

MEDICARE DRUG & HEALTH PLAN CONTRACT ADMINISTRATION GROUP

DATE: May 26, 2026

TO: Medicare Advantage Organizations, Prescription Drug Plan Sponsors, and Section 1876 Cost Plans

FROM: Gerard J. Mulcahy
Director

SUBJECT: Frequently Asked Questions Related to New Scope of Appointment Rules

On April 6, 2026, as a part of the Contract Year (CY) 2027 final rule, CMS finalized new rules related to the Scope of Appointment (SOA) at 42 CFR §§ 422.2264(c)(3) and 423.2264(c)(3).¹ CMS eliminated the 48-hour waiting period required between the SOA completion and a personal marketing appointment, made a few additional SOA-associated regulation changes, and clarified various SOA policies. These new SOA rules apply to Medicare Advantage organizations (MAOs), Part D sponsors, section 1876 cost plans (all three types of entities collectively referred to as “plans”), and agents, brokers, and other third parties representing plans, and are applicable for all CY 2027 marketing and communications, beginning October 1, 2026.

The purpose of this memorandum is to provide responses to frequently asked questions related to the new SOA rules finalized on April 6, 2026. Please direct any questions regarding the information included in this memorandum to marketing@cms.hhs.gov.

Q: Does the “in writing” SOA requirement for in-person personal marketing appointments mean that it must have an actual wet signature on paper?

A: Section 1851(j)(2)(A) of the Act and §§ 422.2264(c)(3)(i) and 423.2264(c)(3)(i) require that the SOA must be in writing for in-person personal marketing appointments. CMS clarifies that this does not refer to an actual wet signature on paper. The Electronic Signatures in Global and National Commerce (E-Sign) Act of 2000 established that electronic signatures and records have the same legal standing as paper-based “wet ink” documents.² Therefore, for purposes of section 1851(j)(2)(A) of the Act and §§ 422.2264(c)(3)(i) and 423.2264(c)(3)(i), an electronic signature/record would satisfy the requirement for an in-writing SOA. For all other personal

¹ The Medicare Program; Contract Year 2027 and Certain Contract Year 2026 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, and Medicare Cost Plan Program Final Rule (CMS-4208-F3/CMS-4212-F) is available at: <https://www.govinfo.gov/content/pkg/FR-2026-04-06/pdf/2026-06600.pdf>. See 91 FR 17454-17459.

² The E-Sign Act of 2000 is available at: <https://www.govinfo.gov/content/pkg/PLAW-106publ229/pdf/PLAW-106publ229.pdf>

marketing appointments (i.e, those not in-person), the CY 2027 final rule states: “an audio or audio-visual recording or an electronic record would suffice as an SOA record for a personal marketing appointment that does not occur in person.”

Q: Given an SOA is valid for 12 months, does the “in writing” requirement preclude a beneficiary from having a future in-person personal marketing appointment under a recorded or electronic SOA?

A: Pursuant to §§ 422.2264(c)(3)(iii)(A) and (B) and 423.2264(c)(3)(iii)(A) and (B), SOAs, business reply cards, and other requests for additional information are valid for 12 months following the beneficiary’s signature date or the date of the beneficiary’s initial request for information. During this 12-month period, plans or agents/brokers may contact beneficiaries regarding the agreed upon scope of products documented in the SOA. This does not grant permission to discuss products not previously agreed upon in the original SOA; any new product discussed outside the scope previously agreed upon would require a new SOA. CMS clarifies that the 12-month validity period for a given SOA applies, regardless of whether the personal marketing appointments held during the 12-month period occur in-person or otherwise, as long as the scope of products discussed and documented in the SOA remains the same. Therefore, if a plan or agent/broker collects a recorded or electronic SOA and holds a telephonic or virtual personal marketing appointment with a beneficiary, the plan or agent/broker may then hold an in-person personal marketing appointment with that same beneficiary, using the same SOA, at any point within the next 12 months after the date of the client’s signature or the date of the client’s initial request for information, as long as the scope of products discussed during the personal marketing appointments and documented in the SOA has not changed.

Q: Does the requirement for separate SOAs for different scopes of products being discussed apply to different plan year products?

A: Pursuant to §§ 422.2264(c)(3)(iii)(B) and 423.2264(c)(3)(iii)(B), plans and agents/brokers may not market additional health-related lines of plan business not identified prior to an individual appointment without a separate SOA identifying the additional lines of business to be discussed. The CY 2027 final rule provides the following example: “if there is an SOA to discuss contract year 2026 plans, then a new SOA would be required to discuss contract year 2027 plans.” CMS clarifies that if an SOA specifically references a particular plan year, then a new SOA would be required to discuss a different plan year. However, if an SOA identifying a particular product line does not reference a particular plan year, then a new SOA would not be required to discuss different plan year products within the same product line within the next 12 months after the date of the beneficiary’s signature or the date of the beneficiary’s initial request for information. CMS does not require that the SOA include the specific plan year being discussed. In addition, CMS reminds plans and agents/brokers that, per §§ 422.2263(a) and 423.2263(a), they are permitted to begin marketing prospective plan year offerings on (and not before) October 1. However, plans and agents/brokers may prepare for the upcoming marketing season before October 1 by collecting SOAs that cover upcoming plan year offerings. CMS does not consider collecting an SOA that covers future plan year products prior to October 1 to be “marketing prospective plan year offerings” as described in §§ 422.2263(a) and 423.2263(a), provided that any actual substantive marketing discussions about such products occur on or after October 1.