GoldenCare
Planning Today For A Secure Tomorrow

AN INTEGRITY COMPANY

NEW MEDICARE MARKETING RULES AND GUIDELINES

FREQUENTLY ASKED QUESTIONS

BACKGROUND:

CMS just finalized new Medicare marketing rules and guidelines that likely mean big changes for you and your organization.

- First, CMS adopted new requirements applicable to third-party marketing organizations. As an Integrity partner, your organization is a third-party marketing organization (TPMO) and must comply with these requirements. Your organization also most likely has relationships with other TPMOs and must comply with new TPMO contracting obligations.
- Second, CMS has changed its process for a third-party submission of multi-plan marketing materials to CMS.
- Third, CMS has clarified its definition of "marketing" in such a way that broadens how many MA and PDP marketing downlines previously thought about marketing. Third parties need to submit all materials to CMS that include marketing content, as the term "marketing" has been clarified by CMS.

CMS's new rules and guidelines apply to MA plans, PDP plans, and MAPD plans. We use the term "plan" in this document to mean all three types and the term "carrier(s)" to mean the MA, PDP, and MAPD organizations that administer these plans.

This Frequently Asked Questions (FAQs) document is designed to help you understand the changes, identify which changes apply to you, and inform you about resources that are available to help you comply. This document is not intended to replace CMS's marketing rules or guidelines.

The new changes apply to you, your downline agencies, and your downline agents. Please forward this document to your downline agencies and independent agents.

⚠ **Key takeaway:** Beware! Plans can impose additional requirements on their downlines as long as they do not conflict with the requirements outlined in the CMS marketing rules or guidelines.

THIRD-PARTY MARKETING ORGANIZATIONS

1. WHAT IS A "THIRD-PARTY MARKETING ORGANIZATION" OR "TPMO?"

A "third-party marketing organization" or "TPMO" is:

- An organization or individual, including independent agents and brokers who is compensated to perform lead generation, marketing, sales, and enrollment-related functions as part of the chain of enrollment

This is a very broad definition. This means that NMOs, FMOs, agencies, brokerages, independent agents, and brokers are all TPMOs.

Lead vendors and other vendors or subcontractors who are compensated to perform lead generation or marketing for a plan or for a first-tier, downstream, or related entity (FDR) are also TPMOs.

Accordingly, you are a TPMO. The following are also TPMOs:

- Your lead vendors
- Your other vendors, contractors, and subcontractors that are compensated to provide any of the following services for you:
  - Lead generation
  - Marketing
  - Sales
  - Enrollment-related functions

2. IF I AM AN MA OR PDP PLAN FIRST-TIER, DOWNSTREAM, OR RELATED ENTITY (FDR), AM I STILL A TPMO?

Yes, you can be an FDR and a TPMO. In fact, you are probably both.

A first-tier entity is a party that has a written arrangement with a plan to provide administrative or health care services for a Medicare-eligible individual under the plan. Administrative services include sales, marketing, and enrollment. A downstream entity enters into a written arrangement below the first-tier entity continuing down to the ultimate provider of the administrative services.

As you know, NMOs, FMOs, brokerages, agencies, agents, and brokers are all FDRs because they are first-tier or downstream entities that provide sales, marketing, and enrollment functions for Medicare-eligible individuals on behalf of plans.

NMOs, FMOs, agencies, brokerages, independent agents, and brokers are all TPMOs because they are organizations or individuals who are compensated to perform lead generation, marketing, sales, and enrollment-related functions as part of the chain of enrollment.

You are not precluded from being a TPMO if you are an FDR. CMS specifically states that a TPMO may be an FDR. This means that NMOs, FMOs, agencies, brokerages, agents, and brokers must comply with these new TPMO requirements and continue to comply with all requirements applicable to FDRs.

However, entities that are not FDRs but provide services to an MA plan or PDP plan's FDR may also be TPMOs.

3. WHAT DO I NEED TO DO IF MY ORGANIZATION IS A TPMO?

You must comply with all of the TPMO requirements below. We have also included a more detailed checklist at Appendix A to help you comply with the new requirements.

- Record all calls with beneficiaries in their entirety, including enrollment.
- Disclose to the plans subcontracted relationships used for marketing, lead generation, and enrollment.
- Report to plans monthly any staff disciplinary actions associated with beneficiary interaction to the plan.
- Report to plans monthly violations of any requirements that apply to the MA plan or PDP plan associated with beneficiary interaction to the plan
- Use the TPMO Disclaimer as required (see below).
- When conducting lead generating activities, disclose to the beneficiary that he or she is being transferred to a licensed insurance agent who can enroll him or her into a new plan.
- When conducting lead generating activities, disclose to the beneficiary that his or her information will be provided to a licensed insurance agent for future contact:
  - Verbally when communicating with a beneficiary through the telephone
  - In writing when communicating with a beneficiary through mail or other paper communication
  - Electronically when communicating with a beneficiary through email, online chat, or other electronic messaging platform
- Adhere to any requirements that apply to the MA plan if the TPMO is not otherwise an FDR.

4. WHAT IS THE TPMO DISCLAIMER?

"We do not offer every plan available in your area. Any information we provide is limited to those plans we do offer in your area. Please contact Medicare.gov or 1-800-MEDICARE to get information on all of your options."

5. WHEN IS THE TPMO DISCLAIMER REQUIRED?

TPMOs must use the TPMO Disclaimer in all of the following scenarios:

- Verbally within the first minute of a sales call
- Electronically when communicating with a beneficiary through email, online chat, or other electronic means of communication
- Prominently on your TPMO website
- All marketing materials, including print materials and TV ads, that you develop, use, or distribute

You are NOT required to use the TPMO Disclaimer:

- When meeting with a beneficiary in person
- If you only sell plans on behalf of one carrier
- If you sell plans on behalf of more than one carrier and you sell all commercially available MA or PDP plans in a given service area

6. I AM AN INDEPENDENT AGENT. DO I REALLY HAVE TO COMPLY WITH THE TPMO REQUIREMENTS?

Yes, independent agents and brokers are TPMOs. Accordingly, you must comply with the requirements applicable to TPMOs.

7. WHAT DO I NEED TO DO IF I CONTRACT WITH A TPMO?

At a minimum, you should revise your contracts with your TPMOs (or enter into written contracts with your TPMOs if written contracts do not exist), to require the TPMO to do all of the following:

- Disclose to the plans all of its subcontractors that provide sales, marketing, lead generation and enrollment services
- Record all calls with beneficiaries in their entirety, including the enrollment process
- Use the TPMO Disclaimer as required

- Report to the plans monthly any staff disciplinary actions associated with beneficiary interaction to the plan
- Report to the plans monthly any violations of any requirements that apply to the plan associated with beneficiary interaction to the plan

Because the plans will likely also obligate you to impose the following requirements on your TPMOs as well, you should also revise your contracts with your TPMOs to require the TPMO to do all of the following:

- If the TPMO is not otherwise an FDR, adhere to any requirements that apply to the plan.
- When conducting lead generating activities, disclose to the beneficiary that he or she is being transferred to a licensed insurance agent who can enroll him or her into a new plan.
- When conducting lead generating activities, disclose to the beneficiary that his or her information will be provided to a licensed insurance agent for future contact as follows:
  - Verbally when communicating via phone
  - In writing when communicating through mail or other paper
  - Electronically when communicating through email, online chat, or other electronic messaging platform

8. WHAT IF MY ORGANIZATION WORKS WITH A TPMO BUT WE DON'T HAVE A WRITTEN CONTRACT WITH THE TPMO?

Plans are responsible for ensuring that contracts, written arrangements, and agreements between the TPMO and the plan, or between the TPMO and the plan's FDR, ensure that the TPMO complies with certain TPMO requirements. Therefore, plans will require that you enter into written agreements with TPMOs that impose the requirements above in FAQ #7 on TPMOs. Accordingly, you should enter into written agreements with all TPMOs that you do business with.

9. WHAT CALLS MUST BE RECORDED BY TPMOs?

TPMOs must record all calls with beneficiaries in their entirety, including the enrollment process. Absent further clarification from CMS, this requirement appears to include inbound and outbound calls with consumers associated with the chain of enrollment including lead generation, marketing, and the enrollment process.

Note that this is different than verbal conveyance of the TPMO Disclaimer, which is only required in the first minute of a sales call, not in the first minute of all calls.

10. HOW CAN I RECORD CALLS IN COMPLIANCE WITH STATE RECORDING LAWS?

Many states require that the consumer be notified that a call is being recorded. You may not always know the state in which a consumer is located or the law in that state. Therefore, as a best practice, you should:

- Notify the consumer at the outset of inbound and outbound calls that the call is being recorded. Sample language to add to your call scripts after initial introductions is: "This call is being recorded."
- Record this notification so that it is documented.

If a consumer continues on the line, they have consented to the recording. However, if a consumer does not wish for the call to be recorded, you should either politely inform the consumer that you cannot continue the call or you may try to obtain the consumer's consent by explaining why the call is being recorded. For example, the script could state:

> *"I understand that you do not wish for the call to be recorded. However, new government regulations require certain calls with Medicare beneficiaries to be recorded in their entirety. The purpose is to maintain quality and help ensure that the information that you receive is accurate. Does that make sense now?"*

If they respond affirmatively, then state, "OK. This call is being recorded," and the call may continue.

If they still do not wish for the call to be recorded, you should politely inform the consumer that you cannot continue the call.

11. I AM A TPMO, BUT I DO NOT HAVE THE CAPABILITY TO RECORD ALL CALLS WITH BENEFICIARIES. WHAT RESOURCES DOES INTEGRITY HAVE TO HELP?

Unfortunately, all calls with beneficiaries must be recorded in their entirety. You are responsible for compliance with this requirement. The great news is Integrity is building a call recording capability into MedicareCENTER. This call recording technology will be **FREE** for all Integrity partners and their downline independent agents and brokers.

Integrity is making this technology available in an effort to assist you with Medicare compliance. However, you are not required to use MedicareCENTER. You may choose to use a different vendor if you prefer. If you use a different vendor, however, you are responsible for entering into an agreement with and paying that vendor directly.

12. WHEN DO I HAVE TO COMPLY WITH THE NEW TPMO REQUIREMENTS?

The requirements are effective now for plan enrollments beginning on January 1, 2023.

As AEP is the start of marketing for plan year 2023 enrollments, this means that you should record all calls in their entirety beginning on October 1, 2022.

The following are relatively straightforward tasks that you should do immediately:

- Add the TPMO Disclaimer to your websites.
- Add the TPMO Disclaimer to all email communications. This can be done by adding the TPMO Disclaimer language to the automatic signature block above the signature line of all individuals within your organization who will send an email to a consumer. Independent agents should add the TPMO Disclaimer to their automatic signature block above their signature line as well.
- Identify and make a list of all of your vendors, contractors, and subcontractors who perform lead generation, sales, marketing, and enrollment-related functions. You will need to report this list to the plan and revise your contracts with entities on this list.

Because you will need to submit your marketing materials to the plans soon for plan year 2023, you should take the following steps immediately:

- Add the TPMO Disclaimer to all of your marketing materials, including print and TV ads. Remember that all marketing materials must be submitted for CMS approval through the HPMS Marketing Module.
- Add the TPMO Disclaimer to all sales call scripts within the first minute. Remember that all sales call scripts must be submitted for CMS approval through the HPMS Marketing Module. If you do not have scripts for sales calls, you will need to create scripts and obtain approval.

13. HOW LONG DO WE NEED TO RETAIN THE CALL RECORDINGS?

You should retain all call recordings for 10 years. MedicareCENTER will have the capability to store call recordings for that time. If you choose to use a different vendor, you must ensure that you have access to your call recordings for 10 years.

THIRD-PARTY SUBMISSIONS

1. WHEN CAN TPMOs SUBMIT MARKETING MATERIALS DIRECTLY TO CMS?

All materials that meet CMS's definition of "marketing," including those created or used by third parties and downstream entities, must be submitted to CMS via the HPMS Marketing Module. Please see section below titled "Marketing and Communications."

CMS permits third parties to submit marketing materials directly to CMS on behalf of contracted plans when the marketing materials created by third parties:

1. Include marketing content
2. Are used by two or more plans

Third parties should NOT use the third-party submission process for marketing materials that only mention one plan. In that case, the plan should submit the material directly to CMS using the standard submission process.

2. WHERE DO THIRD PARTIES SUBMIT MARKETING MATERIALS?

Marketing materials should be submitted in CMS's new HPMS Marketing Module.

3. WHO CAN SUBMIT THIRD-PARTY MARKETING MATERIALS TO CMS?

Only individuals with a third party who have been granted access by a plan to submit materials on the plan's behalf are permitted to submit materials. Some carriers restrict the categories of third parties that may submit materials on their behalf. For example, some may restrict access to TPMOs that have a direct contract with the plan, are of a certain level within the plan's hierarchy, or have a contracted multi-carrier call center. It is important to be aware of any limits that a carrier places on third parties to whom it grants access.

Plans can grant access to more than one individual with a third-party organization. However, a plan may choose to limit the number of individuals within a third party to whom it grants access. Plans may also require third parties to use a specific process to request access from the plan for the individual(s).

4. HOW DO PLANS GRANT ACCESS TO INDIVIDUALS WITH THIRD PARTIES?

Individuals who are granted access within a third party are referred to as "individual consultants," and the third party is referred to as a "consultant company." Plans must submit an official letter via email in scanned PDF format to HPMSConsultantAccess@cms.hhs.gov that grants Marketing Consultant Access for Multi-plan Submissions and includes the following:

- The individual consultant user's name who is being granted access (or multiple names, if it is granting access to multiple individuals with one third party)
- The CMS user ID
- The name of the third party of the individual consultant user(s)
- The contract numbers or the multi-contract entity (MCE) numbers for which consultant access is being granted
- Letterhead of the plan
- Signature of a senior official of the plan

CMS will send an email confirmation to all individuals on the original email (including those who are cc'd) when access has been granted. Plans are responsible for informing the third party that the access has been approved.

5. WHAT DO THIRD PARTIES NEED TO DO BEFORE SUBMITTING MULTI-PLAN MATERIALS THROUGH THE HPMS MARKETING MODULE?

Many carriers require third parties to submit all non-carrier-branded MA/PDP marketing materials created by the third party that are intended to market/sell or generate leads for the carrier's plans to the carrier first for review and approval. These should be submitted BEFORE filing the material in the HPMS Marketing Module and selecting any of that carrier's MA or PDP contracts.

You should be sure to review each carrier's process and requirements for review and approval. Carriers may require that only those individuals who have been granted access to submit materials may submit the marketing materials to the carrier first.

Allow plenty of time prior to the date you intend to use the marketing materials for the carrier's review process and the CMS multi-plan submission process. Note that a carrier may have a 20-business-day turn-around time (or longer) for reviewing the material.

A carrier may opt out of marketing materials that are submitted by a third party, and it certainly may opt out if the carrier has not approved the material first. As explained below, in the event that a carrier opts out of a marketing material for carrier contracts requested by the third party, that material cannot be used to sell that carrier's plans for those contracts.

Key takeaway: You need to obtain approval of multi-plan marketing materials from each carrier **before** you submit the marketing materials to CMS.

6. WHAT IS THE PROCESS FOR THIRD PARTIES TO SUBMIT MATERIALS IN THE HPMS MARKETING MODULE?

After consultant access has been granted to an individual with a third party by at least one contract/MCE and the third party has obtained any necessary carrier approvals prior to submitting the marketing materials to CMS, the individual consultant may begin submitting multi-plan marketing materials.

The individual consultant submits the marketing material and does the following:

- Selects from any contracts/MCEs who have authorized access to that individual
- Selects a reviewer from a list of multi-plan dedicated CMS reviewers

The individual consultant will also select the review process for the material — whether the material is being submitted under File & Use or the 45-day approval process.

After the marketing material has been approved or accepted for File & Use, (which is 5 days following submission), the plan will receive an email from HPMS notifying the plan that multi-plan material has been submitted that includes their contract/MCE number. The plan then reviews the material and must either opt in or opt out:

- Opting in — This indicates that the plan is aware of the marketing materials and agrees that the materials will be used by the third party for the contract/MCE noted.
- Opting out — This indicates that the plan does not want to be associated with the submission and the materials will not be used by the third party for the contract/MCE noted.

Opting in or opting out does not affect the status of the material in HPMS, so it will remain approved/accepted by CMS even if a plan opts out. However, a third party may not use the material for an associated contract/MCE unless the plan has opted in.

HPMS sends an email to the third party for all submission updates, including when each plan either opts in or opts out. The third party can add additional contracts/MCEs after the material has been approved.

Key takeaway: You may not use materials you create to sell two or more plans that include marketing content to sell a plan under a contract/MCE if the plan has not opted in to that material for that contract/MCE.

7. DOES CMS STILL USE THE LEAD PLAN CONCEPT?

No. CMS no longer uses the Lead Plan concept. CMS now uses this multi-plan third-party submission process.

8. WHAT ARE THE REVIEW TIMEFRAMES FOR MARKETING MATERIALS SUBMITTED IN THIS MULTI-PLAN SUBMISSION PROCESS?

The review timeframes are the same as they would be for plan submitted materials. This means that either the materials will be submitted under File & Use or will be approved within 45 days.

9. WHEN CAN WE USE THE MATERIALS THAT WE SUBMIT THROUGH THE MULTI-PLAN HPMS MARKETING MODULE?

Most marketing materials submitted through the third-party multi-plan submission process will be submitted under File & Use. Materials submitted under File & Use may be used five days following submission, which is the date that they are "accepted," if the material is certified to comply with all applicable standards. However, remember that plans must opt in, and the material may only be used for plans that have opted in.

A plan may be subject to compliance actions if materials are used before they are "accepted," which is five days following submission, or if they are found during a CMS review to be out of compliance with the applicable requirements.

MARKETING AND COMMUNICATIONS

1. WHAT ARE COMMUNICATIONS MATERIALS?

Communications materials are created or used by plans or any downstream entity to provide information to current or prospective enrollees. Generally, materials that do not meet CMS's definition of "marketing" are considered "communications." Communications materials are not required to be filed with CMS in the HPMS Marketing Module.

2. WHAT ARE MARKETING MATERIALS?

Marketing materials are a subset of communications. As such, marketing materials must adhere to all communications requirements.

Marketing materials are communications materials that meet both standards for intent and content. A material must satisfy both standards for intent and content to constitute marketing, otherwise it is a communication material.

Intent — Materials that CMS determines are intended to:

- Draw a beneficiary's attention to a plan or plans
- Influence a beneficiary's decision-making process when making a plan selection
- Influence a beneficiary's decision to stay enrolled in a plan (retention-based)

Content — Materials that include or address content regarding:

- Information about plan benefits or benefits structure
- Information about plan premiums or cost-sharing (including no premium, $0 premiums, $0 copays, and plans that can lower your Medicare Part B costs)
- Information on Star Ratings
- Comparisons to other plans
- Ranking or measurements to other plans
- Rewards and incentives

Materials do not need to mention a plan by name to constitute marketing. Marketing materials can be ads that are made on behalf of multiple plans.

Marketing materials must be submitted to CMS via the HPMS Marketing Module.

3. WHAT ARE SOME EXAMPLES OF MARKETING?

The following are some examples of marketing content. If your materials include any of the following, the material should be submitted to CMS via the HPMS Marketing Module.

A billboard reads: *"Swell Health Offers $0 Premium Plans in Nowhere County."*

A third-party TV commercial actor says: *"Call us to hear about plans that can provide hearing and dental benefits, zero-dollar monthly premiums, and can even lower your Medicare Part B costs."*

A postcard reads: *"You may be eligible for plans with $2,500 in dental coverage."*

A postcard reads: *"Call to learn about plans that can get you money back in your Social Security check."*

4. WHAT TYPES OF STATEMENTS SHOULD BE AVOIDED?

Communications and marketing materials should avoid the following:

- Words or imagery that may confuse beneficiaries
- Words or imagery that may cause beneficiaries to believe the material is coming directly from the government
  - Examples of words or imagery to avoid include:
    - Bar codes
    - Member numbers, beneficiary numbers, or ID numbers
    - The U.S. flag
    - Images very similar to those seen on government offices
    - Red, white, and blue color scheme appearing to be associated with the government
- Language or imagery that is a sales tactic designed to rush or push beneficiaries into a plan
  - Examples of words or imagery to avoid include:
    - You must act fast!
    - Hurry!
    - You must act now!
    - RUSH

Marketing materials should also avoid the following:

- Advertisements promoting plan benefits and/or cost savings that are not offered by the TPMO using the advertisement
- Advertisements promoting plan benefits and/or cost savings that are not available in the area where promoted
- Advertisements promoting plan benefits and/or cost savings that are directed at a broad/national audience but are for limited groups of enrollees

This is not an exhaustive list. Please refer to CMS's Medicare marketing rules at 42 C.F.R. §§ 422 and 423, and recent Medicare Marketing Guidelines.

5. WHAT DISCLAIMERS ARE REQUIRED ON PLAN MARKETING MATERIALS CREATED BY TPMOS?

Table begins on next page:

Disclaimer	Model or Standardized Content	Applicable Content and Notes	Example
Federal Contracting Statement	Model Content Must include: • Legal or marketing name • Type of plan • Statement that the organization has a contract with Medicare • Statement that enrollment depends on contract renewal	Required on all marketing materials except banners and banner-like advertisements, outdoor advertisements, text messages, social media, and envelopes.	Single Plan: "[Plan X] is a [Plan Type] with a Medicare contract. Enrollment in [Plan X] depends on contract renewal." Multiple Plans: "Participating sales agencies represent Medicare Advantage [HMO, PPO, PFFS, and PDP] organizations that are contracted with Medicare. Enrollment depends on the plan's contract renewal."
Star Ratings	Model Content Must convey that plans are evaluated yearly by Medicare and that the ratings are based on a five-star rating system.	Required on all marketing materials that mention Star Ratings. Because of space limitations with electronic media, like search ads and social media, it is acceptable to provide the Star Ratings disclaimer to the viewer when the viewer clicks on the ad.	"Every year, Medicare evaluates plans based on a five-star rating system."
Accommodations	Model Content Must convey that accommodations are available for persons with special needs and provide a telephone number and TTY number.	Required on all invitations to events, including educational events and market/sales events.	"For accommodations of persons with special needs at meetings, call <insert phone and TTY number>."

Materials Developed by a TPMO	Standardized Content "We do not offer every plan available in your area. Any information we provide is limited to those plans we do offer in your area. Please contact Medicare.gov or 1-800-MEDICARE to get information on all of your options." Note: Disclaimer is not required for TPMOs that truly offer every option in a service area.	Required on: • All TPMO marketing materials, including all print materials, TV ads, that are used, created, or distributed by a TPMO and that meet the definition of "marketing" • All TPMO websites (prominently displayed) • Provided verbally within the first minute of a sales call • Provided electronically when communicating with a beneficiary through email, online chat, or other electronic means of communication	"We do not offer every plan available in your area. Any information we provide is limited to those plans we do offer in your area. Please contact Medicare.gov or 1-800-MEDICARE to get information on all of your options."
TPMO Lead Generation	TPMOs conducting lead generation activities must inform the Medicare beneficiary that their information will be provided to a licensed agent for future contact, or that the Medicare beneficiary is being transferred to a licensed agent who can enroll them in a new plan. To be done verbally, electronically, or in writing, depending on how the TPMO is interacting with the Medicare beneficiary.	Required to clearly state on all lead generation forms (including paper, electronic, or telephonic Business Reply Cards) that a licensed agent will be contacting the Medicare beneficiary. Required on call scripts, when transferring the call to a licensed agent, the individual speaking to the beneficiary must clearly state the call is being transferred to a licensed agent.	For lead generation forms, including paper, BRCs, electronic, or telephonic: "Your information will be provided to a licensed insurance agent. You may be contacted by a licensed insurance agent." For all call scripts when transferring the call to a licensed agent: "You are now being transferred to a licensed insurance agent who can enroll you in a new plan."

Special Supplemental Benefits for the Chronically Ill (SSBC)	Model Content Must convey the benefits mentioned are special supplemental benefits. Must convey that not all members will qualify.	Required whenever SSBCI benefits are mentioned.	"The benefits mentioned are a part of the special supplemental program for the chronically ill. Not all members qualify."
Mailing Statements	Standardized Content Must include the following statement when mailing information about the enrollee's current plan: "Important [Insert Plan Name] information." Must include the following statement when mailing health and wellness information: "Health and wellness or prevention information."	Required when mailing the applicable information to current members. Required to include the plan name. Downstream entities that conduct mailings on behalf of multiple plans must comply with this requirement, but they do not have to include a plan name.	"Important [Insert Plan Name] information." "Health and wellness or prevention information."
Promotional Giveaways, Prizes, Free Gifts, or Drawings	Model Content Must convey that there is no obligation to enroll in a plan.	Required when offering promotional giveaways such as drawings, prizes, or free gifts.	"Eligible for a free drawing, gift, or prizes with no obligation to enroll." "Free gift without obligation to enroll."

Product Endorsement or Testimonials	Model Content	Required to comply with the following when individuals endorse an MA organization's product: • Speaker must identify the MA organization's product or company by name. • Medicare beneficiaries endorsing or promoting MA plans must have been a member of the plan at the time the endorsement or testimonial was created. • Endorsement or testimonial must clearly state that the individual was paid for the endorsement or testimonial, if applicable. • If an individual is used (such as an actor) to portray a real or fictitious situation, the endorsement or testimonial must state that it is an actor portrayal.	"Paid endorsement." "Paid actor portrayal."
Not Affiliated With Medicare or the Government	Model Content Must convey that that the organization or agent is not affiliated with or endorsed by any government agency.	Required on all communications and marketing materials. If a material includes the word "Medicare" in the organization's name or logo, it must be clearly stated that this is a non-government entity" directly below the name or logo.	"Not affiliated with or endorsed by any government agency." "A non-government entity" directly below a name or logo that contains the word Medicare.

Provider Co-Branded Material	Model Content Must convey, as applicable, that other pharmacies, physicians, or providers are available in the plan's network.	Required whenever co-branding relationships with network providers are mentioned, unless (for MA and cost plans, including MA-PD plans only) the co-branding is with a provider network or health system that represents 90% or more of the network as a whole.	"Other <pharmacies/ physicians/ providers> are available in our network."
Out-of-Network Non-Contracted Provider	Standardized Content "Out-of-network/non-contracted providers are under no obligation to treat plan members, except in emergency situations. Please call our customer service number or see your Evidence of Coverage for more information, including the cost sharing that applies to out-of-network services."	Required whenever materials reference out-of-network/non-contracted providers. Does not apply to stand-alone PDP plans.	"Out-of-network/ non-contracted providers are under no obligation to treat plan members, except in emergency situations. Please call our customer service number or see your Evidence of Coverage for more information, including the cost sharing that applies to out-of-network services."
NCQA SNP Approval Statement	Model Content Must convey that the MA organizations has been approved by the NCQA to operate as a Special Needs Plan (SNP). Must include the last contract year of NCQA approval. Must convey the approval is based on a review of plan's Model of Care. May not include numeric SNP approval scores.	Required on all documents that reference NCQA SNP approval. Must be used by SNPs who have received NCQA approval.	"Based on a Model of Care review, [Insert Plan Name] has been approved by the National Committee for Quality Assurance (NCQA) to operate a Special Needs Plan (SNP) through [insert last contract year of NCQA approval]."

If you would like assistance from Integrity or have questions about the content of your materials, refer to your Integrity Agent Medicare Compliance Guide, or you may contact the Integrity Partner Marketing Team at partnermarketing@integritymarketing.com.

APPENDIX A: TPMO COMPLIANCE CHECKLIST

- [ ] Add the TPMO Disclaimer to all TPMO websites.
- [ ] Add the TPMO Disclaimer to all email communications.
- [ ] Add to all written communications to a beneficiary through mail or other paper communication that his or her information will be provided to a licensed insurance agent for future contact.
- [ ] Add to all electronic communications with a beneficiary, such as email, online chat, and electronic messaging that his or her information will be provided to a licensed insurance agent for future contact.
- [ ] Add the TPMO Disclaimer to all of your marketing materials, including print and TV ads.
- [ ] Add the following to all call scripts for lead generating activities:
    1. Disclose to the beneficiary that he or she is being transferred to a licensed insurance agent who can enroll him or her into a new plan.
    2. Disclose to the beneficiary that his or her information will be provided to a licensed insurance agent for future contact.
- [ ] If you do not have call scripts for lead generating activities, you should create scripts and obtain approval.
- [ ] Add the TPMO Disclaimer to all sales call scripts within the first minute.
- [ ] If you do not have scripts for sales calls, you should create scripts and obtain approval.
- [ ] Record all calls with beneficiaries in their entirety, including the enrollment process.
- [ ] Identify and make a list of all vendors, contractors, and subcontractors you use for marketing, sales, lead generation, and enrollment.
- [ ] Revise your existing written agreements with all of your TPMOs (vendors, contractors, and subcontractors for marketing, sales, lead generation, and enrollment) to require your TPMOs to do the following:
    1. Disclose to the plans all of their subcontractors that provide sales, marketing, lead generation, and enrollment services.
    2. Record all calls with beneficiaries in their entirety, including the enrollment process.

3. Use the TPMO Disclaimer as required.
4. Report to the plans monthly any staff disciplinary actions associated with beneficiary interaction to the plan.
5. Report to the plans monthly any violations of any requirements that apply to the plan associated with beneficiary interaction to the plan.
6. If the TPMOs are not otherwise an FDR, adhere to any requirements that apply to the plan.
7. When conducting lead generating activities, disclose to the beneficiary that he or she is being transferred to a licensed insurance agent who can enroll him or her into a new plan.
8. When conducting lead generating activities, disclose to the beneficiary that his or her information will be provided to a licensed insurance agent for future contact as follows:
    a. Verbally when communicating via phone
    b. In writing when communicating through mail or other paper communication
    c. Electronically when communicating through email, online chat, or other electronic messaging platform
9. Comply with other requirements that the plans require you to impose on your TPMOs.

☐ Enter into written agreements with all of your TPMOs (vendors, contractors, and subcontractors for marketing, sales, lead generation, and enrollment) with whom you have relationships but do not have written agreements that require the TPMOs to do the following:

1. Disclose to the plans all of their subcontractors that provide sales, marketing, lead generation, and enrollment services.
2. Record all calls with beneficiaries in their entirety, including the enrollment process.
3. Use the TPMO Disclaimer as required.
4. Report to the plans monthly any staff disciplinary actions associated with beneficiary interaction to the plan.
5. Report to the plans monthly any violations of any requirements that apply to the plan associated with beneficiary interaction to the plan.
6. If the TPMOs are not otherwise an FDR, adhere to any requirements that apply to the plan.
7. When conducting lead generating activities, disclose to the beneficiary that he or she is being transferred to a licensed insurance agent who can enroll him or her into a new plan.
8. When conducting lead generating activities, disclose to the beneficiary that his or her information will be provided to a licensed insurance agent for future contact as follows:

a. Verbally when communicating via phone
b. In writing when communicating through mail or other paper communication
c. Electronically when communicating through email, online chat, or other electronic messaging platform

9. Comply with other requirements that the plans require you to impose on your TPMOs.

- [ ] Develop a process for disclosing to the plans your vendors, contractors, and subcontractors you use for marketing, sales, lead generation, and enrollment. Your process should include a method for reporting changes to the list.
- [ ] Disclose to the plans your vendors, contractors, and subcontractors for marketing, sales, lead generation, and enrollment.
- [ ] Develop a process for reporting to plans monthly staff disciplinary actions associated with beneficiary interaction to the plan.
- [ ] Report to plans monthly any staff disciplinary actions associated with beneficiary interaction to the plan.
- [ ] Develop a process for reporting monthly to plans violations of any requirements that apply to the plan associated with beneficiary interaction to the plan.
- [ ] Report to plans monthly violations of any requirements that apply to the plan associated with beneficiary interaction to the plan.
- [ ] Adhere to any requirements that apply to the plan if you are not an FDR.