Final Contract Year (CY) 2019 Marketing Guidance for Minnesota Senior Health Options (MSHO) Plans

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Introduction

All Medicare Advantage-Prescription Drug (MA-PD) and Special Needs Plan (SNP) 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, apply to Minnesota Senior Health Options (MSHO) Dual Eligible Special Needs Plans (SNPs) participating in the Minnesota Demonstration to Align Administrative Functions for Improvements in Beneficiary Experience.

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

Compliance with Section 1557 of the Affordable Care Act of 2010

MSHO plans are subject to the disclosure requirements under Section 1557 of the Affordable Care Act. For more information, MSHO Plans should refer to https://www.hhs.gov/civil-rights/for-individuals/section-1557/. We clarify that MSHO Plans will continue meeting the requirements related to non-English language taglines required under Section 1557 by using the State-provided document known as the Language Block. The Language Block will include at least the top 15 languages spoken by individuals with LEP in Minnesota, as determined by the State.

Formulary and Formulary Change Notice Requirements

MSHO Plans 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 more information about the formulary appears in section 100.4 of this guidance, and MSHO Plans 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.

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

Following are the MSHO Plan-specific modifications to the MCMG for CY 2019.

Section 20 - Communications and Marketing Definitions

MSHO Plans are subject to marketing and beneficiary communications applicable to Medicare Advantage plans in 42 CFR 422 and 423, as well as those applicable to Medicaid managed care organizations in 42 CFR 438. CMS has developed a joint review process for MSHO beneficiary materials under the Minnesota Demonstration to Align Administrative Functions for Improvements in Beneficiary Experience that combines State and CMS review requirements and parameters. Given these differences, CMS will continue to consider all CY 2019 MSHO materials to be marketing materials as defined prior to the implementation of CMS-4182-F.[1] As a result, this section of the MCMG and its subsections do not apply to MSHO Plans. 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 will apply.

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 MSHO plan marketing material review.

Section 90.1 - Material Identification

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

> The material ID is made up of two parts: (1) MSHO Plan contract number, (i.e., H number) followed by an underscore and (2) any series of alphanumeric characters chosen at the discretion of the MSHO Plan. 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). Please note that MSHO Plans should include an approved status only after the material is approved and not when submitting the material for review.

The remainder of section 90.1 of the MCMG applies to MSHO Plans, 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 joint review process for MSHO Plan beneficiary materials under the Minnesota Demonstration to Align Administrative Functions for Improvements in Beneficiary Experience that combines State and CMS review requirements and parameters. Given these differences, CMS will continue to consider all CY 2019 MSHO Plan materials to be marketing materials as defined prior to the implementation of CMS-4182-F.[1]

[1] "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 90.4 - Submission of Websites and Webpages for Review

MSHO Plans must submit in HPMS all required website content listed in section 70 of the MCMG for review in HPMS under the Internet Website marketing material code for Minnesota for prospective State-only review. MSHO Plans should submit their websites via links on a document. State reviewers should be able to review the information as it will be displayed on the website. The link may provide access to a live website or a test website, provided that the test site displays information as it will appear to the beneficiary/consumer. Submitting screen shots or text on a document is not acceptable. If the option to view online is not feasible, the MSHO Plan should contact their marketing reviewers prior to submission to receive permission to submit information in a manner other than a live link.

Once an MSHO Plan's website is reviewed and approved in its entirety, the MSHO Plan may update specific pages of the same website by submitting only the pages to be changed via links on a document in HPMS. Any updates to pages should be submitted with their own unique material ID and date stamped accordingly. MSHO Plans must resubmit webpages for review when changes are made to plan benefits, premiums, or cost sharing.

MSHO Plans may make the website available for public use during the State review period; however, MSHO Plans must indicate that the website is pending review until the State has either approved or disapproved the website. If the website or portions of the website are disapproved, MSHO Plans must submit the revision to HPMS within 20 days.

MSHO Plans are not required to resubmit materials that have received prior approval for posting on their website. Any documents that require submission to HPMS should not be posted on the website until they are approved by the State.

See section 70 of the MCMG for required website content.

Section 90.6 - Status of HPMS Material

We clarify that, for purposes of MSHO Plan 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. MSHO Plans may obtain more information about the specific review parameters and timeframes for marketing materials under the Minnesota demonstration in the Marketing Code Look-up functionality in the HPMS marketing module.

We also note that the "non-marketing" status is not available for joint review process (JRP) marketing codes in HPMS for CY 2019. All other guidance in this section of the MCMG applies.

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 417, 422, 423, 438

Model Materials

The State uses a collaborative MSHO Plan Member Materials Workgroup for development of model materials for MSHO Plans under the demonstration, based on the integrated model materials developed for Medicare-Medicaid Plans participating in the CMS capitated financial alignment model demonstrations. MSHO Plan-specific model materials, including a Summary of Benefits (SB), Annual Notice of Changes (ANOC), Evidence of Coverage (Member Handbook), Low Income Subsidy (LIS) Rider, comprehensive integrated formulary (List of Covered Drugs), combined Provider and Pharmacy Directory, and integrated enrollment form are updated annually and made available at: https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/MMPInformationandGuidance/MMPMarketingInformationandResources.html.

MSHO Plans must add required disclaimers in Appendix 2 of this guidance, as appropriate. Adding required MSHO Plan disclaimers to Part D models does not render the documents non-model when submitted for review or accepted as File & Use materials. In addition, CMS and Minnesota have streamlined anti-discrimination language between Medicare and State Medicaid requirements for inclusion in model marketing materials. All other required Part C and Part D model materials are unchanged under the Minnesota demonstration.

Required Marketing Model Materials and Instructions for MSHO Plans

The tables on the following pages contain required marketing model materials for MSHO Plans that CMS and the State developed as part of the Minnesota Demonstration to Align Administrative Functions for Improvements in Beneficiary Experience. In addition, we provide high-level information in the tables for each model material. Guidance (as noted) should be reviewed as applicable.

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

We clarify that the materials in the following bulleted list are also marketing materials, which are subject to review requirements and parameters in accordance with section 90.1.1 of this guidance. MSHO Plans should consult the HPMS Marketing Code Look-up functionality for specific codes for the materials listed and for instructions for uploading materials. We also clarify that MSHO Plans should follow guidance in section 100.4 of the MCMG with respect to all other aspects of the following materials:

- Coverage/Organization Determination, Discharge, Appeals and Grievance Notices
- Enrollment and Disenrollment Notices
- Excluded Provider Letter
- Explanation of Benefits – Part D
- Low Income Premium Subsidy
- Membership ID Cards
- Mid-Year Change Notification to Enrollees
- Non-Renewal Notices
- Outbound Enrollment Verification
- Part D Transition Letter

- Prescription Transfer Letter
- Scope of Appointment
- Star Ratings Document
- Termination Notices

Annual Notice of Changes (ANOC)	
To Whom Required:	• Must be provided to current enrollees of plan, including those with October 1, November 1, and December 1 effective dates.
Timing:	• MSHO Plans must send for enrollee receipt no later than September 30 of each year. (**Note:** ANOC must be posted on MSHO Plan websites 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.
Method of Delivery:	Hard copy, or electronically, if enrollee has opted into receiving electronic version as permitted in section 100.2.2 of the MCMG.
HPMS Timing and Submission:	• Code 17411. • Must be submitted prior to mailing ANOCs.
Format Specification:	• MSHO Plan model required for current CY. • Standardized model; a non-model document is not permitted.
Guidance and Other Needed Information:	• 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 format materials. MSHO Plans that mail in waves should enter the AMD for each wave. MSHO Plans may enter up to ten waves of mailings. For instructions on meeting this requirement, refer to the *Update AMD/Beneficiary Link/Function* 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, MSHO Plans should enter an AMD that reflects the number of recipients, not the number of ANOC/EOCs (Member Handbooks) mailed. • MSHO Plans may include the following with the ANOC: o Summary of Benefits (SB) o Provider and Pharmacy Directory o EOC (Member Handbook) o Formulary (List of Covered Drugs) o Form allowing enrollees to “opt in” to receiving their upcoming ANOC and EOC via email o LIS Rider o No additional plan communications unless otherwise directed
Translation Required (5% Threshold):	Yes.

ANOC and EOC (Member Handbook) Errata	
To Whom Required:	Must be provided when plan errors are found in the ANOC or EOC (Member Handbook) and sent to current enrollees.
Timing:	Must send to enrollees immediately following CMS approval.
Method of Delivery:	Hard copy, or electronically, if enrollee has opted into receiving electronic version as permitted in section 100.2.2 of the MCMG.
HPMS Timing and Submission:	• Code 17413 for ANOC Errata. • Code 17464 for EOC (Member Handbook) Errata. • ANOC Errata must be submitted by October 15. • EOC (Member Handbook) Errata must be submitted by November 15.
Format Specification:	Standardized model; a non-model document is not permitted.
Guidance and Other Needed Information:	MSHO Plans 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. **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.
Translation Required (5% Threshold):	Yes.

Enrollment Form/Request	
To Whom Required:	Upon request. MSHO Plans must have available a paper enrollment form in addition to any other acceptable enrollment mechanisms.
Timing:	Not applicable.
Method of Delivery:	• Paper enrollment forms may be in hard copy or electronic format (e.g., PDF file) and must be provided via email, online portal for current members, and upon request (e.g., if beneficiary does not want to enroll telephonically or electronically). • Any enrollment mechanism outlined in enrollment guidance is acceptable for an enrollment request. • MSHO Plans are not permitted to accept enrollment requests through the Online Enrollment Center (OEC).
HPMS Timing and Submission:	• Submission required by statute. • Code 17401 for hard copy form. • Code 17402 for online form.
Format Specification:	• MSHO Plan model required for current CY. • Standardized model; a non-model document is not permitted.
Guidance and Other Needed Information:	Eligibility, Enrollment, and Disenrollment – Medicare Managed Care Manual-Chapters 2 and 17D, and Medicare Prescription Drug Manual-Chapter 3.
Translation Required (5% Threshold):	Yes.

Evidence of Coverage (EOC) / Member Handbook	
To Whom Required:	Must be provided to all enrollees of plan.
Timing:	• Must send to current enrollees of plan for receipt by October 15 of each year. • New enrollees with an effective date of October 1, November 1, or December 1 should receive both an EOC (Member Handbook) for the current CY, as well as an EOC (Member Handbook) document for the upcoming CY. We clarify that, for these enrollees, 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.
Method of Delivery:	Hard copy EOC (Member Handbook) or via Electronic Notice of 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.
HPMS Timing and Submission:	• Code 17412. • Submitted prior to October 15 of each year.
Format Specification:	• MSHO Plan model required for current CY. • Standardized model; a non-model document is not permitted.
Guidance and Other Needed Information:	No additional information.
Translation Required (5% Threshold):	Yes.

Formulary (List of Covered Drugs)	
To Whom Required:	Must be provided to all enrollees of plan.
Timing:	Must be sent to current enrollees of plan for receipt by October 15 of each year.
Method of Delivery:	Hard copy or via Electronic Notice of 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.
HPMS Timing and Submission:	Code 17405.
Format Specification:	• MSHO Plan model required for current CY. • Standardized model; a non-model document is not permitted.
Guidance and Other Needed Information:	• MSHO Plans 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. • Over-the-counter (OTC) items and/or supplemental benefits that are in excess of Medicaid requirements may not be included in this document. • MSHO Plans are only permitted to make available a comprehensive, not abridged, formulary (List of Covered Drugs).
Translation Required (5% Threshold):	Yes.

Low Income Subsidy (LIS) Rider	
To Whom Required:	• Must be provided to all current enrollees who qualify for Extra Help. • Enrollees will get an LIS rider from the MSHO Plan telling them how much help they will receive in the benefit year toward their Part D premium, deductible, and copayments.
Timing:	• Must be provided at least once per year by September 30. • Must be sent to enrollees who qualify for Extra Help or have a change in LIS levels within 30 days of receiving notification from CMS.
Method of Delivery:	Hard copy.
HPMS Timing and Submission:	Code 17414.
Format Specification:	• MSHO Plan model required for current CY. • Standardized model; a non-model document is not permitted.
Guidance and Other Needed Information:	Medicare Prescription Drug Benefit Manual, Chapter 13, Section 70.2.
Translation Required (5% Threshold):	Yes.

Pre-Enrollment Checklist	
To Whom Required:	Must be provided to potential enrollees with the Summary of Benefits (SB) when the SB is accompanying an enrollment form.
Timing:	Prior to enrollment.
Method of Delivery:	In the same format the SB was provided.
HPMS Timing and Submission:	Code 17463.
Format Specification:	Model required. Modifications to disclaimer language is not permitted; however, MSHO Plans may delete bullets that do not apply to their specific plan type.
Guidance and Other Needed Information:	Must accompany the SB. Refer to Appendix 3 in this document and in the MCMG.
Translation Required (5% Threshold):	Yes.

Provider and Pharmacy Directory	
To Whom Required:	Must be provided to all current enrollees of the plan.
Timing:	• Must be sent to current enrollees of Plan for receipt by October 15 of each year. • Must be provided to current enrollees upon request, within three (3) business days of the request. • 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.
Method of Delivery:	Hard copy or via Electronic Notice of 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.
HPMS Timing and Submission:	Code 17403.
Format Specification:	• MSHO Plan model required for current CY. • Standardized model; a non-model document is not permitted.

Provider and Pharmacy Directory	
Guidance and Other Needed Information:	• MSHO Plans are required to make available a single combined Provider and Pharmacy Directory. Separate pharmacy and provider directories are not permitted. MSHO Plans 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 or Medicaid, or additional benefits. • For MSHO Plans 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. • MSHO Plans must submit directory updates and/or addenda pages in HPMS, and these documents are reviewed consistent with the parameters for the MSHO Plan Provider and Pharmacy Directory marketing code. • The language and guidelines issued in the August 16, 2016, HPMS memorandum, "Pharmacy Directories and Disclaimers," with the modifications as noted in the bullets above. • The Provider and Pharmacy Directory should continue to be submitted in HPMS, but we note that the code type for MSHO Plans remains forced File & Use. Therefore, directories will not be prospectively reviewed by CMS or State reviewers. We also clarify that updates to the directory should not be submitted in HPMS, but rather be sent directly to the State for review.
Translation Required (5% Threshold):	Yes.

Summary of Benefits (SB)	
To Whom Required:	• Must be provided to all prospective enrollees when an enrollment form is provided. • Optional with the ANOC and as requested for other enrollees.
Timing:	Must be available by October 15 of each year, but can be released as early as October 1 of each year.
Method of Delivery:	Hard copy.
HPMS Timing and Submission:	• Code 17400. • Submitted prior to October 15 of each year.
Format Specification:	• MSHO Plan model required for current CY. • Standardized model; a non-model document is not permitted.
Guidance and Other Needed Information:	• 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, 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.
Translation Required (5% Threshold):	Yes.

Appendix 2 - Disclaimers

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

Table 1. State-specific MSHO Plan Disclaimers

Disclaimer	Required MSHO Plan Disclaimer Language	MSHO Plan Disclaimer Instructions
Federal Contracting	<Plan's legal or marketing name> is a health plan that contracts with both Medicare and the Minnesota Medical Assistance (Medicaid) program to provide benefits of both programs to enrollees. Enrollment in <plan's legal or marketing name> depends on contract renewal.	Required on materials as described in the "Applicable Documents and Notes" column in Appendix 2 of the MCMG.
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 call Member Services or read the Member Handbook.	Required on the SB and all materials with 10 or more benefits except the Member Handbook (EOC).

Disclaimer	Required MSHO Plan Disclaimer Language	MSHO Plan Disclaimer Instructions
Benefits – "Limitations, [, copays,] and restrictions may apply…"	This disclaimer is no longer required to be included in MSHO Plan materials starting in CY 2019.	N/A
Benefits – "Benefits [and/or copayments] may change on January 1 of each year."	This disclaimer is no longer required to be included in MSHO Plan materials starting in CY 2019.	N/A
Availability of Non-English Translations	ATTENTION: If you speak <language of the disclaimer>, language assistance services, free of charge, are available to you. Call <plan name> at <Member/Customer> Services <information for toll-free phone and TTY/TDD numbers, and days and hours of operation>. The call is free.	Required on materials as described in the "Applicable Documents and Notes" column in Appendix 2 of the MCMG.
NCQA SNP Approval	<Plan name> has a Model of Care approved by the National Committee for Quality Assurance (NCQA) and Minnesota until <last contract year of NCQA and State approval of Model of Care> based on a review of <plan name>'s Model of Care.	Required on materials as described in the "Applicable Documents and Notes" column in Appendix 2 of the MCMG.
Plan Online Enrollment Center	This disclaimer does not apply to MSHO Plans.	N/A
Extra Help	This disclaimer is no longer required to be included in MSHO Plan materials starting in CY 2019.	N/A
Provider and Pharmacy Network and Formulary Change	This disclaimer is no longer required to be included in MSHO Plan materials starting in CY 2019.	N/A

Appendix 3 - Pre-Enrollment Checklist

MSHO Plans should follow the guidance in Appendix 3 of the MCMG with the following modifications:

- Modify the references to “Evidence of Coverage” to “Member Handbook (Evidence of Coverage).”

- Modify the references to “provider directory” and “pharmacy directory” to “Provider and Pharmacy Directory.”

MSHO Plans should submit this document as a state-only review submission in HPMS under code 17463 - (MN) Pre-Enrollment Checklist.