



Marketplace Advertising and Marketing Guidelines

HOW TO USE THIS DOCUMENT

This document offers guidelines that you can use as you advertise and market to consumers for Marketplace coverage.

Best Practices for Marketing and Advertising in the Marketplace



Understand your population. Ensure that your advertising and marketing efforts are successful by focusing on the population you are trying to reach and serve. Understanding the needs, demographics, and preferences of potential new clients will enable you to create a targeted outreach effort catered directly to them.



Communicate your value, knowledge, and expertise. You offer immense value and knowledge to your potential new clients. Demonstrate your expertise by offering accurate, clear communication about the services you provide while helping consumers make informed decisions.



Accurately communicate plan information. Many consumers will qualify for free or low-cost plans through the Marketplace, but you should not guarantee these benefits to consumers. You should say that consumers “may qualify” for free or low-cost plans or that they “may qualify” for out-of-pocket cost assistance. The Marketplace will calculate and determine eligibility and savings for consumers during the application process.



Build strong client relationships. It is essential to build strong relationships with your clients. This will help you increase your client base through referrals and repeat business. Take steps to make sure that when you seek new customers, you do not neglect those you already serve. Offer friendly, high-quality customer service, and support clients who successfully enroll in Marketplace plans throughout the year.



Use various media channels. To maximize your advertising and marketing efforts and reach a wider audience, consider using a variety of channels like social and digital media, local television, and radio, print advertising, and participation in local community events.



Track and analyze your efforts. It is important to track and analyze your outreach efforts to ensure that your strategies are producing the desired results.



Do's and Dont's of Advertising and Marketing



Document receipt of consent with the consumer and keep a record of it for ten years.

Don't update or access applications without documented consent of a consumer.

Say you are a state-licensed and Marketplace-registered agent or broker who can help individuals with applying for and enrolling in Marketplace coverage.

Don't say you represent or are employed by CMS, the Marketplace, HealthCare.gov, or an issuer, or misrepresent your role with an issuer.

Provide accurate information on Marketplace plans, benefits, and savings, if applicable.

Don't mislead consumers about rewards or discounts for enrolling in Marketplace coverage.

Avoid non-exclusive leads that are sold to multiple agents and brokers.

Don't forget to get consumer consent when using lead generators.

Document that consumers have reviewed their eligibility application information and ask consumers to confirm they would like to be contacted by you as part of future marketing efforts.

Don't forget to document that consumers have reviewed their eligibility application information and don't conduct unsolicited calls or send unsolicited text messages to consumers.

Tell consumers they **may** qualify for Marketplace coverage and help them get a quote or eligibility determination from the Marketplace.

Don't guarantee free or low-cost plans to consumers.



General Reminders About Marketing and Advertising Document Consumer Consent

- You must obtain and document consent from the consumer or their authorized representative before searching for applications, helping them apply, enrolling them, or checking the status of an application. This includes situations where you may purchase (exclusive or non-exclusive) information from a lead generation company.
- **The documentation of consumer consent must at a minimum include:**
 - A description of the scope, purpose, and duration of the consent provided by the consumer or their authorized representative,
 - The date consent was given,
 - The name of the consumer or their authorized representative, and
 - The name of the agent, broker, web-broker, or agency being granted consent, as well as the process by which the consumer or their authorized representative may rescind consent.
- You must maintain documentation of consumer consent for a **minimum of 10 years** and produce the documentation upon request in response to monitoring, audit, and enforcement activities. CMS developed an optional model consent form that agents, brokers, and web-brokers may use to document consumer consent. The form can be found [here](#).

Refrain from Misleading Consumers



- You should ensure that you are not using any advertising and marketing efforts that could mislead or confuse consumers. Agents and brokers may not provide consumers with inaccurate information or omit relevant information about qualified health plans (QHPs), federal premium tax credits, or cost-sharing subsidies.
- You must not misrepresent your role to consumers. You may say you're a state-licensed, Marketplace-registered agent or broker selling Marketplace plans, but you must not imply that you represent or are employed by CMS, the Marketplace or HealthCare.gov, or are calling on behalf of these organizations.

Provide Accurate Information

- You must document that application information has been reviewed by the consumer or their authorized representative, and that the consumer or representative verified its accuracy before submitting it to the Marketplace.
- **This documentation must at a minimum include:**
 - The date the information was reviewed,
 - The name of the consumer or their authorized representative,
 - An explanation of the attestations at the end of the eligibility application, and
 - The name of the assisting agent, broker, or web-broker.
- You must maintain this documentation for a **minimum of 10 years** and produce the documentation upon request in response to monitoring, audit, and enforcement activities.



Purchasing Consumer Leads

Agents and brokers may use lead generation companies but should carefully monitor these entities' practices. **Below are some important things to keep in mind when considering working with a lead generation company:**

- ✓ Ask for the company's credentials and verify that they have appropriate insurance licenses in the states where they operate.
- ✓ Understand how the company is generating leads and which markets or segments they are targeting. Ensure that leads are timely, that the potential clients need your assistance, and that they know you will be contacting them.
- ✓ Review creative materials and online advertisements from the company to ensure it aligns with your business practices and does not mislead or confuse potential clients in any way.
- ✓ Understand how the company prices and sells the leads. When using information from lead generating companies, remember to confirm receipt of consumer consent and keep a record of this consumer consent for a minimum of 10 years. You should avoid purchasing a lead that has been sold to multiple agents or brokers.
- ✓ Determine that the company complies with the Affordable Care Act (ACA), the Health Insurance Portability and Accountability Act (HIPAA), the Telephone Consumer Protection Act (TCPA), and any other applicable federal statutes and regulations.
- ✓ Evaluate the results of the purchased leads to ensure they continue to provide valuable contacts with consumers seeking Marketplace coverage and align with your business strategy and objectives.

Other Key Points to Remember About Marketplace Compliance



- You must ensure compliance with Marketplace regulations and guidance when establishing business relationships (e.g., for purposes of lead generation). Any third parties you contract with must adhere to requirements concerning the use and disclosure of personally identifiable information (PII).
- In cases where consumers initiate a relationship by providing information through an online form via a website, social media, or marketing survey response, you must follow up with the consumer to personally confirm consent. This can take the form of an in-person conversation, phone call, text message, or email. **Simply checking a box in an online form is unlikely to provide sufficient evidence of consumer consent.** In addition, you must have the consumer verify separately that the information on their application is accurate before it is submitted to the Marketplace.