



Can They Do That?

Medicare Part C and Part D Plan Marketing Rules

www.wisconsinssmp.org

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The following chart outlines some common acceptable (okay) and unacceptable (not okay) Part C and Part D Plan marketing practices that beneficiaries may experience. To review the CMS Marketing Guidelines in full, visit <http://www.cms.gov/ManagedCareMarketing/>

OKAY	NOT OKAY
<p>ADVERTISING:</p> <ul style="list-style-type: none"> ✓ Advertising sales/marketing events (in any form of media) must explain: <ul style="list-style-type: none"> ○ “A sales person will be present with information and applications” ○ “For accommodation of persons with special needs at sales meetings call <insert phone and TTY number> ✓ Education event are advertised as such. 	<ul style="list-style-type: none"> ✓ An advertisement for an event does not state its purpose-marketing or education. ✓ Communications resemble government mailings. ✓ Sending unsolicited e-mails, text messages, or voicemails to a beneficiary.
<p>CO-BRANDING (provider logo and plan logo appearing together on materials):</p> <ul style="list-style-type: none"> ✓ When multiple providers participate in a plan, co-branded materials contain a disclaimer saying there are other participating providers, explaining how to find them. 	<ul style="list-style-type: none"> ✓ Co-branding without the required disclaimer when there are multiple providers under a plan.
<p>DIRECT MAIL:</p> <ul style="list-style-type: none"> ✓ A plan that offers Medigap insurance to beneficiaries enrolled in Original Medicare may send those beneficiaries info about the company’s Part C and Part D plans, as long as the beneficiary has not refused mailings of materials. ✓ A plan may send items such as postcard, self-mailer, and reply card. 	<ul style="list-style-type: none"> ✓ A plan violates a beneficiary’s request to opt-out of receiving communications.
<p>ENROLLMENT ACTIVITIES:</p> <ul style="list-style-type: none"> ✓ Plan salesperson is knowledgeable about Medicare and, during a marketing activity, objectively discusses whether or not the plan meets that potential enrollees individual needs. ✓ Plan outreach materials or salesperson provide initial eligibility screening for beneficiaries dually eligible for Medicare and Medicaid but refer beneficiary to the appropriate state agency to make the final determination. 	<ul style="list-style-type: none"> ✓ Plan salesperson removes a beneficiary from Original Medicare and enrolls them in Medicare Part C without their knowledge. ✓ Plan salesperson fails to demonstrate or provide adequate Medicare expertise and enrolls beneficiary in a plan that is inappropriate for them. ✓ Plan salesperson falsely states that their doctor accepts the plan.

OKAY	NOT OKAY
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	<ul style="list-style-type: none"> ✓ Plan salesperson preys upon vulnerable people (limited English, memory impaired, etc.) for purposes of enrolling them in a plan, regardless of whether that plan meets their needs. ✓ Plan salesperson “cherry-picks” (selecting or denying beneficiaries based on their illness profile). ✓ Plan salesperson enrolls or attempts to enroll a dually-eligible beneficiary in their plan, regardless of its appropriateness for that beneficiary.
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<p>EVENTS (MARKETING AND EDUCATION):</p> <ul style="list-style-type: none"> ✓ Provision of a light snack to prospective beneficiaries by a plan at any event or meeting at which plan benefits are being discussed and/or plan materials are being distributed. ✓ Provision of a meal valued at \$15 or less at an event that is for general Medicare education purposes where no marketing occurs. ✓ Marketing Events taking place at a kiosk or in a recreational vehicle (RV). ✓ Providing a beneficiary with one or more salesperson business cards at an educational event and responding to questions if asked, as long as business cards are free of marketing or benefit information. 	<ul style="list-style-type: none"> ✓ Provisions of a meal to prospective beneficiaries by a plan at an event or meeting at which plan benefits are being discussed and/or plan materials are being distributed. Beware of snacks bundled into a meal – NOT OKAY. ✓ Provision of a meal to prospective beneficiaries at any event or meeting at which plan benefits are being discussed and/or plan materials are being distributed. These would be considered marketing events and only light snacks are allowed. ✓ The plan salesperson cannot market in the same building where an education event is taking place (or just took place). This would be considered back-to-back education and marketing, which is prohibited. ✓ Collecting beneficiary contact information at an education event. <ul style="list-style-type: none"> Examples of violations: <ul style="list-style-type: none"> ○ Asking all participants to provide personal identifying information as part of a general “sign in” sheet. ○ Asking for contact information to participate in a drawing for a prize. ✓ Agents or brokers may NOT require a face-to-face meeting to provide plan details. ✓ Displaying business cards or attaching them to educational materials.
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OKAY	NOT OKAY
	<ul style="list-style-type: none"> ✓ Agents or brokers may NOT request Social Security numbers, bank, or credit card info at education or marketing events. ✓ Agents or brokers may NOT hold an educational event in a private home or other one-on-one setting. ✓ Agents or brokers may NOT solicit individual appointments under the premise that the appointment is only for educational purposes.
<p>HEALTH CARE SETTINGS:</p> <ul style="list-style-type: none"> ✓ Physicians can provide brochures or other educational materials about all the plans in which they participate. ✓ Plan salesperson conducts sales presentations and distributes and accepts enrollment applications in a common area. <ul style="list-style-type: none"> ○ Common areas are: hospital or nursing home cafeterias, community, recreational, and conference rooms. ✓ Patients are not misled or pressured into participating. ✓ Conduct the following in long-term care facilities <ul style="list-style-type: none"> ○ Display posters ○ Include materials in admission packets ○ Provide to residents that meet Special Needs Plan criteria a brochure for each Special Needs Plan with which the facility contracts. 	<ul style="list-style-type: none"> ✓ A physician cannot reject brochures or other educational materials from some of the plans in which they participate, while accepting brochures or other educational materials from others. ✓ Conducting sales presentations, distributing and accepting enrollment applications where patients receive care. Restricted areas include: <ul style="list-style-type: none"> ○ Waiting rooms ○ Pharmacy counter areas ○ Exam rooms ○ Hospital patient rooms
<p>HOME VISITS:</p> <ul style="list-style-type: none"> ✓ A beneficiary requests a home visit from a plan salesperson. This includes a visit in long-term care facilities. ✓ Agents and brokers who have a pre-scheduled appointment may leave plan information at a beneficiary's residence if the beneficiary is a "no show" for the scheduled appointment. 	<ul style="list-style-type: none"> ✓ A salesperson's initial contact is an unsolicited home visit – i.e. "door-to-door cold call" sales tactic. ✓ Agents or brokers may NOT represent themselves as though they come from or were sent by Medicare, Social Security, or Medicaid. ✓ Agents or brokers may not leave information such as leaflets, flyers, door hangers, etc. on someone's car or at their residence (unless the beneficiary is a "no show" for a pre-scheduled appointment).

OKAY	NOT OKAY
<p>INSURANCE AGENT AND BROKER CREDENTIALS:</p> <ul style="list-style-type: none"> ✓ Plan salesperson has a demonstrated knowledge of Medicare, including passing a test. ✓ Agent or broker is licensed in their state and follows state appointment rules. ✓ Plan customer service representatives are not licensed. ✓ Plan terminates agents/brokers who violate regulations/laws, notifying the state licensure body. The bad behavior of individual agents or brokers does not automatically result in a plan losing the right to sell Medicare products, as long as they respond appropriately. 	<ul style="list-style-type: none"> ✓ Plan salesperson has not passed test and/or demonstrates lack of adequate Medicare knowledge. ✓ Unlicensed agents and brokers selling Medicare products and breaking state appointment rules. ✓ Customer service representatives fulfilling roles that belong to licensed agents or brokers. ✓ Plans failing to report termination of agents or brokers to state licensure body. ✓ Agents or brokers must never represent themselves as though they came from or were sent by Medicare, Medicaid, or Social Security.
<p>PROMOTIONAL ACTIVITIES/GIFTS:</p> <ul style="list-style-type: none"> ✓ Offering promotional activities or items that are of “nominal” value (<i>Nominal</i> value is currently defined as \$15 or less and is not in the form of cash or rebates). ✓ Offering promotional activities or items to both current and potential enrollees. 	<ul style="list-style-type: none"> ✓ Offering promotional items or activities over the course of a year that have an aggregated value of more than \$50 per person. ✓ Offering items that are considered a health benefit for free as a promotion (e.g., a free check up).
<p>“SCOPE OF SALES”- Defining the content of a sales or enrollment Contact:</p> <ul style="list-style-type: none"> ✓ A plan salesperson determines in advance with the beneficiary what products will be discussed and possibly sold. The beneficiary’s decision is documented in writing or in a recorded telephone conversation. ✓ A beneficiary changes their mind about the scope of sale during an appointment. (For example, asking about other insurance products.) The salesperson documents this change of scope and provides the requested information. ✓ Salesperson requests beneficiary personal identifying information needed for enrollment and payment, if the beneficiary agrees to enroll the plan discussed under the original (or revised and documented) scope of sale. 	<ul style="list-style-type: none"> ✓ A salesperson has arranged to discuss Part C and Part D insurance with a beneficiary, but then initiates a discussion about other insurance products, such as life insurance annuities. ✓ Misrepresenting a product as an approved Part C or Part D plan when it is actually a Medigap policy or non-Medicare drug plan. ✓ A beneficiary changes their mind about the scope of sale and the salesperson conducts marketing and/or enrollment activities without documenting the change in the scope. ✓ Requiring a face-to-face appointment to provide plan information. ✓ Returning uninvited to an earlier “no show.” ✓ Using high pressure sales tactics.

OKAY	NOT OKAY
<p>TELEPHONE CALLS (Outbound calls to beneficiaries):</p> <ul style="list-style-type: none"> ✓ A beneficiary has reviewed advertising or attended an educational event and gives permission to be contacted by the plan. ✓ A plan that offers Medigap insurance has initiated a call with a current customer. The customer asks about the plan’s Part C and Part D products. The plan records the conversation and provides the requested information. ✓ An unsolicited outbound call may be made to beneficiaries currently enrolled in a Part C or Part D plan to conduct “normal business.” <ul style="list-style-type: none"> ○ For example, a beneficiary on “Extra Help” who needs to be reassigned can be called ○ Initiating a phone call to confirm an appointment ○ Contacting members to discuss educational events ○ Contacting former members after the disenrollment date to conduct disenrollment survey ○ Returning beneficiary phone calls 	<ul style="list-style-type: none"> ✓ Plans may not conduct unsolicited phone calls to beneficiaries with whom they have no prior relationship. Telemarketing is considered an unsolicited outbound telephone call and is prohibited. ✓ Agents or brokers may NOT represent themselves as though they come from or were sent by Medicare, Social Security, or Medicaid. ✓ Beneficiary has taken the proactive step through the Do Not Call registry to prohibit marketing calls from a plan. It is then NOT okay for either the plan or an independent agent hired by the plan to call, even though the plan and beneficiary have a relationship. <ul style="list-style-type: none"> ○ Contacting beneficiaries to ensure receipt of mailed information ○ Making calls to beneficiaries that resulted from a referral ○ Making calls to former members who have disenrolled or to current members who are in the process of disenrolling ○ Making calls without permission, to beneficiaries who attended an event.

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