

Final Contract Year (CY) 2020 Marketing Guidance for Massachusetts Medicare-Medicaid Plans

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Introduction

All Medicare Advantage-Prescription Drug (MA-PD) plan sponsor requirements in the Contract Year (CY) 2019 Medicare Communications and Marketing Guidelines (MCMG), posted at <http://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/FinalPartCMarketingGuidelines.html>, and the August 6, 2019, Health Plan Management System (HPMS) guidance memorandum, “Medicare Communications and Marketing Guidelines,” apply to Medicare-Medicaid plans (MMPs) participating in the Massachusetts capitated financial alignment model demonstration, except as noted or modified in this guidance document.¹

This guidance document provides information only about those sections of the MCMG that are not applicable or that are different for MMPs in Massachusetts; therefore, this guidance document should be considered an addendum to the CY 2019 MCMG. This MMP guidance is applicable to all marketing done for CY 2020 benefits.

Use of Independent Agents and Brokers

We clarify that all requirements applicable to independent agents/brokers throughout the MCMG are inapplicable to MMPs in Massachusetts because the use of independent agents/brokers is not permitted. All MMP enrollment transactions must be processed by MassHealth’s customer service vendor.

Compliance with Section 1557 of the Affordable Care Act of 2010

MMPs are subject to the disclosure requirements under Section 1557 of the Affordable Care Act. For more information, MMPs should refer to <https://www.hhs.gov/civil-rights/for-individuals/section-1557/>.

Formulary and Formulary Change Notice Requirements

Massachusetts MMPs should refer to the November 1, 2018, HPMS guidance memorandum, “Part D Communication Materials,” for guidance on formulary and formulary change notice requirements. As noted in that memorandum, additional updates to reflect changes related to 42 CFR 423.120(b)(5), regarding notice of mid-year formulary changes and changes to the definition of an approved month’s supply, will be incorporated into the Medicare Prescription Drug Benefit Manual in a future release. In addition, we note that Massachusetts MMPs are required to adhere to all new regulatory provisions and requirements.

The requirements of the November 1, 2018, HPMS guidance memorandum apply with the following modifications:

- Formulary change notices must be sent for any negative formulary change (as described in section 30.3.3, “Midyear Formulary Changes,” and section 30.3.4, “Provision of Notice Regarding Formulary Changes,” of Chapter 6 of the Prescription Drug Benefit Manual), regardless of whether or not the negative formulary change applies to an item covered under Medicare or Medicaid, or as an additional drug benefit under the plan.

¹ Note that any requirements for Special Needs Plans (SNPs), Private Fee-for-Service (PFFS) plans, Preferred Provider Organizations (PPOs), and Section 1876 Cost-Based Plans (cost plans) in the MCMG do not apply unless specifically noted in this guidance.

- Formulary change notices applicable to all formulary changes (not just Part D drug changes) must be maintained on Massachusetts MMP websites.

Additional Guidance for Massachusetts MMPs

The following are additional Massachusetts MMP-specific modifications for CY 2020 beyond those that modify the MCMG:

- We clarify that organizations offering both MMPs and non-MMP Medicare health plan options in a service area may only market MMP offerings in their MMP materials.

Section 20 - Communications and Marketing Definitions

MMPs are subject to marketing and beneficiary communications applicable to Medicare Advantage plans in 42 CFR Parts 422 and 423, as well as those applicable to Medicaid managed care organizations in 42 CFR Part 438. CMS developed a joint review process (JRP) for MMP beneficiary materials under each Financial Alignment Initiative capitated model demonstration that combines state and CMS review requirements and parameters. Given these differences, CMS continues to consider all CY 2020 MMP materials to be marketing materials as defined prior to the implementation of CMS-4182-F.² As a result, this section of the MCMG and its subsections do not apply to MMPs. We provide additional detail about materials subject to HPMS submission in the guidance related to section 90.1.1 of the MCMG in this document. In addition, for any other references to communications throughout the MCMG, the previous definition of marketing materials applies.

Section 30.2 - Standardization of Plan Name Type

As is the case for other Medicare health plans, MMPs are required to include the plan type in each plan's name using standard terminology consistent with the guidance provided in this section. CMS created the standardized plan type label "Medicare-Medicaid Plan" to refer generically to all plans participating in a capitated financial alignment model demonstration. MMPs must use the "Medicare-Medicaid Plan" plan type terminology following their plan name at least once on the front page or beginning of each marketing piece, excluding envelopes, consistent with the requirements of section 30.2 of the MCMG.

CMS is unable to create state-specific plan type labels in HPMS for each state's demonstration plans; therefore, all MMPs are referred to by the standardized plan name type "(Medicare-Medicaid Plan)" in CMS' external communications – e.g., the Medicare & You handbook and the Medicare Plan Finder tool on www.medicare.gov. The state has provided guidance on branding for the demonstration, which includes using the term "One Care plan" to refer to MMPs in Massachusetts. Thus, we clarify that MMPs must use the CMS standardized plan type – <plan name> (Medicare-Medicaid Plan) – once in their materials but may use the term "One Care plan" elsewhere in the document.

² "Contract Year 2019 Policy and Technical Changes to the Medicare Advantage, Medicare Cost Plan, Medicare Fee-for-Service, the Medicare Prescription Drug Benefit Programs, and the PACE program," which may be found in the Federal Register published April 16, 2018 (see <https://www.federalregister.gov/documents/2018/04/16/2018-07179/medicare-program-contract-year-2019-policy-and-technical-changes-to-the-medicare-advantage-medicare>).

To reduce beneficiary confusion, we also clarify that MMPs in Massachusetts that offer Medicare Advantage products, including SNPs, in the same service area as their MMPs, may not use the same plan marketing name for both those products. Thus, for example, an organization offering both a SNP and an MMP in the same service area could not use the same name – e.g., Acme Duals Care (HMO SNP) – for its SNP product as for its MMP product – e.g., Acme Duals Care (Medicare-Medicaid Plan).

Section 30.3 - Non-English Speaking Population

The requirements of section 30.3 of the MCMG apply with the modifications and clarifications included in this section. The standard articulated in this section for translation of marketing materials into non-English languages will be superseded to the extent that Massachusetts' standard for translation of marketing materials is more stringent. Guidance regarding the translation requirements for all plans, including MMPs, is released annually each fall via HPMS. Required languages for translation for the MMPs are also updated annually, as needed, in the HPMS Marketing Module. We expect that the Massachusetts translation standard – which requires translation of materials into “prevalent languages” (i.e., Spanish and any language that is the primary language of 5% or more of the plan's service area population) – will again exceed the Medicare standard for translation in Massachusetts MMP service areas for CY 2020.

CMS and the state have designated materials that are vital and, therefore, must be translated into the non-English languages specified in this section.³ This information is located in section 100.4 of this document.

MMPs must have a process for ensuring that enrollees can make a standing request to receive the materials identified in this section, in alternate formats and in all non-English languages identified in this section and in the HPMS Marketing Module, at the time of request and on an ongoing basis thereafter. The process should include how the MMP will keep a record of the member's information and utilize it as an ongoing standing request so the member doesn't need to make a separate request for each material and how a member can change a standing request for preferred language and/or format.

For additional information regarding notice and tagline requirements, refer to Appendix A and Appendix B to Part 92 of Section 1557 of the Patient Protection and Affordable Care Act. In addition to the requirements of Section 1557, MMPs in Massachusetts must always include taglines in English, Spanish, Cambodian, Chinese, Haitian Creole, Laotian, Portuguese, Russian, and Vietnamese.

Section 30.4 - Hours of Operation Requirements for Materials

In addition to the requirements of this section, MMPs must also provide the phone and TTY numbers and days and hours of operation information for MassHealth's customer service

³ CMS makes available Spanish translations of the Massachusetts MMP SB, Formulary (List of Covered Drugs), Provider and Pharmacy Directory, and ANOC/EOC (Member Handbook). These are posted at <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/MMPInformationandGuidance/MMPMarketingInformationandResources.html>. CMS makes available a Spanish and Chinese translation of the Part D transition letter to all Medicare health plans at <https://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/Part-D-Model-Marketing-Materials.html>.

vendor at least once in any marketing materials that are provided prior to the time of enrollment and where a customer service number is provided for current and prospective enrollees to call. Use of the disclaimer in section 40.2 in this document is adequate to meet this requirement for unsolicited marketing materials, such as mail and other print media. Enrollment materials sent to passively enrolled individuals do not need to include the disclaimer in section 40.2 in this document.

Section 30.7 - Prohibited Terminology/Statements

In addition to the requirements of section 30.7 of the MCMG, other than the exceptions noted in section 40.1 of this guidance, MMPs may not compare their MMP to another plan by name without written concurrence from all plans being compared. This documentation must be included when the material is submitted in HPMS.

Section 30.8 - Product Endorsements/Testimonials

This section of the MCMG is replaced with the following language:

Product endorsements and testimonials for marketing purposes can be helpful in enabling beneficiaries to make informed decisions and, therefore, are not considered misleading if they adhere to the following:

- The speaker must identify the MMP's product by name.
- Medicare beneficiaries endorsing or promoting a plan or a specific product must be current enrollees of that plan.
- If an individual is paid to endorse or promote the plan or product, this must be clearly stated (e.g., "paid endorsement").
- If an individual, such as an actor, is paid to portray a real or fictitious situation, the ad must clearly state it is a "Paid Actor Portrayal."
- An endorsement or testimonial by an individual cannot use any quotes by physicians or other health care providers.
- A contracted or employed physician or health care provider cannot provide an endorsement or testimonial.
- An endorsement or testimonial cannot use negative testimonials about other Plans/Part D Sponsors.
- The plan must be able to substantiate any claims made in the endorsement/testimonial.

Note: Reuse of individual users' content or comment from social media sites (e.g., Facebook, Twitter) that promotes an MMP's product is considered a product endorsement/testimonial and must adhere to the guidance in this section.

Section 40.1 - Plan Comparisons

This section of the MCMG is replaced with the following revised guidance:

MMPs in Massachusetts may only compare their plan to another Plan/Part D Sponsor by referencing a study or statistical data. If an MMP uses a non-CMS study/survey in its marketing materials, the MMP must include the following information, in text or as a footnote, on marketing pieces:

- The name of the organization sponsoring the study;
- Information about the MMP's relationship with the entity that conducted the study; and
- The publication title, date, and page number.

Note: This information should also be included in the HPMS marketing material transmittal comments field when submitting the document that includes the reference. Marketing reviewers may request additional information about the study/survey.

Section 40.2 - Marketing Through Unsolicited Contacts

Section 40.2 of the MCMG provides examples of unsolicited direct contact with current and prospective enrollees. We reiterate that marketing via conventional mail and other print media (e.g., advertisements, direct mail) is not considered unsolicited contact and, therefore, is permissible.

In addition to the requirements of section 40.2 of the MCMG, MMPs conducting permitted unsolicited marketing activities, such as through email (provided that they include an opt-out function), conventional mail and other print media, are required to include the following disclaimer on all materials used for that purpose:

"For information on <plan name> and other options for your health care, call the MassHealth Customer Service Center at 1-800-841-2900, Monday through Friday, 8 a.m. - 5 p.m., (TTY: 1-800-497-4648), or visit <http://www.mass.gov/eohhs/consumer/insurance/one-care/>."

For purposes of this section, enrollment materials sent to passively enrolled individuals are not considered marketing through unsolicited contact.

Section 40.3 - Marketing Through Telephonic Contact

The requirements of section 40.3 of the MCMG apply with the following clarifications and modifications:

- MMPs may not call current MMP enrollees to promote other Medicare plan types. Information about other Medicare plan types can only be provided at the proactive request of a current MMP enrollee.

- Consistent with section 40.3 of the MCMG, calls made by the MMP to current members (including those enrolled in other product lines) are not considered unsolicited direct contact and, therefore, are permissible. Organizations that offer non-MMP and MMP products may call their current non-MMP enrollees (e.g., those in Medicaid managed care products), including individuals who have previously opted out of passive enrollment into an MMP, to promote their MMP offerings.
- Plans may use reasonable efforts to contact current non-MMP enrollees who are eligible for MMP enrollment to provide information about their MMP products. Callers with questions about other Medicare program options should be warm transferred to 1-800-MEDICARE or to the State Health Insurance Assistance Program (SHIP) for information and assistance.

Section 40.6 - Marketing Star Ratings

Because MMCO is in the process of developing a Star Ratings system for MMP performance, MMPs are not subject to the Star Ratings requirements in the MCMG. Therefore, this section does not apply to MMPs.

Section 40.6.1 - Marketing Plans/Part D Sponsors with an Overall 5-Star Rating

Because MMCO is in the process of developing a Star Ratings system for MMP performance, MMPs are not subject to the Star Ratings requirements in the MCMG. Therefore, this section does not apply to MMPs.

Section 40.8 - Marketing of Rewards and Incentives Programs

MMPs may market rewards and incentives to current enrollees, as provided in section 40.8 of the MCMG. Any rewards and incentives programs must be consistent with section 100 of Chapter 4 of the Medicare Managed Care Manual, with the following modifications:

- MMP rewards and incentives programs must promote engagement in specific behaviors (e.g., guideline-recommended clinical screenings and PCP visits and wellness initiatives).
- MMPs must take measures to monitor the effectiveness of such rewards and incentives programs and revise incentives as appropriate, with consideration of enrollee feedback.
- MMPs must ensure that the nominal value of enrollee incentives does not exceed \$30.
- MMPs must submit to EOHHS, at the direction of EOHHS, ad hoc report information relating to planned and implemented enrollee rewards and incentives programs and ensure that all such programs comply with all applicable CMS and state guidance and all relevant state and federal laws.

Section 50.2 - Marketing/Sales Events

In addition to the requirements outlined in this section, if enrollment applications are distributed during the course of a marketing/sales event, any and all associated cover pages must remain attached to the application. If plan customer service staff assist potential enrollees in filling out

enrollment applications, the staff must direct the potential enrollee to first read any and all associated cover pages attached to the application. The staff must also read the cover page(s) aloud to the enrollee if asked. Plan customer service staff that assist in completing an application must document their name on the application in accordance with the application's instructions.

Section 50.3 - Personal/Individual Marketing Appointments

The provisions of this section apply to MMPs, with the following modifications:

- MMP sales agents are not permitted to conduct unsolicited personal/individual appointments. To the extent an MMP offers individual appointments, they must be staffed by trained customer service staff.
- An individual appointment must only be set up at the request of the member or his/her authorized representative. An MMP can offer an individual appointment to a member who has contacted the MMP to request assistance or information. However, MMPs are prohibited from making unsolicited offers of individual appointments.
- An MMP must make reasonable efforts to conduct an appointment in the member's preferred location. An MMP cannot require that an individual appointment occur in a member's home.

In addition to the requirements outlined in this section, if enrollment applications are distributed during the course of a personal/individual marketing appointment, any and all associated cover pages must remain attached to the application. If plan customer service staff assist potential enrollees in filling out enrollment applications, the staff must direct the potential enrollee to first read any and all associated cover pages attached to the application. The staff must also read the cover page(s) aloud to the enrollee if asked. Plan customer service staff who assist in completing an application must document their name on the application in accordance with the application's instructions.

Section 60.1 - Provider-Initiated Activities

We clarify that the guidance in this section about referring patients to other sources of information such as the "State Medicaid Office" also applies to materials produced by the state and/or distributed by MassHealth's customer service vendor.

Section 60.4.1 - Special Guidance for Plans/Part D Sponsors Serving Long-Term Care Facility Residents.

The flexibility provided in the second paragraph of this section for Plans/Part D sponsors to provide contracted long-term care facilities with materials for inclusion with admission packets that announce the Plan/Part D sponsor's contractual relationship is also applicable to MMPs. This flexibility is also applicable to staff in chronic and psychiatric hospitals for MMP-eligible individuals, post-stabilization.

Section 70.1.2 - Documents to be Posted on Website

The requirements of this section apply with the following modifications:

- MMPs are not required to post the low-income subsidy (LIS) Premium Summary Chart as this document is not applicable to MMPs.
- Because MMCO is in the process of developing a Star Ratings system for MMP performance, MMPs are not subject to the Star Ratings requirements in the MCMG. Therefore, MMPs are not required to post a CMS Star Ratings document on their websites.

Section 70.1.3 - Required Content

In addition to the requirements outlined in this section, MMPs must also include on their websites a direct link to the following website: <https://www.mass.gov/one-care>. MMPs must also include information on the potential for contract termination (as required under 42 CFR 422.111(f)(4)) and information that materials are published in alternate formats (e.g., large print, braille, audio).

Section 70.2 - Searchable Formularies and Directories

The second sentence of this section of the MCMG is modified for Massachusetts MMPs, in accordance with their three-way contracts, as follows:

While MMPs are encouraged to have searchable, machine-readable formularies, MMPs must make their online directories available in a searchable, machine-readable file and format.

The remainder of section 70.2 of the MCMG applies to MMPs.

Section 80.1 – Customer Service Call Center Requirements and Standards

We clarify that hold time messages that include marketing content must be submitted in HPMS, and Massachusetts MMPs must use marketing material code 15062 for this purpose. All other guidance in section 80.1 of the MCMG applies to MMPs.

Section 80.1.1 - Customer Service Call Center Hours of Operations

We clarify that MMPs must operate a toll-free call center during usual business hours. In light of the scope and nature of the services and benefits provided by MMPs, CMS interprets usual business hours for customer service call centers for both current and prospective enrollees as meaning at least the following: seven (7) days a week, at least from 8 a.m. to 8 p.m. ET, except as provided below. Customer service call center hours and days must be the same for all individuals regardless of whether they speak English, a non-English language, or use assistive devices for communication. During this time period, current and prospective enrollees must be able to speak with a live customer service representative. MMPs may use alternative technologies on Saturdays, Sundays, and federal holidays in lieu of having live customer service representatives. For example, an MMP may use an interactive voice response (IVR) system or similar technologies to provide the required information listed in section 80.1 of the MCMG, and/or allow a beneficiary to leave a message in a voice mail box. A customer service representative must then return the call in a timely manner, no more than one (1) business day later. All other guidance in section 80.1.1 of the MCMG applies to MMPs.

Section 80.2 - Hours of Operation for Telephone Lines Solely Designated for Sales and Enrollment

Since Massachusetts MMPs are not allowed to market directly to individual potential enrollees and all enrollments into MMPs are submitted by the state's enrollment broker, this section does not apply.

Section 80.3 - Informational Scripts

We clarify that informational calls to plan call centers that become enrollment calls at the proactive request of the beneficiary must be transferred to MassHealth's customer service vendor. We also clarify that MMPs may not ask callers if they would like to receive information about other Medicare lines of business they offer. Such information may only be provided at the proactive request of a member.

MMPs should refer to section 80.7 of this guidance, as well as section 80.7 of the MCMG, for clarification of the types of activities conducted by a plan customer service representative that do not require the use of state-licensed marketing representatives. The MMP must use a state-licensed (and, when required, appointed) marketing agent for any activity that meets the definition of marketing in section 20 of this guidance.

Section 80.4 - Telesales and Enrollment Scripts

Telesales scripts are considered marketing and must be submitted to CMS as outlined in section 90 of this guidance. The remainder of the guidance in this section on enrollment scripts does not apply to MMPs because enrollment requests must be transferred to MassHealth's customer service vendor.

Section 80.7 - Activities That Do Not Require the Use of State-Licensed Marketing Representatives.

Consistent with section 80.7 of the MCMG, we clarify that in order to provide more than factual information, MMP outbound callers must be state-licensed (and, when required, appointed) marketing agents. The MMP must use state-licensed (and, when required, appointed) marketing agents for any activity that meets the definition of marketing in section 20 of this guidance.

Section 90 - Tracking, Submission, and Review Process

Any references in this section of the MCMG, and in all subsections thereunder, to CMS in its role in reviewing marketing materials are also references to the state for purposes of MMP marketing material review.

Section 90.1 - Material Identification

The second paragraph of this section of the MCMG is modified as follows for MMPs:

The material ID is made up of two parts: (1) MMP contract number, (i.e., H number) followed by an underscore; and (2) any series of alphanumeric characters chosen at the discretion of the MMP. Use of the material ID on marketing materials must be immediately followed by the status of either approved or accepted (e.g., H1234_drugx38

Approved). Note that MMPs should include an approved status only after the material is approved and not when submitting the material for review.

In addition, when a third party, such as a pharmacy benefit manager (PBM), creates and distributes member-specific materials on behalf of multiple organizations, it is not acceptable to use the material ID for another organization for materials the third party provides to MMP enrollees. The material must be submitted in HPMS using a separate material ID number for the MMP, and that material ID number must be included on the material. The remainder of section 90.1 of the MCMG applies to MMPs, including the requirement that non-English and alternate format materials based on previously created materials may have the same material ID as the material on which they are based.

Section 90.1.1 - Materials Subject to Submission

CMS has developed a JRP for MMP beneficiary materials under each Financial Alignment Initiative capitated model demonstration that combines state and CMS review requirements and parameters. Given these differences, CMS will continue to consider all CY 2020 MMP materials to be marketing materials as defined prior to the implementation of CMS-4182-F in CY 2019.⁴

Section 90.4 - Submission of Websites and Webpages for Review

The requirements of this section apply without modification. We note, however, that MMPs should use state-specific MMP website codes. For more information about website codes, MMPs should consult the Marketing Code Lookup functionality in the HPMS marketing module.

Section 90.5 - Submission of Multi-Plan Materials

This section does not apply to MMPs.

Section 90.6 - Status of HPMS Material

We clarify that, for purposes of MMP materials, there is no “deeming” of materials requiring either a dual review by CMS and the state or a one-sided state review, and materials remain in a “pending” status until the state and CMS reviewer dispositions match. Materials that require a CMS-only review deem after the respective 10- or 45-day review period. MMPs may obtain more information about the specific review parameters and timeframes for marketing materials under the Massachusetts capitated financial alignment model demonstration in the Marketing Code Lookup functionality in the HPMS marketing module. In addition, we note that the “non-marketing” status is not available for JRP marketing codes in HPMS for CY 2020. All other guidance in this section of the MCMG applies.

⁴ “Contract Year 2019 Policy and Technical Changes to the Medicare Advantage, Medicare Cost Plan, Medicare Fee-for-Service, the Medicare Prescription Drug Benefit Programs, and the PACE program,” which may be found in the Federal Register published April 16, 2018 (see <https://www.federalregister.gov/documents/2018/04/16/2018-07179/medicare-program-contract-year-2019-policy-and-technical-changes-to-the-medicare-advantage-medicare>).

Section 90.8 - File & Use Process

We clarify that the File & Use certification process for MMPs is included in the three-way contract. All other guidance in section 90.8 of the MCMG applies.

Section 100 - Required Materials

We clarify that CMS will continue to consider all CY 2020 MMP materials to be marketing materials as defined prior to the implementation of CMS-4182-F.⁵ As a result, all marketing materials must be submitted in HPMS. In addition, all large print written materials for individuals with visual impairments shall be in a font size no smaller than 18 point. The remainder of section 100 of the MCMG applies to MMPs.

Section 100.4 - List of Required Materials

This section is replaced with the following revised guidance:

Section 100.4 - List of Required Materials

42 CFR Parts 417, 422, 423, 438

Model Materials

We note that materials MMPs create should take into account the reading level requirements established in the three-way contract. Available model materials reflect acceptable reading levels. Current Part D models are acceptable for use as currently provided, and MMPs must add required disclaimers in Appendix 2 of this guidance, as appropriate. Adding required MMP disclaimers to Part D models does not render the documents non-model when submitted for review or accepted as File & Use materials.

We refer MMPs to the following available model materials:

- MMP-specific model materials tailored to MMPs in Massachusetts, including an Annual Notice of Change (ANOC), Summary of Benefits (SB), Evidence of Coverage (EOC) (Member Handbook), comprehensive integrated Formulary (List of Covered Drugs), Provider and Pharmacy Directory, single Member ID Card, welcome letters, Integrated Denial Notice, and notices of appeals decisions: <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Office/FinancialAlignmentInitiative/MMPInformationandGuidance/MMPMarketingInformationandResources.html>.
- Required Part D materials, including the Part D Explanation of Benefits, Excluded Provider Letter, Prescription Transfer Letter, and Transition Letter: <http://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/Part-D-Model-Marketing-Materials.html>.

⁵ “Contract Year 2019 Policy and Technical Changes to the Medicare Advantage, Medicare Cost Plan, Medicare Fee-for-Service, the Medicare Prescription Drug Benefit Programs, and the PACE program,” which may be found in the Federal Register published April 16, 2018 (see <https://www.federalregister.gov/documents/2018/04/16/2018-07179/medicare-program-contract-year-2019-policy-and-technical-changes-to-the-medicare-advantage-medicare>).

- Part D appeals and grievances models and notices (including those in the Parts C & D Enrollee Grievances, Organization/Coverage Determinations and Appeals Guidance): <https://www.cms.gov/Medicare/Appeals-and-Grievances/MedPrescriptDrugApplGriev/index.html>, <https://www.cms.gov/Medicare/Appeals-and-Grievances/MedPrescriptDrugApplGriev/PlanNoticesAndDocuments.html>, and <https://www.cms.gov/Medicare/Appeals-and-Grievances/MedPrescriptDrugApplGriev/Forms.html>.
- Part C appeals and grievances models and notices (including those in the Parts C & D Enrollee Grievances, Organization/Coverage Determinations and Appeals Guidance): <http://www.cms.gov/Medicare/Appeals-and-Grievances/MMCAG/Guidance.html> and <https://www.cms.gov/Medicare/Appeals-and-Grievances/MMCAG/Notices-and-Forms.html>.
- MMP-specific ANOC/EOC (Member Handbook) errata model: <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/MMPInformationandGuidance/MMPMarketingInformationandResources.html>.

Required Materials and Instructions for MMPs

Below is a list of required materials for Massachusetts MMPs. In addition, we provide high-level information for each material. Guidance (as noted) should be reviewed as applicable. Additionally, MMPs should consult the HPMS Marketing Code Lookup functionality for specific codes and instructions for uploading required materials.

MMPs may enclose additional benefit/plan operation materials with required materials, unless specifically prohibited in instructions or prohibited as noted below for each material. Additional materials must be distinct from required materials and must be related to the plan in which the beneficiary enrolled.

Annual Notice of Changes (ANOC)	
<i>To Whom Required:</i>	<ul style="list-style-type: none"> • Must be provided to current enrollees of plan, including those with October 1, November 1, and December 1 effective dates.
<i>Timing:</i>	<ul style="list-style-type: none"> • MMPs must send for enrollee receipt no later than September 30 of each year. (Note: ANOC must be posted on MMP website by October 15.) • Enrollees with October 1, November 1, and December 1 enrollment effective dates must receive the ANOC for the upcoming year by one (1) month after the effective date of enrollment but not later than December 15.
<i>Method of Delivery:</i>	Hard copy, or electronically, if enrollee has opted into receiving electronic version as permitted in section 100.2.2 of the MCMG.

Annual Notice of Changes (ANOC)	
<i>HPMS Timing and Submission:</i>	<ul style="list-style-type: none"> • Code 15009. • Must be submitted prior to mailing ANOCs.
<i>Format Specification:</i>	<ul style="list-style-type: none"> • MA MMP model required for current Contract Year. • Standardized model; a non-model document is not permitted.
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> • Actual Mail Dates (AMDs) and number of recipients (not the number of ANOCs mailed) must be entered into HPMS within 15 days of mailing. This includes mail dates for alternate materials. MMPs that mail in waves should enter the AMD for each wave. MMPs may enter up to ten (10) waves of mailings. For instructions on meeting this requirement, refer to the <i>Update AMD/Beneficiary Link/Function</i> section of the Marketing Review Users Guide in HPMS. • Note: For a single mailing to multiple recipients, as allowed under section 100.1 of the MCMG, MMPs should enter an AMD that reflects the number of recipients, not the number of ANOC/EOCs (Member Handbooks) mailed. • Plans may include the following with the ANOC: <ul style="list-style-type: none"> ○ Summary of Benefits ○ Provider and Pharmacy Directory ○ EOC (Member Handbook) ○ Formulary (List of Covered Drugs) ○ Notification of Electronic Documents ○ No additional plan communications unless otherwise directed.
<i>Translation Required:</i>	Yes.

ANOC and EOC (Member Handbook) Errata	
<i>To Whom Required:</i>	Must be provided when plan errors are found in the ANOC or EOC (Member Handbook) and sent to current enrollees.
<i>Timing:</i>	Must send to enrollees immediately following CMS approval.
<i>Method of Delivery:</i>	Hard copy, or electronically, if enrollee has opted into receiving electronic version as permitted in section 100.2.2 of the MCMG.
<i>HPMS Timing and Submission:</i>	<ul style="list-style-type: none"> • Code 15006 for ANOC Errata. • Code 15060 for EOC (Member Handbook) Errata. • ANOC errata must be submitted by October 15. • EOC (Member Handbook) errata must be submitted by November 15.
<i>Format Specification:</i>	Standardized model; a non-model document is not permitted.

ANOC and EOC (Member Handbook) Errata	
<i>Guidance and Other Needed Information:</i>	<p>MMPs must use an errata notice to notify enrollees of plan errors in their original documents. We clarify that errata notices should only be used to notify enrollees of plan errors in plan materials.</p> <p>Note: Any mid-year changes, including but not limited to mid-year legislative benefit additions or removals and changes in enrollment policies, should be communicated to current enrollees consistent with the “Mid-Year Change Notification” guidance in this section. The HPMS errata submission process should not be used for mid-year changes to materials that are not due to plan error. Instead plans should use the HPMS marketing module replacement function for these changes.</p>
<i>Translation Required:</i>	Yes.

Coverage/Organization Determination, Discharge, Appeals and Grievance Notices	
<i>To Whom Required:</i>	<ul style="list-style-type: none"> • Must be provided to enrollees who have requested an appeal or have had an appeal requested on their behalf. • Grievances may be responded to electronically, orally, or in writing.
<i>Timing:</i>	Provided to enrollees (generally by mail) on an ad hoc basis, based on required timeframes in three-way contract.
<i>Method of Delivery:</i>	Hard copy, or electronically, if enrollee has opted into receiving electronic version as permitted in section 100.2.2 of the MCMG.
<i>HPMS Timing and Submission:</i>	<ul style="list-style-type: none"> • Code 15022 for MA MMP state-specific appeals notices. • Various codes for other CMS required notices. Refer to HPMS Marketing Code Lookup functionality for MA MMP codes.
<i>Format Specification:</i>	<ul style="list-style-type: none"> • MA MMP models - standardized model; a non-model document is not permitted. • Other CMS models - modifications permitted.
<i>Guidance and Other Needed Information:</i>	Three-way contract, Parts C & D Enrollee Grievances, Organization/Coverage Determinations, and Appeals Guidance.
<i>Translation Required:</i>	Yes.

Evidence of Coverage (EOC) / Member Handbook	
<i>To Whom Required:</i>	Must be provided to all enrollees of plan.
<i>Timing:</i>	<ul style="list-style-type: none"> • Must send to current enrollees of plan for receipt by October 15 of each year. Must be posted on plan website by October 15 of each year. • Must send to enrollees who opt in to the MMP for receipt no later than ten (10) calendar days from receipt of CMS confirmation of enrollment or by last day of the month prior to the effective date, whichever is later. • Must send to enrollees who are passively enrolled for receipt by the end of the month preceding the month the enrollment will take effect (e.g., must be received by a beneficiary by March 31 for an April 1 effective enrollment date). • New enrollees with an effective date of October 1, November 1, or December 1 should receive both an EOC (Member Handbook) for the current contract year, as well as an EOC (Member Handbook) document for the upcoming contract year. We clarify that, for these members, the ANOC may be included in the EOC (Member Handbook) or provided separately, as well as the Formulary (List of Covered Drugs) (or a distinct and separate notice alerting enrollees how to access or receive the formulary), and the Provider and Pharmacy Directory (or a distinct and separate notice alerting enrollees how to access or receive the directory) for the upcoming year, must be received by one (1) month after the effective date of enrollment, but not later than December 15.
<i>Method of Delivery:</i>	Hard copy EOC (Member Handbook) or via Notification of Electronic Documents (consistent with section 100.2.1 of the MCMG); or electronically, if enrollee has opted into receiving electronic version as permitted in section 100.2.2 of the MCMG.
<i>HPMS Timing and Submission:</i>	<ul style="list-style-type: none"> • Code 15008. • Submitted prior to October 15 of each year.
<i>Format Specification:</i>	<ul style="list-style-type: none"> • MA MMP model required for current Contract Year. • Standardized model; a non-model document is not permitted.
<i>Guidance and Other Needed Information:</i>	No additional information.
<i>Translation Required:</i>	Yes.

Excluded Provider Letter	
<i>To Whom Required:</i>	Provided to enrollees when a sponsor has excluded a prescriber or pharmacy participating in the Medicare program based on an Office of Inspector General (OIG) exclusion.
<i>Timing:</i>	Provided to enrollees on an ad hoc basis.
<i>Method of Delivery:</i>	Hard copy, or electronically, if enrollee has opted into receiving electronic version as permitted in section 100.2.2 of the MCMG.
<i>HPMS Timing and Submission:</i>	Code 15037.
<i>Format Specification:</i>	Model provided; modifications permitted.
<i>Guidance and Other Needed Information:</i>	https://oig.hhs.gov/fraud/exclusions.asp .
<i>Translation Required:</i>	Yes.

Explanation of Benefits (EOB) – Part D	
<i>To Whom Required:</i>	Must be provided anytime an enrollee utilizes their prescription drug benefit.
<i>Timing:</i>	Sent at the end of the month following the month when the benefit was utilized.
<i>Method of Delivery:</i>	Hard copy, or electronically, if enrollee has opted into receiving electronic version as permitted in section 100.2.2 of the MCMG.
<i>HPMS Timing and Submission:</i>	Code 15036.
<i>Format Specification:</i>	Part D EOB model - modifications permitted.
<i>Guidance and Other Needed Information:</i>	Three-way contract and Medicare Prescription Drug Benefit Manual, Chapters 5 and 6, and HPMS code usage instructions.
<i>Translation Required:</i>	Yes.

Formulary (List of Covered Drugs)	
<i>To Whom Required:</i>	Must be provided to all enrollees of plan.
<i>Timing:</i>	<ul style="list-style-type: none"> • Must be sent to current enrollees of plan for receipt by October 15 of each year. Must be posted on plan website by October 15 of each year. • Must send to enrollees who opt in to the MMP for receipt no later than ten (10) calendar days from receipt of CMS confirmation of enrollment or by last day of the month prior to the effective date, whichever is later. • Must send to enrollees who are passively enrolled for receipt no later than 30 calendar days prior to enrollment.
<i>Method of Delivery:</i>	Hard copy, or via Notification of Electronic Documents (consistent with section 100.2.1 of the MCMG); or electronically, if enrollee has opted into receiving electronic version as permitted in section 100.2.2 of the MCMG.
<i>HPMS Timing and Submission:</i>	Code 15003.
<i>Format Specification:</i>	Standardized model; a non-model document is not permitted.
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> • MMPs must make available a comprehensive integrated Formulary (List of Covered Drugs) that includes Medicare and Medicaid outpatient prescription drugs and pharmacy products provided under the plan. • OTC items and/or supplemental benefits that are in excess of Medicaid requirements may not be included in this document. • MMPs are only permitted to make available a comprehensive, not abridged, Formulary (List of Covered Drugs).
<i>Translation Required:</i>	Yes.

Integrated Denial Notice	
<i>To Whom Required:</i>	Any enrollee with an adverse benefit determination.
<i>Timing:</i>	Provided to enrollees (generally by mail) on an ad hoc basis, at least ten (10) days in advance of any adverse benefit determination.
<i>Method of Delivery:</i>	Hard copy, or electronically, if enrollee has opted into receiving electronic version as permitted in section 100.2.2 of the MCMG.
<i>HPMS Timing and Submission:</i>	Code 15021.
<i>Format Specification:</i>	<ul style="list-style-type: none"> • MA MMP model required for current Contract Year. • Standardized model; a non-model document is not permitted.
<i>Guidance and Other Needed Information:</i>	Three-way contract.
<i>Translation Required:</i>	Yes.

Member ID Card	
<i>To Whom Required:</i>	Must be provided to all plan enrollees.
<i>Timing:</i>	<ul style="list-style-type: none"> • Must send to enrollees who opt in to the MMP for receipt no later than ten (10) calendar days from receipt of CMS confirmation of enrollment or by last day of the month prior to the effective date, whichever is later. • Must send to enrollees who are passively enrolled for receipt by the end of the month preceding the month the enrollment will take effect (e.g., must be received by a beneficiary by March 31 for an April 1 effective enrollment date). • Must also be provided to all enrollees if information on existing card changes.
<i>Method of Delivery:</i>	Must be provided in hard copy. In addition to the hard copy, plans may also provide a digital version (e.g., app).
<i>HPMS Timing and Submission:</i>	Code 15011.
<i>Format Specification:</i>	Standardized model; a non-model document is not permitted.
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> • MMPs must issue a single Member ID Card meeting these requirements for all services offered under the plan. Separate pharmacy and health benefits Member ID cards are not permitted.
<i>Translation Required:</i>	No.

Mid-Year Change Notification to Enrollees	
<i>To Whom Required:</i>	Must be provided to all applicable enrollees when there is a mid-year change in benefits, plan rules, formulary, provider network, or pharmacy network.
<i>Timing:</i>	Ad hoc, based on specific requirements for each issue.
<i>Method of Delivery:</i>	Hard copy, or electronically, if enrollee has opted into receiving electronic version as permitted in section 100.2.2 of the MCMG. If the mid-year change affects a document that the MMP has not sent to the member in hard copy (e.g., the EOC (Member Handbook)), the MMP is not required to send a hard copy mid-year change notification.
<i>HPMS Timing and Submission:</i>	Various codes. Refer to HPMS Marketing Code Lookup functionality for MA MMP codes.
<i>Format Specification:</i>	Model not available; must include required content.

Mid-Year Change Notification to Enrollees	
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> • Information about non-renewals or service area reductions may not be released to the public, including current enrollees, until model notice is received from CMS. • MMPs may elect to share Non-Renewal and Service Area Reduction (NR/SAR) information only with first tier, downstream, and related entities (FDRs) or anyone that the MAO does business with (i.e., contracted providers). • Additional NR/SAR notice information can be found in the annual “Non-Renewal and Service Area Reduction Guidance and Enrollee Notification Models” HPMS memo. • If a non-model document is created, the document must contain all the elements in the model.
<i>Translation Required:</i>	Yes.

Non-Renewal and Termination Notices	
<i>To Whom Required:</i>	Must be provided to each affected enrollee after MMP decides to non-renew or reduce its plan’s service area or before the termination effective date.
<i>Timing:</i>	At least 90 days before the end of the current contract period.
<i>Method of Delivery:</i>	Notices must be hard copy and sent via U.S. mail. First class postage is recommended.
<i>HPMS Timing and Submission:</i>	Code 15012 for both notices.
<i>Format Specification:</i>	MA MMP model required for current contract year. Modifications permitted per instructions.
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> • Information about non-renewals or service area reductions may not be released to the public, including current enrollees, until notice is received from CMS and the state. • MMPs may elect to share Non-Renewal and Service Area Reduction (NR/SAR) information only with first tier, downstream, and related entities (FDRs) or anyone that the MMP does business with (i.e., contracted providers). • Additional NR/SAR notice information can be found in the annual “Non-Renewal and Service Area Reduction Guidance and Enrollee Notification Models” HPMS memo. • For terminations, relevant notice requirements are provided in 42 CFR 422.506, 422.508, and 422.512.
<i>Translation Required:</i>	Yes.

Part D Transition Letter	
<i>To Whom Required:</i>	Must be provided when a beneficiary receives a transition fill for a non-formulary drug.
<i>Timing:</i>	Must be sent within three (3) days of adjudication of temporary transition fill.
<i>Method of Delivery:</i>	Hard copy.
<i>HPMS Timing and Submission:</i>	Code 15061.
<i>Format Specification:</i>	Model provided; modifications permitted.
<i>Guidance and Other Needed Information:</i>	Medicare Prescription Drug Benefit Manual, Chapter 6, Section 30.4.10.
<i>Translation Required:</i>	Yes.

Prescription Transfer Letter	
<i>To Whom Required:</i>	When a Part D sponsor requests permission from an enrollee to fill a prescription at a different network pharmacy than the one currently being used by enrollee.
<i>Timing:</i>	Ad hoc.
<i>Method of Delivery:</i>	Hard copy.
<i>HPMS Timing and Submission:</i>	Code 15038.
<i>Format Specification:</i>	Part D model provided; modifications permitted.
<i>Guidance and Other Needed Information:</i>	The model notice should only be used when the transfer of the prescription is not initiated by the beneficiary (or someone on his or her behalf).
<i>Translation Required:</i>	Yes.

Provider and Pharmacy Directory	
<i>To Whom Required:</i>	Must be provided to all current enrollees of the plan.
<i>Timing:</i>	<ul style="list-style-type: none"> • Must be sent to current enrollees of plan for receipt by October 15 of each year. Must be posted to plan website by October 15 of each year. • Must send to enrollees who opt in to the MMP for receipt no later than ten (10) calendar days from receipt of CMS confirmation of enrollment or by last day of the month prior to the effective date, whichever is later. • Must send to enrollees who are passively enrolled for receipt no later than 30 calendar days prior to enrollment. • Must be provided to current enrollees upon request, within three (3) business days of the request.

Provider and Pharmacy Directory	
	<ul style="list-style-type: none"> Must update directory information any time they become aware of changes. All updates to the online provider and pharmacy directories are expected to be completed within 30 days of receiving information. Updates to hard copy provider and pharmacy directories must be completed within 30 days; however, hard copy directories that include separate updates via addenda are considered up-to-date.
<i>Method of Delivery:</i>	Hard copy or via Notification of Electronic Documents (consistent with section 100.2.1 of the MCMG); or electronically, if enrollee has opted into receiving electronic version as permitted in section 100.2.2 of the MCMG.
<i>HPMS Timing and Submission:</i>	Code 15004.
<i>Format Specification:</i>	<ul style="list-style-type: none"> MA MMP model required for current Contract Year. Standardized model; a non-model document is not permitted.
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> MMPs are required to make available a single combined Provider and Pharmacy Directory. Separate pharmacy and provider directories are not permitted. MMPs may print separate directories for primary care physicians (PCPs) and specialists provided both directories are made available to enrollees at the time of enrollment. The single combined Provider and Pharmacy Directory must include all network providers and pharmacies, regardless of whether they provide Medicare, Medicaid, or additional benefits. For MMPs with multi-county service areas, the combined Provider and Pharmacy Directory may be provided for all providers by county, provided the directory includes a disclaimer that the directory only includes providers in that particular county (or counties), that a complete directory is available on the plan's website, and that the enrollee may contact the plan's customer service call center to request assistance with locating providers in other counties or to request a complete hard copy Provider and Pharmacy Directory. Massachusetts MMPs must submit directory updates and/or addenda pages in HPMS, and these documents are reviewed consistent with the parameters for the Massachusetts MMP Provider and Pharmacy Directory marketing code. As applicable, refer to the language and guidelines issued in the August 16, 2018, HPMS memo, "Pharmacy Directories and Disclaimers" for the pharmacy portion of the combined directory.
<i>Translation Required:</i>	<ul style="list-style-type: none"> Yes.

Scope of Appointment	
<i>To Whom Required:</i>	Must be documented for all marketing activities, in-person, telephonically, including walk-ins to MMP or agent offices.
<i>Timing:</i>	Prior to the appointment.
<i>Method of Delivery:</i>	Beneficiary signed hard copy, telephonic recording, or electronically signed.
<i>HPMS Timing and Submission:</i>	Code 15048.
<i>Format Specification:</i>	No model required, must include required content.
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> • The following requirements must be on the scope of appointment (SOA) form or on the recorded call: <ul style="list-style-type: none"> ○ Product types to be discussed ○ Date of appointment ○ Beneficiary and agent contact information ○ Statement stating there is no obligation to enroll, current or future Medicare enrollment status will not be impacted, and automatic enrollment will not occur. • A new SOA is required if, during an appointment, the beneficiary requests information regarding a different plan type than previously agreed upon.
<i>Translation Required:</i>	Yes.

Summary of Benefits	
<i>To Whom Required:</i>	Enrollees who are passively enrolled. Optional with the ANOC and as requested for other enrollees.
<i>Timing:</i>	<ul style="list-style-type: none"> • Must send to enrollees who are passively enrolled for receipt no later than 30 calendar days prior to enrollment. • Must be available by October 15 of each year, but can be released as early as October 1 of each year. Must be posted on plan website by October 15 of each year.
<i>Method of Delivery:</i>	Hard copy.
<i>HPMS Timing and Submission:</i>	Code 15001. Submitted prior to October 15 of each year.
<i>Format Specification:</i>	<ul style="list-style-type: none"> • MA MMP model required for current Contract Year. • Standardized model; a non-model document is not permitted.
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> • The SB must contain a concise description of the important aspects of enrolling in the plan, as well as the benefits offered under the plan, including applicable copays, applicable conditions and limitations, and any other conditions associated with receipt or use of benefits. • Appendix 5 of the MCMG, Summary of Benefit Instructions, does not apply.

Summary of Benefits	
<i>Translation Required:</i>	Yes.

Welcome Letter	
<i>To Whom Required:</i>	Must be provided to all new enrollees of MMP.
<i>Timing:</i>	<ul style="list-style-type: none"> • Must send to enrollees who opt in to the MMP for receipt no later than ten (10) calendar days from receipt of CMS confirmation of enrollment or by last day of the month prior to the effective date, whichever is later. • Must send to enrollees who are passively enrolled for receipt no later than 30 calendar days prior to enrollment.
<i>Method of Delivery:</i>	Hard copy.
<i>HPMS Timing and Submission:</i>	Code 15053.
<i>Format Specification:</i>	MA MMP model required for Contract Year.
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> • Must contain 4Rx information consistent with the model. • National Enrollment/Disenrollment Guidance for States & MMPs section 30.5.1.
<i>Translation Required:</i>	Yes.

Required Materials for New MMP Enrollees

The following table summarizes the required materials, and timing of receipt, for new MMP enrollees.

Table 1. Required Materials for New Members

Enrollment Mechanism	Required Materials for New Members	Timing of Beneficiary Receipt
Passive enrollment	<ul style="list-style-type: none"> • Welcome letter • Formulary (List of Covered Drugs) (or a distinct and separate notice alerting enrollees how to access or receive the formulary) • Provider and Pharmacy Directory (or a distinct and separate notice alerting enrollees how to access or receive the directory) • SB 	30 calendar days prior to the effective date of enrollment

Enrollment Mechanism	Required Materials for New Members	Timing of Beneficiary Receipt
Passive enrollment	<ul style="list-style-type: none"> • Member ID Card • EOC (Member Handbook) (or a distinct and separate notice alerting enrollees how to access or receive the EOC) 	No later than the day prior to the effective date of enrollment
Opt-in enrollment (with enrollment confirmation received more than ten (10) calendar days before the end of the month) ⁶	<ul style="list-style-type: none"> • Welcome letter • Formulary (List of Covered Drugs) (or a distinct and separate notice alerting enrollees how to access or receive the formulary) • Provider and Pharmacy Directory (or a distinct and separate notice alerting enrollees how to access or receive the directory) • Member ID Card • EOC (Member Handbook) (or a distinct and separate notice alerting enrollees how to access or receive the EOC) 	No later than the last day of the month prior to the effective date
Opt-in enrollment (with enrollment confirmation received less than ten (10) calendar days before the end of the month) ⁶	<ul style="list-style-type: none"> • Welcome letter • Formulary (List of Covered Drugs) (or a distinct and separate notice alerting enrollees how to access or receive the formulary) • Provider and Pharmacy Directory (or separate notice alerting enrollees how to access or receive the directory) • Member ID Card • EOC (Member Handbook) (or a distinct and separate notice alerting enrollees how to access or receive the EOC) 	No later than ten (10) calendar days from receipt of the CMS confirmation of enrollment

Section 110 - Agent/Broker Activities, Oversight, and Compensation Requirements

The provisions in this section of the MCMG and all its subsections applicable to independent agents/brokers do not apply to MMPs since the use of independent agents/brokers is not permitted. All MMP enrollments are processed by MassHealth's customer service vendor. We clarify that CMS does not regulate compensation of employed agents.

⁶ We clarify that this group of enrollees who opt in includes individuals who are eligible for passive enrollment but select a different MMP or initiate an earlier enrollment date than their passive enrollment effective date. MMPs should refer to the date of the Daily Transaction Reply Report (DTRR) that has the notification to identify the start of the ten (10) calendar-day timeframe.

We also clarify that MMP staff conducting marketing activity of any kind – as defined in section 20 of this guidance – must be licensed in the state (and, when required, appointed) as an insurance broker/agent.

Appendix 2 - Disclaimers

The disclaimer language in the table below replaces the language in Appendix 2 of the MCMG.

Table 2. State-specific MMP Disclaimers

Note: Disclaimers are not required on the following material types: ID cards, call scripts, banners and banner-like ads, envelopes, outdoor advertising, text messages, and social media.

Disclaimer	Required MMP Disclaimer Language	MMP Disclaimer Instructions
Federal Contracting	<Plan’s legal or marketing name> is a health plan that contracts with both Medicare and MassHealth (Medicaid) to provide benefits of both programs to enrollees.	Required on materials except those specifically excluded above.
Benefits – “This is not a complete list...”	This is not a complete list. The benefit information is a brief summary, not a complete description of benefits. For more information contact the plan or read the <plan name> Member Handbook.	Required on the SB and all materials with ten (10) or more benefits except the Member Handbook (EOC).
Availability of Non-English Translations	ATTENTION: If you speak <language of disclaimer>, language assistance services, free of charge, are available to you. Call <Member Services toll-free phone and TTY numbers, and days and hours of operation>. The call is free.	Required in applicable non-English models on those model materials in section 100.4 for which the last row of the table indicates “ <i>Translation required: Yes.</i> ”.
Non-plan and Non-health information	Neither Medicare nor MassHealth (Medicaid) has reviewed or endorsed this information.	Required on non-plan and non-health related information once prior authorization from the enrollee is granted to receive materials.

Disclaimer	Required MMP Disclaimer Language	MMP Disclaimer Instructions
Unsolicited Marketing Materials	“For information on <Plan name> and other options for your health care, call the MassHealth Customer Service Center at 1-800-841-2900, Monday through Friday, 8 a.m. - 5 p.m., (TTY: 1-800-497-4648), or visit http://www.mass.gov/eohhs/consumer/insurance/one-care/ .”	Required when conducting permitted unsolicited marketing activities such as conventional mail and other print media.

Note: For model materials, MMPS must continue to include disclaimers where they currently appear. For non-model materials, MMPs may include disclaimers as footnotes or incorporate them into the body of the material.

Appendix 3 - Pre-Enrollment Checklist

This appendix does not apply to MMPs since all enrollments are submitted by MassHealth’s customer service vendor.

Appendix 7 - Use of Medicare Mark for Part D Sponsors

We clarify that MMPs have been required to sign a licensing agreement to use the official Medicare Mark as part of the three-way contract rather than through the HPMS contracting module. All other guidance in Appendix 7 of the MCMG applies.