

CY 2018 Medicare-Medicaid Plan (MMP) Marketing Practices and Beneficiary Disclosure Requirements Comparison Table

The Medicare-Medicaid Coordination Office (MMCO) worked with states to summarize similarities and differences in marketing and beneficiary disclosure requirements for Medicare-Medicaid Plans (MMPs) in capitated model demonstrations under the Financial Alignment Initiative. The table clarifies marketing and beneficiary disclosure activities within states as well as across states. It also indicates if an MMP activity is similarly applicable to non-MMP Medicare health plans. This resource for states and MMPs is based on Contract Year (CY) 2018 Medicare Marketing Guidelines (MMG), State-specific Marketing Guidance, other guidance (e.g., Medicare Managed Care Manual, State-specific Enrollment Guidance), and three-way contracts.

This document is intended as a helpful summary for MMPs. It is not a replacement for or addition to the guidance and three-way contracts referenced above. This summary should not be used for compliance or auditing purposes. We remind MMPs that the State-specific Marketing Guidance should be considered an addendum to the MMG and may contain guidance beyond the marketing guidance contained in the MMG.

Table columns contain the following information:

- **Guidance** provides the section of the relevant CY 2018 Medicare Marketing Guidelines (MMG) and State-specific Marketing Guidance along with any additional related references; numbers appear in ascending order by MMG and State-specific Marketing Guidance section number.
- **Area** illustrates the general marketing or beneficiary disclosure issue in the guidance area referenced.
- **Activity Summary** briefly describes the action that must or may be taken.
- **State-specific Columns** are alphabetized by participating capitated model demonstration states.
- **Activity Applicable to Non-MMPs** indicates if the activity described applies in the same way to non-MMP Medicare health plans.

Where appropriate, footnotes and links to CMS website references are included. Where footnotes are applicable in more than one instance, the same footnote number appears multiple times. Where a footnote is state-specific, details are included in individual footnote content.

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Guidance ¹	Area	Activity Summary ²	CA	IL	MA	MI	NY FIDA	NY FIDA-IDD	OH	RI	SC	TX	Activity Applicable to Non-MMPs
Introduction, State-specific Marketing Guidance; additional resources cited below ³	Provider and Pharmacy Directory Requirements	MMP with multi-county service areas may provide county-specific directories so long as information is provided about the availability of a complete directory on the plan's website.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
30.7; Introduction, State-specific Marketing Guidance; additional resources cited below ³	Provider and Pharmacy Directory Requirements	MMP has the option to send enrollees the directory in hard copy or send a distinct and separate notice (in hard copy) describing where enrollees can find the directory online and how enrollees can request a hard copy.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
30.8	Enrollment Verification	MMP must conduct enrollment verification activities.	Y ⁴	N	N	N	N	N	N	N	Y	N	Y
30.9	Enrollee Referral Programs	MMP may establish an enrollee referral program.	Y	N	Y	Y	Y	Y	Y	Y	Y	N	Y

¹ Unless otherwise indicated, citations in this column refer to sections in the CY 2018 Medicare Marketing Guidelines, available at <https://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/FinalPartCMarketingGuidelines.html>, and State-specific Marketing Guidance documents. State-specific Marketing Guidance documents are available at <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/InformationandGuidanceforPlans.html>, halfway down the webpage under the "State-Specific Information" heading and alphabetized by state.

² The activity summary in this column is based on the specific guidance contained in the citation(s) in the previous "Guidance" column.

³ Chapter 4 of the Medicare Managed Care Manual is available at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs-Items/CMS019326.html>. Chapter 5 of the Prescription Drug Benefit Manual is available at <https://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/PartDManuals.html>. The August 16, 2016 memorandum entitled "Pharmacy Directories and Disclaimers" and the January 17, 2017 memorandum entitled "Provider Directory Policy Updates" are available by accessing the Health Plan Management System (HPMS) at <https://hpms.cms.gov/app/login.aspx>.

⁴ The outbound enrollment and verification (OEV) requirements described in this section apply to California MMPs only with respect to opt-in enrollments in which a County Operated Health System (COHS) plan's employed agent provides plan-specific information to the individual, thus influencing the individual's plan choice and/or assisting in a subsequent enrollment request.

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40.8	Direct Mail/ Written Materials	Organization offering both MMP and non-MMP Medicare health plan options may only market MMP offerings in their MMP materials.	Y	Y	Y	Y	N	N/A ⁵	Y	N/A ⁵	Y	N	N
40.8.1	Direct Mail/ Written Materials	Organization offering both MMP and non-MMP Medicare products may send current MMP members marketing information about non-MMP Medicare products offered without an opt-in-request from the member.	Y	N	Y	N	Y	N/A ⁵	Y	N/A ⁵	N	Y	Y
40.8.3	Direct Mail/ Written Materials	MMP may distribute materials from non-benefit/non-health service-providing third party entities.	Y	N	Y	N	Y	Y	Y	N	Y	Y	Y
60.2	ID Card Requirements	MMP must use one plan Member ID Card for all services offered under the plan.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
60.4	Formulary Requirements	MMP has the option to send the formulary in hard copy or send a distinct and separate notice (in hard copy) describing where enrollees can find the formulary online and how enrollees can request a hard copy.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

⁵ Plan does not have a non-MMP Medicare health plan option.

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60.4	Formulary and Directory Notice Requirements	MMP choosing to default to electronic versions of its formulary and directory may combine hard copy notices about formulary and directory availability into a single hard copy notice.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
60.5	Part D Explanation of Benefits	MMP must use MMP-specific Drug Explanation of Benefits (EOB) model to fulfill Part D EOB requirements.	N	N ⁶	N	Y	Y	Y	N ⁶	N	Y	N ⁶	N
60.6	Annual Notice of Change/ Evidence of Coverage (Member Handbook) Requirement	MMP may send Member Handbook (Evidence of Coverage) to current members separately from the Annual Notice of Change for receipt by December 31.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N ⁷

⁶ MMPs are not required to use the state’s MMP-specific EOB but may use it. MMP-specific EOBs for states that have developed them are available at <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/InformationandGuidanceforPlans.html>, halfway down the webpage under the “Medicare-Medicaid Plan Integrated Explanation of Benefits (EOB) Models” heading and alphabetized by state.

⁷ Dual Eligible Special Needs Plans (D-SNPs) are the only Medicare Advantage plans that may send the Evidence of Coverage separately from the Annual Notice of Change for enrollee receipt by December 31.

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70.1	Electronic Communication Policy	MMP may initiate electronic contact with enrollees and prospective enrollees without enrollee opt-in to electronic contact, provided that it also includes an opt-out process to no longer receive electronic communications.	Y ⁸	Y ⁹	N	Y	Y	Y	Y ⁸	Y	Y	Y	Y
70.2	Marketing Through Unsolicited Contacts	MMP may market to current and prospective enrollees via conventional mail.	Y ¹⁰	Y ¹⁰	Y ¹⁰	Y ¹⁰	Y	Y	Y ¹⁰	Y	Y ¹⁰	Y ¹¹	Y
70.3	Educational Events	MMP may conduct (non-marketing) educational events for prospective enrollees.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
70.4	Marketing Events	MMP-employed sales agents may conduct group marketing events.	Y	Y	Y	Y ¹²	Y	Y	Y	Y	Y	Y	Y
70.4.2	Enrollment/ Assistance with Enrollment	MMP-employed staff may assist prospective enrollees with filling out enrollment applications.	Y	N	Y	N	Y ¹³	N	N	N	N	N	Y

⁸ These demonstrations add a requirement that the MMP include a disclaimer regarding messaging rates in electronic communication.

⁹ MMPs must include clear opt-out instructions within any email, direct message, or text sent to current and prospective enrollees.

¹⁰ These demonstrations add a requirement that the MMP include a disclaimer regarding the State's enrollment broker in unsolicited conventional mail and other print media.

¹¹ Prospective members must initiate contact with the MMP and give permission to be called or contacted by conventional mail and other print media.

¹² MMP may not discuss enrollment, disenrollment, or Medicaid eligibility, and must refer all such inquiries to the State's enrollment broker.

¹³ This activity is only applicable to those eligible for the "U-File" process (i.e., "new-to-service" enrollees who have not previously received long-term services and supports via a capitated Managed Long-Term Care plan, Medicaid Advantage Plus plan (with companion D-SNP), or FIDA Plan).

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70.4.2	Personal/ Individual Marketing Appointments	MMP-employed sales agents may conduct one-on-one marketing appointments solicited by a prospective enrollee.	Y	N	Y	N	Y	Y	N	Y	Y	Y	Y
70.5	Marketing in the Health Care Setting	MMP may market in the health care setting.	Y	Y	Y	N ¹⁴	Y	Y	Y	Y	Y	Y ¹⁵	Y
70.5.1	Provider-Based Activities	MMP-contracted providers may provide current and prospective enrollees with information about MMPs.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y ¹⁵	Y
80.1	Customer Service Call Center Requirements	MMP may use alternative technologies in lieu of live customer service representative (CSR) staff from 8 AM to 8 PM on weekends and holidays.	Y ¹⁶	Y ¹⁷	Y ¹⁷	Y ¹⁶	Y ¹⁸	Y ¹⁸	Y ¹⁷	Y ¹⁶	Y ¹⁶	Y ¹⁹	Y ²⁰

¹⁴ MMP may provide decals, which can include the health plan name and logo, to participating providers. See State-specific Marketing Guidance for additional information.

¹⁵ See State-specific Marketing Guidance for additional requirements.

¹⁶ Holidays include all federal and state holidays except New Year’s Day.

¹⁷ Holidays include all federal holidays.

¹⁸ Holidays include federal holidays except New Year’s Day.

¹⁹ Holidays include all federal and state holidays with an “All agencies closed” status in the state’s schedule, available at <http://www.hr.sao.texas.gov/Holidays>, except New Year’s Day.

²⁰ This policy applies only between February 15 and September 30.

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80.2; Appendix 5 (State-specific Enrollment Guidance Requirements) ²¹	Enrollment/ Assistance with Enrollment	MMP may use streamlined enrollment procedures.	Y ²²	N	N	N	Y ¹³	N	N	N	N	N	N/A ²³
80.2	Enrollment/ Assistance with Enrollment	MMP must transfer informational calls that become enrollment calls to the state/state enrollment broker.	Y ²⁴	Y	Y	Y	Y	Y	Y	Y	Y	Y	N/A ²³
80.4.1	Telephonic Contact	MMP customer service representatives may provide current MMP members with information about non-MMP Medicare products they offer without the member requesting information from the MMP about those non-MMP products.	Y	N	N	N	N	N/A ⁵	N	N/A ⁵	N	Y	Y

²¹ Each State-specific Exhibit 5 is available at <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/InformationandGuidanceforPlans.html>, halfway down the webpage under the “State-Specific Information” heading and alphabetized by state.

²² A COHS plan may not use streamlined enrollment procedures.

²³ This policy is not applicable to non-MMPs.

²⁴ This requirement does not apply to a COHS plan.

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80.4.1	Telephonic Contact	MMP may conduct outbound marketing calls to prospective enrollees who are enrolled in another product line offered by the MMP's parent organization (for example, a Medicare Advantage plan, Prescription Drug Plan, or a Medicaid managed care plan) to market the MMP product. This includes reasonable efforts to reach out to individuals who previously opted out of enrollment in an MMP.	Y	Y	Y	Y	Y	N/A ²⁵	Y	Y	Y	Y	Y
80.4.1	Telephonic Contact	MMP may conduct outbound marketing calls to prospective enrollees who are not currently enrolled in any product line offered by the MMP's parent organization.	N	N	N	N	N	N	N	N	N	N	N
100.3	Enrollment/ Assistance with Enrollment	MMP may accept online enrollment requests via Medicare Plan Finder.	N	N	N	N	N	N	N	N	N	N	Y ²⁶
100.5	Social Media	MMP may use social media for marketing purposes.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

²⁵ Plan in the demonstration has no other product line.

²⁶ Certain plan types (i.e., Medicare Savings Account plans and 800 series employer group waiver plans) may not use the Medicare Online Enrollment Center (OEC). Certain plan types (i.e., Special Needs Plans, Religious Fraternal Benefit Plans, and Senior housing Medicare Advantage plans) may, but are not required to, accept enrollment requests via Medicare Plan Finder.

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110.1	Promotional Activities, Nominal Gifts, and Rewards and Incentives	MMP may provide promotional items to current and prospective enrollees.	Y	Y ²⁷	Y	Y	Y	Y	Y	Y	Y	Y	Y
110.1.1	Promotional Activities, Nominal Gifts, and Rewards and Incentives	MMP may provide nominal gifts to prospective enrollees.	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
110.2; Medicare Managed Care Manual, Chapter 4, Section 100 ²⁸	Promotional Activities, Nominal Gifts, and Rewards and Incentives	MMP may establish rewards and incentives programs for enrollees.	Y	Y ¹⁵	Y ¹⁵	Y ¹⁵	Y	Y	Y	Y ¹⁵	Y	Y	Y
120	Use of Independent Agents/Brokers	MMP may use and compensate independent agents/brokers consistent with the rules for other plan types.	N	N	N	N	N	N	N	N	Y	N	Y
120	Use of Independent Agents/Brokers	MMP may pay compensation to independent agents/brokers under limited circumstances. ²⁹	Y	N	N	N	N	N	N	N	N	Y	N/A ²³
120	Use of Agents/Brokers	MMP may use plan-employed agents to market the MMP.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

²⁷ The nominal value of any promotional activities or items offered by the MMP must be no more than \$10 based on the fair market value of the item.

²⁸ Chapter 4 of the Medicare Managed Care Manual is available at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs-Items/CMS019326.html>.

²⁹ This policy is limited to two scenarios in which individuals opt in to MMPs that are offered by the same parent organization as their previous coverage.

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Guidance¹	Area	Activity Summary²	CA	IL	MA	MI	NY FIDA	NY FIDA-IDD	OH	RI	SC	TX	Activity Applicable to Non-MMPs
120.6	Call Center Requirements	MMP customer service representatives may conduct activities that do not require agent/broker licensure.	Y	Y ³⁰	Y	Y	Y	Y	Y	Y	Y	Y	Y

³⁰ MMP CSRs may not take demographic information to complete an enrollment application.