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# Marketing Medicare Advantage and Part D Plans

## Part 4

**Version 3.0  
Updated June 1, 2009**



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## Medicare Marketing Rules

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- Medicare marketing rules apply to all types of Medicare health plans and Part D plans:
  - Medicare Advantage (MA) only plans,
  - Medicare Advantage Prescription Drug (MA-PD) plans,
  - Prescription Drug Plans (PDPs), and
  - 1876 Cost plans
- Marketing on behalf of the plan is considered marketing by the plan, and plans are responsible for ensuring compliance with Medicare rules by their marketing representatives.
- Plan marketing representatives include:
  - individuals employed by a plan or
  - individuals under contract to the plan through a direct or downstream contract (e.g. brokers, agents, and other marketing contractors).

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## Medicare Marketing Rules: Materials and Practices

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- CMS reviews marketing materials submitted by plans to ensure they:
  - Are not materially inaccurate,
  - Are not misleading, and
  - Do not otherwise make material misrepresentations.
- Generally, only CMS-approved materials and scripts can be used to market Medicare health plans and Part D plans.
  - All materials, scripts, and marketing practices used by plan marketing representatives must comply with Medicare rules.
  - Materials developed for use with employer/union group members are not subject to CMS prior review and approval.
  - No person may use the words “Medicare”, “Centers for Medicare & Medicaid Services”, “Department of Health and Human Services”, or “Health and Human Services” or their symbols in a manner that would convey the false impression that the business or product is approved, endorsed or authorized by Medicare or any other government organization.

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## Medicare Marketing Rules: Marketing Representatives – State Licensure

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- Plan sponsors must employ as marketing representatives only individuals who are licensed by the state to conduct marketing activities in that state, and whom the plan has informed the state it has appointed, consistent with the appointment process provided for under State law.
  - Plans must comply with state requests for information about the performance of a licensed agent or broker as part of a state investigation into the individual's conduct.
  - CMS encourages plans to report State licensed marketing representatives to the appropriate State entity if there is suspected violation of a State's licensing, registration, certification, insurance, or other laws.

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## Medicare Marketing Rules: Marketing Representatives Training

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- All employed and contracted representatives marketing MA and Part D plans must complete training each year on Medicare rules and regulations and on details specific to the plan products they sell, except as noted below. They also must pass a written test each year that demonstrates thorough familiarity with both the Medicare program and the product they are selling.
  - Marketing representatives of MA and Part D plans must provide plan sponsors with documentation of completed training and testing.
  - CMS requires training of those marketing employer/union group plans, but does not require testing. However, plans may require testing.

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## Medicare Marketing Rules: Reporting Sales Event Schedules

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- By the 20<sup>th</sup> of each month, plans must provide CMS with a list of all planned marketing and sales events that will be conducted by their marketing representatives (e.g., employed and contracted representatives) in the following month.
  - Plans must notify CMS of updates to the list.
  - Plans are subject to penalties and other enforcement action for failure to comply.
  - Marketing representatives must provide complete, accurate information and updates to ensure that plans will be in compliance.
- CMS encourages plans to maintain an up-to-date schedule of sales events on the plan's website.

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## Quick Review

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**Required Practices:  
Marketing Activities**

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- Marketing representatives must:
  - Market only health care related products during any MA or Part D sales activity or presentation.
  - Prior to any marketing appointment, clearly identify the types of product(s) that will be discussed, obtain agreement from the beneficiary and document that agreement.
    - Documentation for appointments resulting from a sales presentation must be in writing.
    - For appointments made over the phone, required documentation is a recording of the call.
  - During appointments scheduled in response to a reply card, only discuss the products included in the reply card in which the beneficiary has indicated interest.

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**Required Practices:  
Marketing Activities, cont'd**

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- Sales presentations open to the public do not require documentation of prior beneficiary agreement to the scope of the presentation, but event advertising materials must indicate what products will be discussed at that time.
- When a beneficiary initiates contact, for example, by walking into a marketing representative's office, or attending a sales appointment properly set up for another individual, the marketing representative should document their agreement to the scope of the appointment and may then present the appropriate information. The documentation should note that the beneficiary was a "walk-in."
- Records of beneficiary agreement to the scope of an appointment must be retained for ten (10) years.

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**Required Practices:  
Marketing Activities, cont'd.**

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- In order to discuss a health care line of business not covered in the pre-appointment documentation, the marketing representative must ask the beneficiary to complete a new scope of appointment form that includes the additional product(s) and must wait at least 48 hours after the initial visit before returning for the second appointment.
  - Marketing representatives may leave plan brochures for the other lines of business but may not discuss or conduct marketing activities related to them.
  - Enrollment applications for the additional lines of business may not be included in any materials provided during the initial appointment.
- Exception: If during an individual appointment a beneficiary specifically asks to discuss another product type, he or she must sign a new scope of appointment form that includes the new product type, and the marketing representative may then discuss the additional product during the same appointment.

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**Required Practices:  
Marketing Activities, cont'd.**

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- Marketing representatives must:
  - Provide to prospective enrollees only CMS-approved plan marketing materials or CMS marketing materials.
    - Agents/Brokers may generate and use materials that are “generic in nature,” without prior submission. Such materials must not discuss content specific to plan benefits; discuss plan cost-sharing; or include the plan name.
  - Use only CMS-approved plan marketing scripts and presentations.
  - If gifts or prizes are offered, state clearly that there is no obligation to enroll. (Note: gifts or prizes may not exceed \$15 in retail value).
  - Prior to, or at the time of enrollment, inform the beneficiary in writing of their relationship with the plan they represent, including potential for compensation based on the beneficiary’s enrollment.

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## Quick Review

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## Required Practices: Pre-enrollment Materials

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- The pre-enrollment package for all prospective enrollees must include:
  - The plan's toll-free customer service telephone number and other information about contacting the plan.
  - Information about contacting Medicare at 1-800-MEDICARE for more information about Medicare benefits and services.
  - Summary of Benefits, which includes notice that the plan or CMS can choose not to renew the plan's contract each year and that the plan's service area may change.
  - Explanation of the plan's grievance and appeals processes.

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## Required Practices: PFFS Pre-Enrollment Materials

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- The pre-enrollment package for prospective PFFS plan enrollees must also include:
  - A complete description of PFFS plan rules, including detailed information on a non-network provider's choice whether to accept plan terms and conditions of payment.
    - CMS has issued a model leaflet for this purpose with enrollee information for beneficiaries on one side and information for providers on the reverse.
    - CMS recommends providing several copies to each beneficiary so that he/she can give copies to health care providers.

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## Required Practices: PFFS Marketing Activities

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- PFFS marketing representatives must use the following CMS disclaimer in all marketing and enrollment materials and all sales presentations in public venues and private meetings with beneficiaries:
  - *"A Medicare Advantage Private Fee-for-Service plan works differently than a Medicare supplement plan. Your doctor or hospital is not required to agree to accept the plan's terms and conditions, and thus may choose not to treat you, with the exception of emergencies. If your doctor or hospital does not agree to accept our payment terms and conditions, they may choose not to provide health care services to you, except in emergencies. Providers can find the plan's terms and conditions on our website at: [insert link to PFFS terms and conditions]."*

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**Required Practices:  
PFFS Marketing Activities, cont'd.**

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- PFFS marketing representatives must:
  - When making any statement indicating that enrollees in PFFS plans may receive covered services from any provider who accepts Medicare, always say
    - *“...who agrees to accept our terms and conditions of payment.”*

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**Required Practices:  
PFFS Marketing Activities, cont'd.**

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- PFFS marketing representatives must:
  - Explain the premium and cost sharing that the enrollee must pay under the PFFS plan benefit package.
  - Explain out-of-pocket limitations and annual maximum limits
  - Explain that if a beneficiary obtains a service not covered under the PFFS plan benefits because it is not medically necessary, the beneficiary is responsible for the entire cost of the service.

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## Quick Review

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## Prohibited Practices: Marketing Activities

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- Marketing representatives must **NOT**:
  - Market any non-health care related products (i.e., any insurance product that does not involve medical/health coverage, such as annuities and life insurance) during any MA or Part D sales activity or presentation.
    - Dental coverage is considered medical/health related.
  - Return uninvited to an earlier “no show” appointment.
  - Require potential enrollees to interact with a licensed agent in order to obtain plan materials or to enroll in a plan if the enrollee is not asking for advice or counseling.
  - Require a face-to-face appointment to provide plan information or enroll the beneficiary.

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**Prohibited Practices:  
Marketing Activities, cont'd**

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- Marketing representatives must NOT:
  - Create their own plan specific marketing materials.
  - Charge beneficiaries marketing or administrative fees.
  - Use any high pressure sales tactics.
  - Say that a PFFS plan is the same as Original Medicare.
  - Encourage individuals to enroll based on their health status unless the plan is a special needs plan that focuses on the beneficiary's particular condition.

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**Prohibited Practices:  
Marketing Activities, cont'd**

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- Marketing representatives must NOT:
  - Send e-mail to a beneficiary, unless the beneficiary agrees to receive e-mail from the plan and has provided his/her e-mail address to the plan.
  - Rent an e-mail list to solicit or to distribute plan information.
  - Acquire e-mail addresses through any type of directory.



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**Prohibited Practices:  
Marketing Activities, cont'd**

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- Marketing representatives must NOT:
  - Provide false or misleading information about the plan, including benefits, provider rules, and all other plan information.
  - Claim that Medicare, CMS, or any government agency endorses or recommends the plan.
  - Lead beneficiaries to believe that the broker or agent works for Medicare, CMS or any government agency.
- PFFS marketing representatives must not lead beneficiaries to believe they are purchasing a stand-alone PDP rather than a PFFS plan.



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**Prohibited Practices:  
Marketing Activities, cont'd**

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- PFFS marketing representatives must NOT:
  - Use any materials or make any presentations that imply PFFS plans function as Medicare supplement plans or use terms such as "Medicare Supplement replacement."
- PFFS marketing representatives may:
  - Clarify that the PFFS plan does not pay after Medicare pays its share, but rather, it pays instead of Medicare and the beneficiary pays any applicable cost-share or co-pay.

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**Prohibited Practices:  
Marketing Activities, cont'd**

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- Marketing representatives must NOT:
  - Assert that their plan is the “best” plan.
  - Make explicit comparisons between their plan benefits and those of another plan, unless they are presenting comparative information that was created or approved by CMS.

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**Prohibited Practices:  
Inducements**

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- Marketing representatives must NOT:
  - Offer gifts or prizes to potential enrollees during the marketing presentation that exceed \$15 retail value.
  - Offer rebates or other cash inducements of any sort to entice beneficiary enrollment.
  - Offer post-enrollment promotional items that in any way compensate beneficiaries based on their utilization of services.
  - Charge beneficiaries marketing or administrative fees.
  - Provide any meal, or allow any other entity to provide or subsidize a meal at any event or meeting in which plan benefits are discussed or materials distributed, although light snacks are permitted. This prohibition on meals at marketing events applies to both existing enrollees and potential enrollees.
  - Engage in sales activities at a soup kitchen, shelter or other locations where meals are a normal activity at that location.

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## Prohibited Practices: Examples

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- Marketing representatives **cannot** say:
  - The government wants you to join our plan because it helps them.
  - I am certified by Medicare to sell this plan.
  - If your doctor accepts Medicare, she accepts this plan.
  - There are no limits on services.
  - We cover all drugs and have no formulary restrictions.
  - If you don't like this plan, you can stop paying your premium and return to original Medicare anytime.
  - It is better to choose a different company if you are sick.

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## Quick Review

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## Promotional Activities: Nominal Gifts

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- Marketing representatives may offer gifts to potential enrollees if they attend a marketing presentation if:
  - Gifts are of nominal value (\$15 or less based on retail purchase price of the item);
  - When more than one gift is offered, the combined value of all items does not exceed \$15;
  - Gifts are offered to all potential members without discrimination;
  - Gifts are provided regardless of whether the beneficiary enrolls in the plan; and
  - Gifts are not in the form of cash or monetary reward, including charitable contributions on behalf of an attendee, gift certificates, or gift cards that can be readily converted to cash.

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## Promotional Activities: Drawings, Prizes, Giveaways

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- Marketing representatives
  - May offer a prize worth over \$15 (based on retail purchase price for the item) to the general public as long as it is not offered just to Medicare beneficiaries and is not routinely or frequently awarded.
  - May not use free gifts or prizes to induce enrollment.
  - Must include a disclaimer on any statement concerning a prize or drawing that there is no obligation to enroll in the plan.

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## Promotional Activities: Referral Programs

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- Marketing representatives may NOT use cash promotions as part of a program through which current members of MA or Part D plans refer prospective enrollees to the marketing representative, but may offer thank you gifts of less than \$15 based on retail purchase price for the item.
  - Thank you gifts are limited to one gift per member per year and cannot be conditioned on actual enrollment of the person being referred.
- A letter sent from a marketing representative to members soliciting referrals cannot offer a gift in return for a lead.
- A marketing representative may request referrals from current members of an MA or Part D plan including names and addresses, but not phone numbers. Information can be used for mail solicitation.

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## Marketing Activities: Marketing in a Health Care Setting

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- Marketing representatives may:
  - Engage in marketing activities (i.e., conduct sales presentations and distribute and accept enrollment applications) in common areas of health care settings, for example:
    - At a hospital or nursing home, in a cafeteria, community or recreational room, or conference room;
    - At a retail pharmacy, in areas away from the pharmacy counter.
- Marketing representatives must NOT:
  - Engage in marketing activities in areas where patients receive health care services, for example:
    - In the area where a beneficiary waits for health care or pharmacy services, exam rooms, or hospital patient rooms.

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**Marketing Activities: Rules for Providers**  
(Including those with Co-Branding Relationships with a Plan)



- Providers may display/distribute plan marketing materials if they do so for all plans with which they participate.
  - If a particular plan fails to provide materials to the provider, the provider may display/distribute materials only for those plans that have supplied them.
- Providers must not
  - offer sales/appointment forms;
  - mail marketing materials on behalf of plans; or
  - make phone calls or steer beneficiaries in any way, to a limited number of plans.
- Providers may not have a party, dance or other event not related to the medical care of their patients if the intention of the event is to steer beneficiaries to a plan.

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**Quick Review**



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## Educational Events

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- Educational events :
  - An event is “educational” if advertisements to beneficiaries identify it as such.
  - If advertised as “educational,” the event may not include a sales presentation by plans or their representatives.
  - If the event is not advertised as “educational,” then plans may conduct sales activities.

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## Educational Events, cont'd.

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- At educational events, marketing representatives may:
  - Distribute materials that are free of plan-specific information and any bias toward one plan type over another.
  - Use a banner with the plan name and/or logo displayed.
  - Distribute promotional items, including those with the plan name, logo, and toll-free number and/or website, although they must be free of benefit information.
  - If the beneficiary requests information on how to contact the marketing representative for additional information, the representative may provide a business card, as long as the business card is free of plan marketing or benefit information.
  - Provide meals.
    - Meals for beneficiaries are prohibited at any event that does not meet the definition of an educational event, even if the setting is a State Fair, Expo, etc. where educational events are sometimes held.

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## Educational Events, cont'd.

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- When an event has been advertised as “educational,” marketing representatives may NOT:
  - Conduct sales presentations;
  - Discuss plan-specific premiums and/or benefits;
  - Compare benefits with other health plans;
  - Distribute or collect enrollment applications;
  - Collect names/addresses of potential enrollees;
  - Distribute or display business reply cards or scope of appointment forms;
  - Attach business cards or plan/agent contact information to educational materials;
  - Set up personal sales appointments or get permission for an outbound call to the beneficiary;
  - Use marketing materials provided by a third party, unless they have been approved by CMS in advance.

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## Educational Events, cont'd.

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- When an educational event is organized, sponsored or promoted by a plan, promotional materials must include the following disclaimer:
  - ***This event is only for educational purposes and no plan specific benefits or details will be shared.***
- The disclaimer is not required when a plan is invited to participate in an event sponsored, organized or promoted by an entity other than the plan.
- State Fairs, Expos and Senior Events are not automatically considered educational events. Their status depends on how they are advertised to the public.
- There is no minimum number of attendees for educational events. As long as one Medicare beneficiary attends, all applicable rules must be followed.

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## Educational Events, cont'd.

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- Policies for educational events arranged by plans and others apply to:
  - Sole-Sponsor (single sponsor for an event)
  - Multi-Sponsor (more than one sponsor for an event)
  - Both (single & multiple-sponsor events)
- In a Sole-Sponsor event:
  - If offered, door prizes/raffles cannot exceed the \$15 limit for each item based on retail purchase price of the item.
- In a Multi-Sponsor event:
  - Door prizes/raffles can exceed the \$15 limit if the sponsor, marketing representatives, or others contribute to a pool of cash for prizes (e.g., a get-away weekend) or a pool of prizes so that the prize(s) is/are not individually identified with the plan sponsor, but rather is/are identified with a list of contributors.

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## Quick Review

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## Unsolicited Contacts

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- Except as noted below, marketing representatives are prohibited from making any unsolicited contact with beneficiaries, including through:
  - Door-to-door solicitation;
  - Outbound marketing calls, unless the beneficiary explicitly requests the call;
  - Calls to former members who have disenrolled or are disenrolling;
  - Calls to confirm receipt of mailed information;
  - Approaching beneficiaries in common areas such as parking lots, hallways or lobbies; and
  - Calls or visits to beneficiaries who attended a sales event, unless explicit permission was given by the beneficiary for the call or visit.

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## Unsolicited Contacts, cont'd

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- Marketing representatives may not accept an appointment to sell an MA or Part D product that resulted from an unsolicited contact with the beneficiary, regardless of who made the contact.
- Marketing representatives may leave business cards with beneficiaries for distribution to friends they are referring, but in all cases, a referred beneficiary must directly initiate contact with the plan or marketing representative.
- Members who are voluntarily disenrolling may not be contacted for sales purposes or be asked to consent to sales contacts.

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## Unsolicited Contacts, cont'd

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Marketing representatives may:

- Place outbound calls to existing members to conduct normal business related to enrollment in the plan, including discussions about other products offered by the same organization.
- Call former members after disenrollment to conduct disenrollment surveys for quality improvement purposes.
- With advance approval from CMS, call low-income subsidy eligible members that a plan is prospectively losing due to reassignment to encourage them to remain in their current plan.

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## Unsolicited Contacts, cont'd

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Marketing representatives may:

- Call beneficiaries who have expressly given permission for that specific contact, for example by filling out a business reply card or asking a plan customer service representative to have an agent contact them. Such permission is considered to be short-term, event-specific and not open ended.
- Call a beneficiary who the marketing representative enrolled in a plan while the beneficiary is a member of that organization.
- Call beneficiaries to confirm an appointment that has already been agreed to by a beneficiary. This may also be done by third parties.
- Market using mailings, websites, advertising and public sales events.

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## Outbound Calls, cont'd

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- Outbound call scripts must include:
  - A privacy statement clarifying the beneficiary is not required to provide any information to the plan's representative and that the information will in no way affect the beneficiary's membership in the plan.

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## Outbound Calls, cont'd

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- Outbound calls must NOT include:
  - Requests for beneficiary identification numbers including SSN, bank account, credit card, or HICN through pre-enrollment scripts.
  - Any statement that implies the plan is endorsed by Medicare, calling on behalf of Medicare, or calling for Medicare.

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## Quick Review

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## Marketing to Employer/Union Groups

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- When marketing an employer/union group plan, marketing representatives must follow all rules and guidelines except the following that address interactions between the marketing representative and the employer or union:
  - the prohibition on unsolicited contacts;
  - the prohibition against cross-selling other products;
  - the requirement to obtain prior documentation of the scope of an appointment;
  - the prohibition against providing meals;
  - marketing representative compensation requirements; and
  - the requirement that a marketing representative must pass an annual test, although the requirement for annual training does apply.
- All activities conducted by the employer/union, or its designees, to enroll employees in the plan are excluded from the marketing requirements.

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## Oversight and Enforcement: By Plans

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- Plans are required to implement a strategy to prevent prohibited marketing practices from occurring, to detect prohibited marketing tactics at their early stages, and to take immediate corrective action to respond to aggressive and misleading marketing tactics.
- Plans must take action in the event of verified misconduct. Examples include:
  - Withholding or withdrawing commissions;
  - Retraining;
  - Suspension of marketing;
  - Termination; and
  - Reporting misconduct to State Departments of Insurance.

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## Oversight and Enforcement: By Plans, cont'd

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- Plans must comply with requests from a State insurance or other department in connection with investigations of plan marketing representatives who are licensed by the department.
- CMS encourages plans to report State licensed marketing representatives to the appropriate State entity if there is suspected violation of a State's licensing, registration, certification, insurance, or other laws.
- Plans must report to States the termination of any agent or broker, including the reasons for the termination if required under State law.
- Upon CMS' request, the plan must provide CMS with information necessary for it to conduct oversight of marketing activities.

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## Oversight and Enforcement: By CMS

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- CMS oversees plan sponsor compliance with Medicare rules.
- CMS' monitoring includes "secret shopper" visits to a sample of sales and outreach activities and contacting samples of enrollees.
- When asked by CMS, PFFS plan sponsors will be required to:
  - Provide a list of all licensed marketing representatives marketing their PFFS plans and
  - Authorize CMS to make this information available to State insurance departments upon request.
- At CMS' request, plans must provide any information necessary for the agency to conduct oversight of the plan's training program for its brokers and agents.

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## Oversight and Enforcement: By CMS, cont'd Plan Contracts with Marketing Representatives

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- Plans must include clear provisions in marketing representative contracts that the plan is responsible for ensuring compliance with:
  - Applicable MA and/or Part D laws;
  - Federal health care laws;
  - CMS policies and Marketing Guidelines; and
  - Plan policies.

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**Oversight and Enforcement: By CMS, cont'd**  
**Marketing Representative Compensation**

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- Compensation structures for independent agents must comply with CMS guidance to ensure they create incentives to enroll individuals in a plan that is intended to best meet their health care needs.
  - Compensation rules do not apply to marketing representatives who are plan employees or when independent agents are marketing only to employer/union groups.
  - Compensation covered by these rules includes pecuniary and non-pecuniary remuneration of any kind, including commission, bonuses, gifts, prizes, awards, and finders fees.
  - Compensation to independent agents who market to and enroll beneficiaries is covered by the rules whether it is paid directly by a plan or paid by an FMO or similar organization.

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**Oversight and Enforcement: By CMS, cont'd**  
**Marketing Representative Compensation, cont'd**

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- CMS rules include requirements in such areas as:
  - setting compensation amounts and structures for initial and renewal years;
  - determining whether to pay initial or renewal compensation for each enrollment;
  - recovering compensation if the beneficiary disenrolls within the first three months of enrollment; and
  - payment of referral fees.

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## Oversight and Enforcement: By CMS, cont'd

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- Plan sponsors are subject to CMS penalties for non-compliance that include :
  - Corrective action plans.
  - Suspension of marketing and enrollment.
  - Monetary penalties.
  - Contract termination.

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## Quick Review

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## Frequently Asked Questions

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**Q:** We purchased books on health maintenance that we plan to give away to anyone attending one of our marketing presentations, regardless of whether they enroll in our plan. Because we purchased a large number of these books, we were able to buy them at a cost of \$14.99 per book. However, on the inside jacket, the retail price is shown as \$19.99. May we give these books away at our marketing presentation?

**A:** No. The retail purchase price of the book is \$19.99, which exceeds CMS's definition of nominal value.

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## Frequently Asked Questions

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**Q:** We are participating in a health fair during which we will have marketing staff present. During the fair, we are considering offering a number of free health screening tests to people who attend. The value of these tests, if purchased, would be considerably more than \$15. Is this permissible?

**A:** No. You may not offer these tests for free because their value exceeds CMS's definition of nominal value.

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## Frequently Asked Questions

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Q: We would like to offer gifts of nominal value to people who call for more information about our plan. We would then like to offer additional gifts if they come to a separate marketing event. Each of the gifts meets CMS's definition of nominal value, but taken together, the gifts are more than nominal value. Is this permissible?

A: Yes, provided that all other marketing requirements are met.

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## Frequently Asked Questions

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Q: Listed below are some possible promotional items to encourage people to attend marketing presentations. Are these types of promotions permissible?

- Light Snacks (no meals)
- Day trips
- Magazine subscriptions
- Event tickets
- Coupon book (total value of discounts is less than \$15)

A: Yes. All these promotional items are permissible as long as they are offered to everyone who attends the event, regardless of whether or not they enroll and as long as the gifts are valued at \$15 or less per marketing event. Cash gifts are prohibited, including charitable contributions made on behalf of people attending a marketing presentation and including gift certificates and gift cards that can be readily converted to cash, regardless of dollar amount.

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## Frequently Asked Questions

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**Q:** Can a marketing representative advertise eligibility for a raffle or door prize of more than nominal value for those who attend a marketing presentation if the total value of the item is less than \$15 per person attending?

**A:** No. You cannot have a door prize of more than nominal value. Such gifts or prizes are prohibited by CMS. However, the raffle or door prize can exceed the \$15 limit if the marketing representative is jointly sponsoring the prize with other marketing representatives at a health fair.

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## Frequently Asked Questions

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**Q:** Can a marketing representative take people to a casino or sponsor a bingo night at which the member's earnings may exceed the \$15 nominal value limit?

**A:** No. The total value of the winnings may not exceed \$15 and the winnings cannot be in cash or an item that may be readily converted to cash.

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## Frequently Asked Questions

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- Q:** Can marketing representative send a \$1 lottery ticket as a gift to prospective members who request more information?
- A:** Offering a \$1 lottery ticket to prospective members violates the “no cash or equivalent” rule discussed above, whether or not the person actually wins since, generally, the “unscratched” ticket has a cash value of \$1.

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## Frequently Asked Questions

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- Q:** Can marketing representatives use providers to identify Medicare beneficiaries with certain illness or diseases for marketing purpose?
- A:** No, marketing must follow the HIPAA privacy requirements. HIPAA rules permit the provider to communicate with his/her patients about treatment options but they must not disclose to any entity contact information for those who have not signed the provider’s HIPAA authorization. To prevent health screening, the provider can send/mail CMS- and plan-approved marketing materials to ALL of the provider’s Medicare patients explaining the MA product. The materials must not contain health screening information unless the plan is for individuals that are dually-eligible or have certain illness or diseases. The provider is responsible for ensuring that it does not violate any HIPAA rules when sending/ mailing out such information to their patients.

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## Quick Review

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## For More Information

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- Medicare Marketing Guidelines:  
[www.cms.hhs.gov/PrescriptionDrugCovContra/Downloads/FinalMarketingGuidelines.pdf](http://www.cms.hhs.gov/PrescriptionDrugCovContra/Downloads/FinalMarketingGuidelines.pdf)
- CMS Marketing Website:  
[www.cms.hhs.gov/ManagedCareMarketing/](http://www.cms.hhs.gov/ManagedCareMarketing/)
- CMS PFFS Addendum: Model Language for Sales Presentation
- Medicare Beneficiary Website:  
[www.medicare.gov](http://www.medicare.gov)

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## Session 4 Review

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- This slide is a place holder. There is no information on this slide.