



CENTER FOR DRUG AND HEALTH PLAN CHOICE

TO: All Part C and D Sponsors

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SUBJECT: New Marketing Material Language Lookup Functionality in HPMS

CMS is pleased to announce the new Marketing Material Language Lookup functionality in HPMS. The module will help sponsors comply with CMS' foreign language translation requirements for marketing materials. CMS created the Material Language Lookup functionality in response to inquiries from sponsors about what language(s) they need to translate materials. Also, CMS had received complaints from beneficiaries that translated materials were not available upon request in service areas where translated materials should have been available. This memo reviews CMS' translated materials requirements and describes how to use the Material Language Lookup functionality.

Translated Materials Requirements

Pursuant to the Medicare Marketing Guidelines, "CMS requires that plan sponsors should make marketing materials available in any language that is the primary language of more than ten percent (10%) of a plan benefit package (PBP) service area."¹ As such, sponsors shall provide translated materials when more than 10% of the general population in a plan benefit package's (PBP) service area speaks a particular language. For Prescription Drug Plans (PDPs) operating in multi-state regions, if one of the states in the region meets the 10% threshold, then marketing materials need to be translated.

The Medicare Marketing Guidelines further state that "sponsors must provide a disclosure on all required explanatory marketing materials . . . indicating . . . the document is available in alternate formats or languages."² Therefore, required explanatory marketing materials must be translated if the 10% language threshold described above is met for a PBP's service area or state. The Marketing Guidelines indicate that required explanatory marketing materials include, but are not limited to:³

¹ *CMS Medicare Marketing Guidelines* (Rev. 8/7/09) at 30.7 and 90.10.

² *Id.*, at 50.5.8.

³ *Id.*, at 50.4 and 50.5.

- Summary of Benefits
- Explanation of Benefits
- Combined Annual Notice of Change/Evidence of Coverage
- Provider Directory
- Pharmacy Directory
- Member Handbook
- Detailed Plan Brochures
- Plan Websites
- Formularies
- Enrollment forms

As mentioned in the Medicare Marketing Guidelines,⁴ CMS will be monitoring whether sponsors are able to provide translated materials in the identified languages for applicable PBPs. Sponsors that fail to provide translated materials will be subject to compliance actions.

Material Language Lookup Functionality

The new Material Language Lookup functionality in HPMS provides, for every 2009 contract-PBP combination, a list of those languages CMS expects sponsors to translate materials into based upon the PBP's service area meeting the 10% language threshold or based upon at least one state in a multi-state PDP region meeting the 10% threshold.

To access the Material Language Lookup, follow this path in HPMS from the home page: Monitoring > Select PDP or MA Marketing Review > Material Language Lookup > Select a contract ID, MCG number, or MRT number. The results will show the contract ID, PBP, and language(s) for translations. If a PBP is not listed, then CMS does not expect sponsors to provide translated materials for that PBP. Employer group contracts and PBPs are not included in the Material Language Lookup.

CMS used the U.S. Census Bureau's American Community Survey (ACS) Data (available at www.census.gov) to identify which PBP service areas have populations where more than 10% speak a specific non-English language, thereby triggering the material translation requirement. CMS chose the ACS data for the Material Language Lookup because it is the most current, free source of national demographic information. Our contractor, Fu and Associates (Fu), used the 2007 ACS state and county language data obtained from the data set entitled "Language Spoken at Home and Ability to speak English." Due to the ACS survey methodology, not all counties had language information; therefore, Fu used a combination of the state data minus the available county data to determine a language percentage for counties that did not have language data.

We are aware that the ACS data has limitations. We are also aware that some sponsors have obtained very precise language data for their service areas from other sources. If your organization's data for 2009 is not consistent with the information in the Material Language Lookup, please contact Linda Gousis (see contact information at the end of this memo) to discuss your organization's findings for languages in your service area(s). Otherwise, CMS will expect

⁴ *Id.*, at 30.7

that your organization will be able to provide materials in the languages listed in the Material Language Lookup.

Periodically, as the Census Bureau releases updated ACS data, CMS will revise the information in the Material Language Lookup. We will notify sponsors when this happens.

Tips for Success

- Include a disclosure on required explanatory marketing materials that indicates the documents are available in other languages.
- Submit the *Attestation of Translated Non-English Materials or Alternate Materials*⁵ along with the non-English version of the marketing material to HPMS.
- Train customer service representatives (CSRs) that translated marketing materials are available for specific PBPs.
- Have procedures in place for CSRs to follow so that beneficiaries receive translated materials timely and in an efficient manner.

Helpful Resources

- *CMS Medicare Marketing Guidelines* (Rev. 8/7/09) which is Chapter 3 of the Medicare Manage Care Manual and Chapter 2 of the Prescription Drug Benefit Manual.
- 1/2/08 HPMS Memo re: Best Practices for Addressing the Needs of Non-English Speaking and Limited English Proficient (LEP) Beneficiaries.
- Medicare Advantage Organizations (MAOs): 42 C.F.R. § 422.111 Disclosure requirements; 42 C.F.R. § 422.112(a)(8) Access to Services; 42 C.F.R. § 422.2264(e) Guidelines for CMS Review.
- Medicare Advantage Prescription Drug Plans (MA-PDs) and PDPs: 42 C.F.R. § 423.128 Dissemination of Part D Plan Information and 42 C.F.R. § 423.2264(e) Guidelines for CMS Review.

If you have any questions about this memo, please contact Linda Gousis at linda.gousis@cms.hhs.gov or (410) 786-8616.

⁵ *Id.*, at Appendix 2.