing representatives are to clearly identify the types of products that will be discussed before marketing to a potential enrollee.

- Effective September 18, 2008, prior to any marketing appointment, the beneficiary must agree on the scope of the appointment.
- The agent must document the scope of the appointment agreed upon in writing and must be signed prior to the appointment. The signed document cannot be collected at the time of the appointment and is required in advance.
 - If a beneficiary attends a sales presentation and schedules an appointment, the agent must obtain written documentation that is signed by the beneficiary agreeing to the products that will be discussed during the appointment.
 - Appointments made over the phone must be recorded to provide documentation of the beneficiary's agreement of all products to be discussed.
 - Appointments made over the phone in response to a reply card, may ONLY discuss the product(s) that were included in the advertisement.
 - Brokers/agents may initiate a call to confirm an appointment that has already been agreed to by the beneficiary.
 - Additional products or additional lines of business may not be discussed unless requested by the beneficiary, and the information to be discussed will require a separate appointment. These types of appointments may not be scheduled until 48 hours after the initial appointment. (CMS refers to the time between the two scheduled appointments as the "Cooling Off Period.")
 - Marketing representatives may leave plan materials at the initial appointment, but not enrollment applications.

Plan receipt of enrollment forms from prospective enrollees, or requests to enroll initiated by beneficiaries through means such as in-bound calls are not impacted by the scope of appointment rules unless additional products are being sold to the member.

State Licensure and Appointment of Brokers/Agents

Agents and brokers now are required to both be licensed and appointed in accordance with state laws where conducting marketing.

- Applies to both contracted and employed agents/brokers
- In most states, Customer Service Representatives can
 - Provide factual information
 - Fulfill a request for plan materials, and
 - Accept an enrollment application at the initiative of the enrollee

Agent/Broker Training and Testing

All agents/brokers must be trained and tested annually. The following guidelines apply for training content and timeline:

- Medicare rules and regulations
- Plan details specific to plan products being sold
- Both contracted and employed agents must successfully complete training
- Must be successfully completed before able to market for the plan
- Testing requires passing score of at least 85%
- Agents/brokers selling our HMO/PPO Coordinated Care Plans (CCP) must also complete specific Coventry CCP local training in order to sell Coventry's network products

Coventry Health Care 2009 Certification

- Advantra Freedom Private Fee-for-Service (PFFS)
- AdvantraRx (PDP)
- Advantra Savings Medical Savings Account (MSA)
- Advantra Coordinated Care Plans (CCP)

Agents are ready to sell Coventry products and their sales qualify for commission payment when they have:

- Completed training;
- Successfully passed a general compliance test and all appropriate product test(s);
- Have a complete contract (including background and appointment), and have received notification from Coventry that they are approved to sell

Complete details for training and certification, including in-person product training dates for Coventry Coordinated Care Plans are available on the Broker Portal at www.AdvantraFreedom.com. Agents are to call their distribution contact or health plan contact to obtain training access codes.

Sales Event Reporting – What You Need to Know

Events to inform a Medicare-eligible person or a Medicare beneficiary about Medicare Advantage and Part D Prescription Drug options are a key component for success. Based on the CMS reporting requirements for planned group events for marketing Medicare Advantage plans, Coventry requires that for all sales events, brokers and agents must submit regular reporting and updates to Coventry Broker Services on/before the 17th of the month prior to the event. The email address is: PFFSAFSeminars@cvty.com.

For your convenience on the secure Broker Portal:

- Our user-friendly Sales Event Reporting template
- CMS-approved seminar invitations as printable PDF templates.

Essential information for Event Reporting includes:

- 1.Date, time and location (full address) of the sales event
- 2.Name of the brokerage firm, agency and/or agent

3. Provide a brief description of the venue, i.e., specify what type of venue
4. Specify a phone number where CMS can call to confirm the logistics of each planned event
5. List a contact person who will be knowledgeable about the specific event, along with their email address, if available

All cancellation or change notifications and late seminar submissions also must be sent to PFFSAFSeminar@cvty.com. CMS also requires that notification of cancelled sales events should be made whenever possible more than 48 hours prior to the originally scheduled date and time of the event.

If a sales event is cancelled within 48 hours of its originally scheduled date and time, the broker and agent must:

1. Notify Coventry Broker Services
2. A representative must be present at the site of the cancelled event, at the time that the event was scheduled to occur, to inform attendees of the cancellation.

If attendees are notified of a cancellation more than 48 hours before the event:

Then there is no expectation that a representative of the Medicare Advantage or Part D plan should be present at the site or the event. However, attendees must receive notification of the cancellation by the same means used to advertise the event. For example:

- If the seminar was announced via a newspaper ad, cancellation should be announced in the same newspaper
- Any person who RSVP'd for the event must be informed about the event cancellation through appropriate means. (Remember that unless there is documented approval that a Medicare eligible individual or a Medicare beneficiary has given his/her consent to be notified by telephone, you may not give event cancellation information by phone.)
- If a sales event was announced during a mass mailing, the broker or agent must notify the Plan. The Plan must assist in guidance on how the cancellation is to be communicated.

Aggressive Marketing Behavior or Scare Tactics Are Unacceptable

Beneficiaries must not be subject to and must be protected from aggressive marketing behavior from agents and brokers. Coventry takes this CMS mandate very seriously and will promptly investigate, track and discipline any such behavior.

Examples of behavior that are not acceptable are:

- An agent who uses high pressure sales or scare tactics that are meant to cause concern, especially by implying a beneficiary's Medicare benefits are at stake.
- An agent not ending the meeting or call if the beneficiary states he/she is not interested in the plan.

Reminders:

When reviewing CMS regulations, it is acceptable to rely on official written guidance from CMS such as: regulations, HPMS memos and other guidance with a named CMS executive and one-on-one directives from Central Office or the RO. Be careful of anything you hear on a conference call, summaries from unofficial sources or unofficial guidance. Trust but verify, in writing. If you have questions contact your FMO upline or email Coventry Broker Services at: pffsbrokersupport@cvty.com. Indicate in the Subject line "CMS Marketing Guidelines".

The complete Final Marketing Provisions and Guidance for Implementation of Regulations from CMS can be found at: <http://www.cms.hhs.gov/HealthPlansGenInfo/>

Marketing Provisions from 4131-F and 4138-IFC that apply to Employer/Union Group Plans (these requirements are applicable for the transaction between the agent/broker selling the plan to the employer/union. All activities conducted by the employer/union or its designees to sign-up individual employees to the plan(s) selected by the employer/union are excluded from these provisions.		
Provision	Yes	No
Nominal Gifts	X	
Unsolicited Contacts		X
Cross-selling		X
Scope of Appointments		X
Sales/Marketing in Health Care Settings	X	
Sales/Marketing at Educational Events	X	
Co-branding	X	
Provision of Meals		X
Appointment of Agents/Brokers	X	
Reporting of Terminated Agents/Brokers	X	
Agent/Broker Compensation		X
Agent/Broker Training and Testing - Agents must be thoroughly familiar with the products they are selling; including the plan specific details and the Medicare rules that apply to the specific products. The organization/sponsor is responsible for ensuring that the agents selling for them have sufficient knowledge.	X (training)	X (training)

This communication is intended for use by Coventry Health Care contracted brokers/agents only and is not intended for distribution to Coventry Health Care members or potential applicants. This communication is confidential and any publication or distribution of this communication to unauthorized recipients without Coventry Health Care's express approval is prohibited.

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