



MEDICARE ADVANTAGE GROUP

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TO: All Medicare Advantage Organizations offering Private Fee-for-Service Plans

FROM: David A. Lewis /s/
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SUBJECT: Information on PFFS marketing oversight

CMS announced on June 15, 2007, that seven Medicare Advantage Organizations (MAOs) agreed to suspend the marketing activities of their Private Fee-for-Service (PFFS) plans effective June 22, 2007. These MAOs agreed that the voluntary suspension for a given PFFS plan would remain in place until CMS certified that the plan had the systems and management controls in place to meet all of the conditions specified in the 2008 Call Letter and the May 25, 2007, guidance issued by CMS to all PFFS plans.

CMS put into place a rigorous process to review each of the seven MAO's actions to determine when the plan would be ready to resume marketing. CMS developed metrics and performance criteria to review the seven MAOs. The measures were based on specific items included in the marketing suspension agreement. CMS developed a review guide for the following seven areas: marketing material compliance, sales agent training and licensure, provider outreach and education, enrollment verification, reporting of sales events, coordination with States, and review of outstanding CAPs (if applicable). A summary of the requirements included in the review guide is provided as Attachment 1. The review process included reporting progress on performance metrics as well as file sampling and on-site audits by CMS staff. On September 24, 2007, CMS announced that it had determined that the seven MAOs had the systems and management controls in place to meet CMS requirements and were released from the voluntary suspension of their PFFS marketing activities.

CMS has also adopted an ongoing monitoring strategy of PFFS marketing issues for all PFFS plans. The strategy includes several actions, including increased secret shopping of marketing events, sharing of agent and broker data with state insurance departments, and enrollment verifications of PFFS plan enrollees. You may be contacted by CMS and asked to provide information to assist these monitoring activities.

Any plan that is found to be in violation of CMS requirements can be subject to a full range of available penalties, which can include suspension of marketing and/or enrollment, suspension of payment for new enrollees, civil-monetary penalties, and termination from the Medicare program.

I hope that you find this information useful in determining and ensuring compliance with CMS requirements. If you have any questions, please contact your Regional Office Plan Manager.

Attachment 1 - Summary of Requirements Included in the PFFS Marketing Review Guide

#1. Marketing Materials and Use of Disclaimer

- All materials including, but not limited to, advertisements, enrollment materials, web-based information, materials used at sales presentations by agents and brokers (employed and contracted) of the MAO, and public venue and private meeting scripts must meet the following requirements:
 - Include the model disclaimer language, as provided by CMS in its May 25, 2007, guidance;
 - Do not imply that a PFFS plan functions as a Medicare supplement plan; and
 - Any statement indicating that enrollees may see any provider also includes the phrase “...who agrees to accept our terms and conditions of payment”.
- The beneficiary and provider education leaflet is included in all enrollment kits.

#2. Agent and Broker Training and Licensure Requirements

- All agents and brokers (employed and contracted) selling the PFFS product to beneficiaries on behalf of the MAO are trained and have passed a written test that demonstrates their thorough familiarity with both the Medicare program and the product they are selling. The minimum score for passing the test is 80%.
- The contents of the training program and test for agents and brokers adequately cover at least the following: marketing guidelines, compliance requirements, federal and state regulations, and product-specific training.
- The MAO monitors its agents and brokers for performance, alleged marketing violations, such as rapid disenrollment, complaints, inappropriate sales activities, etc. In addition, the MAO tracks and responds to CTM complaints on inappropriate agent and broker marketing activities.
- The MAO verifies State licensure and renewals of agents and brokers and appointments as required by State law.
- The MAO issues charge-backs to agents and brokers for rapid disenrollment in accordance with CMS and contractual requirements.
- All agents and brokers agree to follow all CMS requirements as well as use the CMS-approved sales presentation and materials in all sales presentations.
- The MAO provides updated information to its agents and brokers on 1) CMS policies and procedures, and 2) Federal and State laws.
- The MAO has a progressive discipline process for its agents and brokers after identifying problems ranging from warnings to retraining to firing, including reporting to CMS & states (as required) agents and brokers who engage in improper marketing activities.

#3. Provider Outreach and Education

- The MAO has a provider outreach and education program in place that encourages a wide range of providers to accept PFFS enrollees, ensures that providers have reasonable access to the plan terms and conditions of payment, and also ensures that provider relations staff is readily accessible to assist providers with questions concerning the plan.

- The MAO has a provider payment dispute resolution process that is explained in the terms and conditions of payment.

#4. Outbound Education and Verification Calls

- The MAO makes and records (or otherwise documents) outbound education and verification calls to all beneficiaries requesting enrollment (except those joining employer/union-only PFFS plans or switching PFFS plans within the same organization) to ensure that they understand the plan rules. The MAO conducts the calls in a manner that meets requirements of the May 25, 2007, memo to all PFFS plans.

#5. Planned Marketing and Sales Events

- The MAO provides to CMS 1) lists of planned marketing and sales events that include all events sponsored by its agents and brokers as well as those sponsored by the MAO, and 2) the attestation of accuracy.
- CMS is notified of updates to sales event schedules.

#6. Coordination with the States

- When asked by CMS, the MAO will provide a complete list of all of its agents and brokers marketing a PFFS product and authorize CMS to make that list available to state insurance departments on request.
- The MAO reports licensing violations of agents and brokers to the State, and if required by states where the MAO operates, the identity and other information of agents and brokers and terminations for cause.

#7. Corrective Action Plan

- The MAO has made progress on existing CAPs that is in accordance with CMS' expectations.