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**DATE:** June 4, 2010

**TO:** Medicare Advantage Organizations  
Medicare Advantage-Prescription Drug Organizations  
Cost-Based Contractors  
Prescription Drug Plan Sponsors  
Employer/Union-Sponsored Group Health Plans

**FROM:** Danielle R. Moon, J.D., M.P.A.  
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**SUBJECT:** Issuance of the Final Contract Year (CY) 2011 Medicare Marketing Guidelines

I am pleased to announce the release of the final CY 2011 Medicare Marketing Guidelines for Medicare Advantage organizations (MAO); Prescription Drug Plan (PDP) sponsors; section 1876 cost-based contractors; demonstration plans; and employer and union-sponsored group plans, including employer/union-only group waiver plans. The final CY 2011 Medicare Marketing Guidelines are posted at: <http://www.cms.hhs.gov/ManagedCareMarketing/> and are also being issued as Chapters 3 and 2 of the Medicare Managed Care Manual and the Prescription Drug Benefit Manual, respectively.

We released draft revised Medicare Marketing Guidelines for public comment on February 19, 2010. We received a total of 1,730 comments from 94 entities, including MAOs, PDP sponsors, consumer advocacy groups, pharmacy associations, health plan associations, and State Departments of Health on the draft revised Guidelines. We note that, for this revision, CMS focused primarily on incorporating recent policy clarifications and on streamlining operational guidance for the benefit of both plans and Regional Office marketing reviewers. We have also made minor editorial changes throughout the document and renumbered certain sections from the current Guidelines as part of our effort to streamline the requirements. After careful analysis of all comments received, we have made a number of important revisions and clarifications from draft to final, summarized below. We also note that CMS has, and will continue to, separately issue technical and procedural clarifications regarding CMS marketing models for CY 2011.

## **Summary of Significant Changes**

### **Section 20 - Definitions**

- Inclusion of new and revision of existing definitions, including "ad hoc enrollee communication materials," "educational event," "field marketing organization," "Medigap," and "section 1876 cost plans."

### **Section 30 Plan Sponsor Responsibilities**

- Clarified guidance related to use of data by Medigap issuers (section 30.4).
- Clarified guidance related to requirements for plan sponsors with non-English speaking or special needs populations (section 30.7).
- Added the Summary of Benefits as one of the required materials for the enrollment kit (section 30.9).
- Clarified the review and approval of hold time messages (section 30.12).

### **Section 40 General Marketing Requirements**

- Added guidance related to material status and date stamp for file & use materials (section 40.1).
- Clarified guidance related to customer service hours of operation requirements and added a new section on agent/broker customer service number requirements (sections 40.11 and 40.11.1).

### **Section 50 Marketing Material Types and Applicable Disclaimers**

- Significantly restructured and consolidated disclaimer requirements (section 50).
- Clarified and restructured guidance related to advertising/explanatory marketing requirements and the private-fee-for-service (PFFS) disclaimer for full and partial networks (sections 50.1 and 50.1.1).
- Clarified current plan mailing statements and added a new mailing statement for non-health, non-plan information. Added a new requirement for inclusion of the plan name or logo on every mailing to beneficiaries (section 50.2; formerly section 50.6).

### **Section 60 Specific Guidance on Required Documents**

- Clarified SNP plan sponsor requirements with respect to the comprehensive written statement in Section IV of the summary of benefits (SB) (section 60.1).
- Clarified guidance related to provider and pharmacy directory mailing requirements (sections 60.4.1, 60.4.2, and 60.4.4).
- Added a new section containing requirements for mid –year changes requiring enrollee notification (section 60.8).

### **Section 70 Rewards, Incentives, Promotional Activities Events and Outreach**

- Restructured and clarified guidance regarding rewards, incentives, and promotional activities (sections 70, 70.1, 70.1.2).
- Clarified that door hangings are considered unsolicited contacts (section 70.4).
- Revised our outbound enrollment verification (OEV) policy with respect to the applicability of OEV requirements to enrollment changes within organizations and to agents when acting as customer service representatives only, operational timeframes, and guidance on recording and retaining verification calls. More detailed information about OEV requirements in the context of enrollment processes will be made available to plan sponsors in the summer 2010 update of the MA and Part D enrollment and disenrollment guidance for CY 2011.
- Restructured and revised guidance regarding educational events and sales/marketing events to encompass relevant topics or examples from current Guidelines sections 70.7.1-70.8.3 (sections 70.7 and 70.8; formerly sections 70.8 and 70.9).
- Clarified requirements regarding provider-based activities and provider affiliation information (sections 70.8.3 and 70.8.4).

- Clarified existing guidance on dual eligible outreach programs (sections 70.10.2 and 70.10.3).

### **Section 90 Guidance on Marketing Review Process**

- Added a new section implementing new regulatory requirements with respect to ad hoc enrollee communications materials (section 90.2.2).
- Added guidance on resubmitting previously disapproved marketing pieces (section 90.3.4).
- Clarified restrictions on the manual review of File & Use eligible materials (section 90.6.3).
- Clarified and revised requirements regarding plan sponsor use of standardized model materials and non-standardized model materials (sections 90.7.2 and 90.7.3).
- Revised requirements with respect to the submission of template materials (section 90.10).
- Added a new section describing our new process for approval of identical marketing materials submitted by multiple plans sponsors (section 90.22).

### **Section 100 Special Guidance on Plan Sponsor Websites**

- Clarified that CMS will allow plan sponsors to market their products via social networking websites, but that CMS will carefully monitor use of social networking sites to inform potential future revisions to this policy (section 100.1).

### **Section 120 Guidance on Marketing and Sales Oversight and Responsibilities**

- Added new requirements with respect to plan sponsor development and implementing of an agent/broker compensation strategy (section 120.5.4).
- Added requirements regarding the prohibition on charging beneficiaries additional marketing fees for enrollment beyond the base premium (section 120.5.4.1).
- Added and clarified requirements with respect to our charge-back policies for agents and brokers (section 120.5.6).

### **Section 150 Use of Medicare Mark for Part D plans**

- Clarified that plan sponsors will submit licensing agreements to use the official Medicare Mark via the contract management module in HPMS (section 150).

### **Section 160 Use of Federal Funds**

- Added previously released policy guidance on the use of Federal (section 160).

### **Section 170 Allowable use of Medicare Beneficiary Information Obtained from CMS**

- Added previously released policy guidance on requirements for the use of Medicare beneficiary information obtained from CMS (section 170).

Thank you once more for your interest in these Guidelines; with your assistance, we believe our final Guidelines have been significantly improved in terms of their clarity and comprehensiveness. We look forward to our continued collaboration in ensuring that beneficiaries receive accurate, clear, and meaningful information about their Medicare health plan options. Plan sponsors with questions about these Guidelines should contact their CMS Account Manager.