



**CMS 2010 BI-REGIONAL MEDICARE HEALTH PLAN COMPLIANCE
CONFERENCE**

Boston & New York – Serving Our Beneficiaries Together

Verbatim Transcript
Marketing Issues/Agent Broker Issues
Dayle Berke J.D.

>> THIS MORNING WE'RE GOING
TO WELCOME DAYLE BERKE.

DAYLE IS GOING TO SPEAK
ON MARKETING ISSUES

AND AGENT BROKER ISSUES
FROM THE POINT OF VIEW

OF THE REGIONAL HEALTH
INSURANCE SPECIALIST.

DAYLE IS A HEALTH INSURANCE
SPECIALIST

IN THE CUSTOMER RELATIONS BRANCH
OF THE DIVISION

OF MEDICARE HEALTH PLAN
OPERATIONS

IN THE NEW YORK REGIONAL OFFICE.

MS. BERKE IS AN ATTORNEY

WITH OVER 20 YEARS
OF HEALTH POLICY EXPERIENCE.

SHE SERVED AS DIRECTOR
OF GOVERNMENT AFFAIRS

FOR THE NATIONAL ASSOCIATION
FOR HOME CARE

IN WASHINGTON, D.C.
FOR 17 YEARS.

PRIOR TO THAT,
SHE WAS SPECIAL COUNSEL

TO THE HOUSE SELECT
COMMITTEE ON AGING

AND WORKED FOR THE FEDERAL
TRADE COMMISSION,

WHERE SHE WAS SPECIAL COUNSEL
TO THIS FEDERAL,

STATE, AND CONSUMER RELATIONS,

AND SERVED AS PROJECT MANAGER

FOR THE PRESCRIPTION
DRUG PROGRAM.

SHE HOLDS A B.A. FROM
THE UNIVERSITY OF MICHIGAN

AND A J.D. FROM GEORGETOWN
UNIVERSITY LAW CENTER.

PLEASE WELCOME DAYLE BERKE.

[APPLAUSE]

>> THANK YOU, MARVA,
AND GOOD MORNING, EVERYONE.

IT'S THE FAITHFUL THIS MORNING.

WE'RE VERY IMPRESSED
THAT YOU'RE HERE.

WE'RE HOPING THAT YOU'RE

ALL CAFFEINATED

AND READY FOR THE LAST SESSION.

I'M GOING TO BE TALKING TO YOU

ABOUT MARKETING PROTECTIONS
FOR BENEFICIARIES.

SO...LET ME GET STARTED HERE.
ALL RIGHT.

SO THIS MORNING IS REALLY
GOING TO BE MORE

OF A REFRESHER COURSE
ABOUT MARKETING PROTECTIONS.

THIS IS WHAT I LIKE TO CALL
A WORK IN PROGRESS, SO...

THERE WE GO.
SO WHAT WE HAVE ARE

THE MARKETING RULES
THAT WERE ISSUED UNDER MIPPA

IN 2008.

FOLLOWING THAT, WE HAD
GUIDELINES THAT WERE ISSUED

ON AUGUST 7th IN 2009

AND THEN CLARIFICATIONS ON THAT,

SO I LIKE TO CALL THEM "THE
GUIDELINES ON THE GUIDELINES."

NOW, WHAT YOU NEED TO KNOW IS

THAT THERE ARE GOING
TO BE NEW GUIDELINES

ISSUED VERY, VERY SHORTLY,
BUT NOT YET, SO STAY TUNED.

SO WHAT I'M GOING
TO BE TALKING ABOUT

ARE THESE GUIDELINES
THAT ARE ALREADY IN PLACE.

BUT WHAT I WANT TO DO IS
I WANT TO HIGHLIGHT

SOME OF THE MORE
RECENT GUIDELINES,

AND ONE OF THOSE HAS TO DO WITH
STANDARDIZATION OF PLAN NAMES.

NOW, WE USED TO GET
A LOT OF CALLS FROM PEOPLE

WHO WERE CONCERNED
WHO WERE HELPING BENEFICIARIES

WHO COULDN'T UNDERSTAND
WHAT TYPE OF PLAN

THE BENEFICIARY WAS IN.

SO YOU'D GET CALLS
FROM THE SHIPS

OR WE WOULD GET CALLS
FROM LONG-TERM-CARE FACILITIES

AND THEY GO, "I HAVE NO IDEA

WHAT KIND OF PLAN
THIS PERSON IS IN."

SO THE IDEA WAS
TO STANDARDIZE PLAN NAMES

AND TO REQUIRE PLAN SPONSORS

TO INCLUDE THE PLAN TYPE
IN THE PLAN NAME,

AND ALSO TO HAVE
A STANDARD LOCATION FOR THAT,

SO THAT WOULD BE--THE PLAN NAME
WOULD HAVE THE PLAN TYPE

AT THE VERY END, SO IF SOMEBODY
ALREADY INCLUDED THE PLAN TYPE,

THEY WERE REQUIRED
TO CHANGE THE PLAN NAME

SO THE PLAN TYPE WAS
AT THE VERY END,

AND THIS BECAME EFFECTIVE
JANUARY 1st OF THIS YEAR.

THIS PLAN NAME
WITH THE PLAN TYPE

HAS TO BE INCLUDED
ON ALL MARKETING MATERIALS,

AND IF SOMEBODY IS WITH A SNP OR
AN EMPLOYER GROUP WAIVER PLAN,

IT ALSO HAS TO BE INCLUDED
IN MARKETING MATERIALS.

PLAN RATINGS.
NOW WE HEARD YESTERDAY

ABOUT THE VARIOUS PLAN RATINGS
AND HOW CMS DOES THIS.

THERE IS A NEW REQUIREMENT THAT
PLANS HAVE TO MAKE AVAILABLE

TO BOTH CURRENT MEMBERS
AND PROSPECTIVE MEMBERS

INFORMATION REGARDING--GOOD
MORNING--REGARDING PLAN RATINGS.

NOW, THIS CAN BE DONE
IN A VARIETY OF WAYS.

THIS CAN BE INCLUDED
IN THE PRE-ENROLLMENT PACKETS.

THE PLAN RATINGS ARE ALSO
ON OUR WEBSITE,

WWW.MEDICARE.GOV,

AND THIS INFORMATION CAN ALSO
BE MADE AVAILABLE UPON REQUEST.

ANOTHER NEW PROVISION
REGARDING PLAN MAILING--

CAN YOU ADVANCE, PLEASE?

THANK YOU. ALL RIGHT.

REGARDS PLAN MAILING STATEMENTS.

NOW, A LOT OF TIMES,
THEIR BENEFICIARIES ARE CONFUSED

AS TO JUST WHAT THEY'RE
RECEIVING IN THE MAIL,

SO IN ORDER
TO HAVE FULL DISCLOSURE

AND AVOID
THIS BENEFICIARY CONFUSION,

WE'RE REQUIRING
SOME STANDARD MESSAGES.

SO YOU BASICALLY CAN
CHOOSE AMONG 3.

YOU CAN EITHER SAY
THIS IS AN ADVERTISEMENT,

AND SAY, "THIS IS
AN ADVERTISEMENT";

YOU CAN SAY THIS IS
PLAN INFORMATION, IN WHICH CASE

YOU SAY, "IMPORTANT INFORMATION
ABOUT YOUR ENROLLMENT";

OR "HEALTH OR WELLNESS
OR PREVENTION INFORMATION."

SO THOSE ARE
REALLY THE 3 CHOICES.

THEY EITHER HAVE TO BE ON
THE MAILING ENVELOPE OR ON

THE MAILING ITSELF, DEPENDING

WHAT FORM THE MAILING TAKES.

SO LET'S TALK A LITTLE BIT ABOUT
MARKETING AT EDUCATIONAL EVENTS.

ESSENTIALLY,
THAT'S AN OXYMORON

BECAUSE THERE CAN'T BE MARKETING
AT EDUCATIONAL EVENTS,

SO WHETHER YOU CALL SOMETHING
AN EDUCATIONAL EVENT

OR A SALES EVENT DETERMINES WHAT
YOU'RE ABLE TO DO AT THAT EVENT

AND WHAT TYPE OF INFORMATION
CAN BE PROVIDED AT THAT EVENT.

SO, IF SOMETHING IS CALLED
AN EDUCATIONAL EVENT,

IT ESSENTIALLY HAS
TO BE BILLED AS SUCH

IN ANY KIND
OF ADVERTISING MATERIALS.

THERE HAS TO BE A DISCLAIMER

THAT THIS IS
AN EDUCATIONAL EVENT.

SO IF IT'S AN
EDUCATIONAL EVENT,

THERE CAN'T BE ANY KIND
OF SALES ACTIVITIES,

THERE CAN'T BE ANY DISTRIBUTION
OF ENROLLMENT FORMS,

THERE CAN'T BE ANY PASSING OUT
OF BUSINESS REPLY CARDS.

THIS IS AN EDUCATIONAL EVENT.

NOW, WHAT YOU CAN DO IS
GIVE OUT NOMINAL GIFTS.

NOMINAL GIFTS ARE GIFTS
UNDER \$15.

THESE TYPES OF GIFTS ARE
WATER BOTTLES OR PENS,

POT HOLDERS--WHATEVER YOU CAN
FIND FOR UNDER \$15.

YOU CAN PUT THE NAME OF THE PLAN
AND THE CONTACT INFORMATION

ON THAT PROMOTIONAL ITEM.

HOWEVER, YOU CAN'T HAVE
ANY KIND OF BENEFIT INFORMATION

OR ANYTHING MORE EXTENSIVE THAN
THAT ON THE PROMOTIONAL ITEM.

ALSO, THE PROMOTIONAL ITEMS HAVE
TO GO TO EVERYONE.

REGARDLESS OF WHETHER
THEY'RE SIGNING UP FOR THE PLAN,

THEY HAVE TO BE AVAILABLE
TO EVERYONE.

THE OTHER THING THAT YOU CAN DO
AT AN EDUCATIONAL EVENT IS

THAT YOU CAN HAVE
GENERAL INFORMATION ON MEDICARE,

SO YOU COULD HAVE INFORMATION

ON WHAT IS A MEDICARE
ADVANTAGE PLAN.

YOU COULD HAVE INFORMATION
ON PREVENTIVE SERVICES

THAT ARE AVAILABLE
UNDER MEDICARE,

SO ALL OF THAT IS PERMISSIBLE.

IT'S THE SPECIFICS OF YOUR PLAN

THAT CANNOT BE MADE AVAILABLE
AT AN EDUCATIONAL EVENT.

NOW, IF THE BENEFICIARY
REQUESTS IT,

A BUSINESS CARD
MAY BE GIVEN OUT.

AND THIS IS REALLY
WHAT SO MUCH

OF THESE MARKETING
PROTECTIONS HINGE ON--

IT'S WHETHER OR NOT

THE BENEFICIARY REQUESTS
THE INFORMATION.

SO IF THE BENEFICIARY
ASKS FOR IT,

YOU CAN GET--YOU CAN GIVE OUT
A BUSINESS CARD.

NOW, THAT'S
THE EDUCATIONAL EVENT.

LET'S TALK ABOUT SOMETHING

THAT'S A MARKETING
OR SALES EVENT.

IF IT'S A MARKETING OR
SALES EVENT,

YOU CAN, OF COURSE, GIVE OUT
PLAN-SPECIFIC INFORMATION.

YOU CAN PERFORM
OR ACCEPT ENROLLMENTS THERE,

YOU CAN DELIVER PLAN-SPECIFIC
BROCHURES AND INFORMATION.

YOU CAN FORMALLY PRESENT
BENEFIT INFORMATION.

AGAIN, JUST LIKE
IN THE EDUCATIONAL FORUM,

YOU CAN PROVIDE THAT NOMINAL
GIFT, THAT UNDER \$15 GIFT,

BUT AGAIN, IT HAS
TO GO TO EVERYBODY

WHETHER OR NOT THEY ENROLL.

IF THE BENEFICIARY REQUESTS IT,

A ONE-ON-ONE APPOINTMENT
CAN BE MADE.

AGAIN, IF THE BENEFICIARY
REQUESTS IT.

SO, AGAIN, WE'RE TALKING
BENEFICIARY CONSENT.

REALLY KEY CONCEPT HERE.
ALL RIGHT.

SO LET'S TALK A LITTLE BIT

ABOUT MARKETING IN

HEALTH CARE SETTINGS, AND THIS

IS A BIT OF A REVIEW.

IF SOMEONE IS WAITING
IN A PHARMACY

TO TRY AND GET
THEIR PRESCRIPTION FILLED,

IF SOMEBODY IS WAITING FOR
DIALYSIS, IF SOMEBODY'S WAITING

FOR AN APPOINTMENT
IN A DOCTOR'S OFFICE,

THEY SHOULD HAVE
A REASONABLE EXPECTATION

THAT THEY ARE NOT GOING
TO BE APPROACHED

BY ANY KIND OF SALES AGENT.

SO THAT TYPE OF MARKETING,
IN A HEALTH CARE SETTING,

IS STRICTLY PROHIBITED.

THAT CAN'T HAPPEN.

HOWEVER, THERE ARE
CERTAIN INSTANCES

WHERE IT IS OK TO MARKET
IN A HEALTH CARE SETTING.

IF SOMETHING IS CONSIDERED
TO BE A COMMON AREA,

LIKE A HOSPITAL
OR NURSING HOME CAFETERIA,

OR A COMMUNITY OR REC ROOM,
SAY, IN A NURSING CARE FACILITY,

A CONFERENCE ROOM,
THAT IS CONSIDERED TO BE OK.

SO YOU COULD HAVE A TABLE SET UP
IN A HOSPITAL CAFETERIA

AND YOU COULD HAVE
MATERIALS AVAILABLE.

THE CATCH IS THAT YOU CAN'T
GO OVER TO SOMEBODY

SITTING IN THE CORNER
QUIETLY EATING THEIR LUNCH

AND ASK THEM TO COME OVER
AND LOOK AT THE TABLE.

YOU CAN HAVE THE TABLE SET UP.
IT'S OK,

BUT YOU HAVE TO BE CAREFUL
ABOUT THE COMMON SETTINGS.

NOW, THERE ARE ALSO SOME RULES

REGARDING PROVIDER MARKETING,

AND ESSENTIALLY WHAT THAT'S
ABOUT IS IT IS OK

FOR PROVIDERS TO HAVE
INFORMATION FOR THEIR PATIENTS

ABOUT VARIOUS PLANS.

IT'S OK FOR THEM TO SAY,
"WE PARTICIPATE IN THIS PLAN

AND THIS PLAN AND THIS PLAN."

THE ISSUE IS THAT
WE WANT TO MAKE SURE

THAT PROVIDERS ARE NOT STEERING
TO A PARTICULAR PLAN.

NOW, PROVIDERS DO NOT HAVE
TO HAVE INFORMATION

ABOUT EVERY SINGLE PLAN
AVAILABLE.

A LOT OF TIMES, THEY WON'T EVEN
BE ABLE TO GET INFORMATION

ABOUT EVERY SINGLE PLAN
AVAILABLE,

BUT THEY CAN HAVE INFORMATION

ABOUT THE PLANS
THAT THEY WORK WITH.

AS LONG AS THEY DON'T STEER,
IT'S PERFECTLY FINE

FOR PROVIDERS TO HAVE
MARKETING MATERIALS.

ALL RIGHT.

SALES EVENT INFORMATION.

YOU'RE REQUIRED TO UPLOAD
ALL MARKETING AND SALES EVENTS

PRIOR TO THE DATE THAT
THAT EVENT IS GOING TO OCCUR,

AND THE EVENTS HAVE
TO BE UPLOADED NO LATER

THAN THE 30th OF THE MONTH
THAT PRECEDES THE EVENT.

IF AN EVENT IS
GOING TO BE UPDATED,

IF THERE'S SOME KIND
OF CHANGE IN THE EVENT,

IT SHOULD BE DONE 48 HOURS PRIOR
TO THE SCHEDULED EVENT,

AND IF THE EVENT IS GOING
TO BE CANCELLED,

THAT ALSO HAS TO GO INTO HPMS.

NOW, I THINK YOU HEARD
A BIT YESTERDAY

ABOUT OUR SECRET
SHOPPING EFFORTS.

SO WHAT HAPPENS IS CMS TAKES
A LOOK AT THE EVENTS

THAT ARE GOING TO OCCUR
AND RANDOMLY SELECTS EVENTS

WHERE SECRET SHOPPERS ARE
GOING TO GO TO THE EVENT

TO MAKE SURE THAT IT OCCURRED,

TO MAKE SURE THAT EVERYTHING
THAT WAS STATED WAS KOSHER.

SO ONE OF THE THINGS
THAT WE DISCOVERED

WHEN WE DID SECRET SHOPPING IS

THAT A LOT OF THE EVENTS

DIDN'T OCCUR,

AND I HAVE TO SAY
THAT EVERY EVENT THAT I TRIED

TO GO TO WAS CANCELLED,
SO--OR NEVER OCCURRED.

SO I DON'T KNOW
WHETHER IT WAS ME

OR WHETHER THIS WAS
JUST WHAT HAPPENED,

BUT THERE WERE A NUMBER
OF OTHER INDIVIDUALS

WHO HAD THAT SAME EXPERIENCE.

SO, WE WANT TO MAKE SURE THAT
THE EVENTS THAT ARE CANCELLED

GIVE ADEQUATE NOTICE TO PEOPLE
WHO MIGHT BE SHOWING UP

AND HOPING FOR INFORMATION.

SO IF AN EVENT IS CANCELLED--

THAT IS, WITHIN 48 HOURS

OF THE ORIGINAL SCHEDULED DATE--

THERE HAS TO BE
A REPRESENTATIVE ON-SITE.

IF THE EVENT IS CANCELLED
MORE THAN 48 HOURS,

THEN THE SAME WAY
THAT BENEFICIARIES WERE NOTIFIED

THAT THE EVENT WAS GOING
TO TAKE PLACE,

THAT SAME METHOD HAS
TO BE USED TO TELL THEM

THAT IT NO LONGER TAKES PLACE.

NOW, THE REVERSE WORKS TRUE.

IF AN AGENT SHOWS UP

AND NOBODY SHOWS UP TO LISTEN
TO THAT PARTICULAR AGENT,

WHAT DOES THE AGENT DO?

WELL, THE AGENT IS
REQUIRED TO STAY

FOR AT LEAST 15 MINUTES
AFTER THE SCHEDULED START TIME,

AND THEN IF NOBODY SHOWS UP,
THE AGENT CAN LEAVE.

IT'S SORT OF LIKE
WHEN YOU WERE IN COLLEGE

AND THEY HAD THE 20-MINUTE RULE
FOR PROFESSORS,

AND IF THE PROFESSOR
DIDN'T SHOW UP FOR 20 MINUTES,

YOU COULD LEAVE THE CLASSROOM.
SAME PRINCIPLE.

ALL RIGHT.

UNSOLICITED CONTACTS
AND PROHIBITED ACTIVITIES.

ALL RIGHT. AGAIN, THE HALLMARK
HERE IS BENEFICIARY CONSENT.

SO IT IS FINE TO MAIL OUT
MATERIAL TO BENEFICIARIES

TO TELL THEM ABOUT YOUR PLAN.

IT'S OK. YOU'RE ALLOWED
TO MARKET.

OF COURSE, CMS LOOKS
AT THE MARKETING MATERIALS,

BUT THAT'S FINE.

WHAT'S NOT OK IS TO CALL
THE BENEFICIARY THEREAFTER

AND SAY, "HEY, DID YOU RECEIVE
THE MARKETING MATERIALS?

WE'D LIKE TO TALK
TO YOU ABOUT THAT,"

BECAUSE THAT IS CONSIDERED
AN UNSOLICITED CONTACT.

IT IS NOT OK
FOR AN AGENT OR BROKER

TO CHASE SOMEBODY DOWN THE HALL
OR IN A PARKING LOT.

NOW, YOU MIGHT THINK
THIS IS A BIT HARSH,

BUT OBVIOUSLY THIS BEHAVIOR--
NONE OF YOUR AGENTS, OF COURSE--

BUT OBVIOUSLY THIS BEHAVIOR
HAS HAPPENED IN THE PAST,

OTHERWISE WE WOULDN'T
BE MAKING A POINT OF IT.

IF SOMEBODY ATTENDS
A SALES PRESENTATION,

IT IS NOT OK TO CALL THEM

MERELY BECAUSE THEY ATTENDED
THE SALES PRESENTATION

UNLESS THEY GIVE
THEIR EXPRESS PERMISSION.

IT IS NOT OK
TO CALL FORMER MEMBERS

TO TRY AND MARKET PLANS
OR PRODUCTS TO THEM.

THE OPERATIVE WORD HERE
IS "FORMER MEMBERS."

ONCE THEY BECAME
A FORMER MEMBER,

THEIR CONSENT TO BE
CONTACTED EVAPORATED.

AND, OF COURSE, NOW THAT WE'RE
IN THE ELECTRONIC AGE,

NO UNSOLICITED EMAILS.

>> SO WHAT CAN YOU DO IF ALL
THESE THINGS ARE PROHIBITED?

ALL RIGHT. IT IS PERFECTLY OK

TO CALL EXISTING MEMBERS
TO DISCUSS NORMAL BUSINESS.

ONCE SOMEBODY BECOMES A MEMBER,
THEY'VE GIVEN THEIR CONSENT

AND YOU CAN ABSOLUTELY CALL THEM

TO TALK ABOUT THINGS
THAT ARE RELATED TO THE PLAN.

YOU CAN CALL FORMER MEMBERS
FOR ONE PURPOSE,

AND THAT IS TO FIND OUT WHY
THEY BECAME FORMER MEMBERS.

SO IT'S OK TO FIND OUT
WHAT IS IT THAT WE DID WRONG,

HOW CAN WE DO BETTER.

YOU CAN CALL AND HAVE
A DISENROLLMENT SURVEY.

THAT'S FINE, BUT IN THE COURSE
OF THAT CALL,

YOU CAN'T SAY, "YOU KNOW, WE'VE
GOT A NEW PLAN YOU MIGHT LIKE."

THIS IS FOR THE PURPOSE
OF DISENROLLMENT SURVEY ONLY.

IF SOMEBODY HAS BEEN
ENROLLED IN A PLAN

BY A PARTICULAR AGENT
OR BROKER,

IT IS OK FOR
THAT AGENT OR BROKER

TO CONTACT THAT PERSON
THAT THEY ENROLLED.

AND ANY TIME A BENEFICIARY
HAS GIVEN EXPRESS PERMISSION

TO BE CONTACTED, THAT'S FINE.
EXPRESS PERMISSION IS FINE.

YOU CAN CONTACT
THAT BENEFICIARY.

BUT THERE'S ONE CAVEAT TO THAT,

AND THAT IS THAT BENEFICIARY
PERMISSION IS NOT UNLIMITED.

SO IF SOMEBODY WENT TO
A SALES PRESENTATION

IN SEPTEMBER OF 2009,
IT IS NOT OK

TO CALL THEM IN MARCH OF 2010.

IT IS LIMITED PERMISSION
BY THAT BENEFICIARY.

OUTBOUND VERIFICATION CALLS,

AND THIS IS SOMETHING
THAT'S A BIT NEW.

THE REQUIREMENT FOR OUTBOUND
VERIFICATION CALLS HAS APPLIED

FOR A WHILE TO PRIVATE
FEE-FOR-SERVICE PLANS.

THE REASON FOR THIS IS

THAT THERE WAS A LOT OF

BENEFICIARY CONFUSION REGARDING
PRIVATE FEE-FOR-SERVICE PLANS

AND EXACTLY HOW THEY WORKED.

SO WE HAD A REQUIREMENT
THAT BENEFICIARIES BE CALLED

AFTER THE FACT TO MAKE SURE

THAT THAT WAS INDEED WHAT THEY
INTENDED TO SIGN UP FOR.

THIS REQUIREMENT
HAS NOW BEEN EXTENDED,

AND IT APPLIES
TO ALL PLAN SPONSORS,

NOT JUST PRIVATE
FEE-FOR-SERVICE,

SO THESE OUTBOUND
VERIFICATION CALLS HAVE TO BE

TO NEW ENROLLEES
WITHIN 10 CALENDAR DAYS

OF RECEIVING THE APPLICATION
FOR ENROLLMENT.

IF YOU CAN'T GET SOMEONE
BY TELEPHONE,

CMS HAS MODEL LETTERS ONLINE
OF WHAT YOU CAN USE

AS AN ALTERNATE COMMUNICATION.

SO WHEN SOMEBODY'S
SIGNING SOMEBODY UP

FOR ONE OF THESE PLANS,

THEY HAVE TO GET
THE BENEFICIARY TELEPHONE NUMBER

AND THEY HAVE TO ALERT THEM

TO THE FACT THAT THEY'RE GOING

TO GET ONE OF THESE
VERIFICATION CALLS

SO IT'S NOT OUT OF THE BLUE,

THEY'LL KNOW THAT THEY'RE
GOING TO BE CALLED.

SO THE BENEFICIARY IS EXPLAINED
THE VERIFICATION PROCESS

AND THE BENEFICIARY GETS
THAT VERIFICATION CALL

TO MAKE SURE THAT THAT'S INDEED
WHAT THEY WANTED TO SIGN UP FOR.

SAME KIND OF THING.
WE'RE TRYING TO MAKE SURE

THAT THE BENEFICIARY UNDERSTANDS
WHAT THEY ARE SIGNING UP FOR,

AND THIS IS
TO EVERYONE'S ADVANTAGE.

YOU WANT TO MAKE SURE
THAT EVERYBODY IS CLEAR

AS TO WHAT'S GOING ON HERE.

SO SCOPE OF APPOINTMENTS FALLS
INTO THIS SAME CATEGORY.

EXCUSE ME.

BEFORE SOMEONE GOES TO
A BENEFICIARY'S HOME,

IT HAS TO BE MADE CLEAR IN
ADVANCE WHAT LINES OF BUSINESS

ARE GOING TO BE DISCUSSED
WITH THAT BENEFICIARY.

SO IF SOMEBODY'S GOING TO BE
DISCUSSING A MEDIGAP PLAN

OR IF SOMEBODY'S GOING TO BE
DISCUSSING A MEDICARE ADVANTAGE

PLAN OR A PDP, WE WANT TO MAKE
SURE THAT EVERYBODY UNDERSTANDS

THE GROUND RULES AND EVERYBODY
AGREES AS TO WHAT'S GOING

TO BE DISCUSSED BEFORE
THAT VISIT TAKES PLACE.

LIKEWISE, IF SOMEBODY'S HAVING
A SALES OR MARKETING EVENT,

IT ALSO HAS TO BE
PUT OUT IN ADVANCE

WHAT'S GOING TO BE DISCUSSED AT
THAT SALES OR MARKETING EVENT.

THIS IS JUST TRYING TO DO
FULL DISCLOSURE SO EVERYBODY'S

ON THE SAME PAGE AND UNDERSTANDS
WHAT'S GOING TO GO ON.

AGENT AND BROKER TESTING.
WE'VE ALWAYS HAD A REQUIREMENT

THAT AGENTS AND BROKERS
BE TESTED AND TRAINED,

AND NOT JUST TESTED AND TRAINED

ON THE PRODUCTS
THAT THEY'RE SELLING,

WHICH OF COURSE
THEY SHOULD KNOW ABOUT,

BUT ALSO TESTED AND TRAINED ON
THE MEDICARE PROGRAM AS WELL.

WE WANT TO MAKE SURE THAT
EVERYBODY IS VERY WELL-INFORMED,

SO TO THIS END, CMS CAME UP

WITH AN ONLINE TRAINING

AND TESTING MODULE,

AND THIS TRAINING AND TESTING
MODULE WAS RELEASED AS A PILOT

FOR CALENDAR YEAR 2010
ON JULY OF LAST YEAR,

AND THE HOPE IS THAT
THIS WILL THEN BE EXPANDED

TO ALL AGENTS AND BROKERS
FOR CALENDAR YEAR 2011,

SO THAT'S WHAT THE IDEA IS HERE.

NOW, OBVIOUSLY, CMS CAN'T
COME UP WITH A TRAINING PROGRAM

THAT'S SPECIFIC TO THE PRODUCTS
THAT PEOPLE ARE SELLING

FOR THEIR DIFFERENT PLANS,
BUT WHAT CMS CAN DO IS COME UP

WITH GENERAL MODULES ON MEDICARE

TO MAKE SURE THAT EVERYBODY'S
TRAINED THE SAME WAY.

SO THE TRAINING CONTENT FOR THE
CMS MODULE IS MEDICARE BASICS,

ENROLLMENT AND DISENROLLMENT,

BENEFICIARY PROTECTIONS,

THESE MARKETING REGS
THAT WE'RE TALKING ABOUT,

WHAT CONSTITUTES
A MARKETING EVENT,

WHAT CONSTITUTES A SALES EVENT,

AND THEN THERE'S TRAINING AND
THERE'S A CERTIFICATION EXAM.

SO THE AGENT OR BROKER WOULD
TAKE THIS MEDICARE TRAINING,

THE ONLINE TRAINING
THAT WOULD BE SET UP BY CMS,

AND THEN THERE WOULD
BE ADDITIONAL TRAINING REQUIRED

THAT WOULD BE
PLAN-SPECIFIC AS WELL.

I WANT TO TALK FOR A BIT
ABOUT AGENT/BROKER COMPENSATION,

AND THIS IS A VERY COMPLEX AREA.

I'M GOING TO DO
BROAD BRUSH ON THIS,

THE WHOLE IDEA OF
AGENT/BROKER COMPENSATION.

AND WHAT CMS IS TRYING TO DO
IN ITS GUIDELINES

IS TO MAKE SURE
THAT BENEFICIARIES GET THE PLANS

THAT SUIT THEM THE BEST
AND ARE NOT GIVEN PLANS

THAT WOULD BETTER LINE
THE POCKETS

OF SOME UNSCRUPULOUS AGENTS
OR BROKERS.

SO WHAT IT DOES IS IT ELIMINATES
THE INCENTIVES FOR AGENTS

TO CHURN BENEFICIARIES,
TO HAVE THEM GO FROM ONE PLAN

TO THE NEXT TO THE NEXT TO GET
MORE COMPENSATION FOR THAT.

AND IT ALSO SETS SOME STRUCTURE

IN TERMS OF WHAT COMPENSATION
CAN LOOK LIKE.

THE COMPENSATION RULES
APPLY TO PLANS

THAT MARKET THROUGH
AGENTS AND BROKERS.

PLANS ARE NOT REQUIRED
TO USE INDEPENDENT AGENTS,

BUT WHEN THEY DO,
THE CMS COMPENSATION RULES

HAVE TO BE FOLLOWED.

NOW, THERE ARE EXCEPTIONS,
SO EMPLOYED AGENTS--

BY A PARTICULAR PLAN,
OR CONTRACTED AGENTS WHO SELL

EXCLUSIVELY FOR ONE PLAN
AND THEY RECEIVE A BASE SALARY--

THIS IS A DIFFERENT ANIMAL.

THIS IS NOT WHAT WE'RE
TALKING ABOUT HERE.

AGENTS WHO ARE SELLING
EMPLOYER GROUP PLANS--

DIFFERENT ANIMAL, NOT WHAT
WE'RE TALKING ABOUT HERE.

WE'RE TALKING ABOUT
INDEPENDENT AGENTS AND BROKERS.

WHEN WE'RE TALKING
ABOUT COMPENSATION,

WE'RE ESSENTIALLY TALKING
ABOUT ANY KIND OF PAYMENT,

SO THAT'S COMMISSIONS AND IT'S
BONUSES AND IT'S REFERRAL

AND FINDERS' FEES--
ALL THESE TYPES OF THINGS.

IT DOESN'T INCLUDE

SOMEBODY PAYING

SOMEBODY'S STATE
APPOINTMENT FEES OR PAYING

FOR ANY KIND OF TRAINING OR
TESTING THAT NEEDS TO BE DONE.

IT REALLY HAS TO DO MORE
DIRECTLY FOR COMPENSATION

FOR FINDING NEW MEMBERS
OR SIGNING UP NEW PEOPLE.

THERE ARE TWO TYPES
OF COMPENSATION.

CAN WE ADVANCE?

THANK YOU. ALL RIGHT.

THERE ARE TWO TYPES

OF COMPENSATION.

THERE IS INITIAL COMPENSATION

AND THERE IS

RENEWAL COMPENSATION.

SO INITIAL COMPENSATION IS PAID

FOR NEW ENROLLMENTS

INTO MEDICARE ADVANTAGE PLANS,

OR PDPs,

AND NEW ENROLLMENTS

INTO DIFFERENT PLAN TYPES.

RENEWAL COMPENSATION IS PAID

WHEN SOMEONE IS MOVING BETWEEN

PLANS; SO A PDP TO ANOTHER PDP,

AN M.A. OR AN MAPD

TO ANOTHER M.A. OR MAPD,
ONE COST PLAN
TO ANOTHER COST PLAN,
SO THAT'S RENEWAL COMPENSATION.
RENEWAL COMPENSATION IS THEN
EQUAL TO 50% OF
THE INITIAL COMPENSATION
AND THIS IS ON A 6-YEAR CYCLE.

CMS IS GOING TO BE MONITORING
AND AUDITING

AGENT/BROKER COMPENSATION
RECORDS TO ENSURE COMPLIANCE.

WE HAVE A LOT OF GUIDANCE
OUT ON THIS ALREADY

THAT'S VERY SPECIFIC
AS TO NUMBERS.

WE'VE NOW HIT THE SLIDE
THAT I LIKE TO SAY IS

THE MOST IMPORTANT SLIDE
OF ANY PRESENTATION

BECAUSE, GIVEN THE FACT
THAT IT'S EARLY IN THE MORNING,

IF YOU ZONED OUT DURING PART
OR ALL OF MY PRESENTATION,

THIS IS WHERE YOU FIND
THE INFORMATION.

SO WE HAVE SO MUCH
ON OUR WEB SITE.

WE'VE GOT ALL OF THE GUIDELINES,
WE'VE GOT ALL

THE HPMS MEMORANDA,

WE'VE GOT THE CALL LETTER
FROM 2010.

WHEN THE NEW GUIDELINES
COME OUT,

WHICH IS GOING TO BE
VERY SHORTLY,

THOSE TOO WILL BE POSTED
ON OUR WEB SITE,

SO STAY TUNED FOR ALL OF THIS
BECAUSE THIS IS GOING TO BE

WHERE YOU'LL BE ABLE
TO FIND EVERYTHING.

NOW, WHAT DO WE DO
WHEN WE NEED

A DEFINITIVE ANSWER
ON SOMETHING?

WE CALL CENTRAL OFFICE
BECAUSE THEY'RE THE ONES

WHO HAVE REALLY BEEN
WORKING VERY CAREFULLY

ON ALL OF THESE GUIDELINES.

THESE ARE THE RESOURCES
AT CENTRAL OFFICE

WHO HAVE THE VARIOUS
RESPONSIBILITIES

FOR THE MARKETING GUIDELINES
AND THE MARKETING PROTECTION,

SO I'VE INCLUDED HOW TO REACH
THESE INDIVIDUALS.

NOW, I AM OPEN TO QUESTIONS
AT THIS POINT,

AND I'M LOOKING

IN THE BACK TO SEE--

ARE ERIKA OR VERONICA HERE?

NO. ALL RIGHT.

WE HAVE MARKETING LEADS

FROM THE REGIONAL OFFICE

WHO I BELIEVE WERE UNABLE
TO BE HERE TODAY,

SO WHAT I WILL DO IS I WILL TRY
AND TAKE YOUR QUESTIONS.

IF I CAN'T ANSWER
YOUR QUESTIONS,

THEN WHAT WE'LL DO IS
WE WILL HAVE YOU SUBMIT THEM

AND WE WILL GIVE YOU
THE ANSWER

THAT'S GOING TO BE ON
THE WEB SITE.

NOW, I KNOW THERE WERE
SOME QUESTIONS BEFORE ON--

PREVIOUSLY SUBMITTED
ON COMPENSATION.

THOSE QUESTIONS--AND I'M
NOT SURE WHO SUBMITTED THEM--

WILL BE ANSWERED ON
THE CONFERENCE WEB SITE.

WE'VE GOT TO DO A LITTLE
RESEARCH INTO THAT,

SO WITH THAT, IF ANYBODY
WANTS TO TAKE THE MIC...

GOOD MORNING.

>> GOOD MORNING. HI. THANK YOU
FOR TAKING MY QUESTIONS.

I HAVE TWO QUESTIONS.

YOU MENTIONED THAT THERE
WOULD BE NEW GUIDELINES

THAT WOULD CHANGE
THE CURRENT MARKETING CHAPTER

ON MARKETING GUIDELINES.
WHAT AREAS--WHAT CHANGES--

>> WE HAVEN'T SEEN THEM YET,
BUT THEY'RE GOING TO BE--

YOU KNOW, JUST AS WE'VE
HAD THE GUIDELINES--

WHAT'S HAPPENED IS,
AS WE'VE HAD THE REGULATIONS

AND AS WE'VE HAD THE GUIDELINES,
WE'VE HEARD FROM THE PLANS

AND SOMETIMES THERE IS
SOME DIFFICULTIES WITH REGARD

TO THE GUIDELINES
AND IMPLEMENTING THEM,

SO WE'VE REFINED THEM AND
REFINED THEM AND REFINED THEM

TO TRY AND MAKE THEM
WORK BETTER,

SO THIS IS YET ANOTHER
ITERATION OF THE GUIDELINES

TO FINE-TUNE THINGS AND TRY
TO MAKE THINGS BETTER.

SO IT'S NOT LIKE THERE ARE GOING
TO BE WILD, WHOLESAL CHANGES

COMING UP, SO I DON'T WANT YOU
TO BE CONCERNED ABOUT THAT,

BUT IT JUST--FURTHER REFINEMENTS
AS WE GET MORE AND MORE COMMENTS

FROM PEOPLE AS TO HOW
TO MAKE THEM WORK BETTER.

AND WE'RE TALKING--
AND WHEN I SAY SOON,

IT COULD BE AS SOON
AS WITHIN THE WEEK.

>> SO IT'S AN UPDATED
CHAPTER 3--

>> WE JUST KEEP UPDATING, OK?

>> ALL RIGHT, AND THANK YOU--

>> BECAUSE MOST OF WHAT HAPPENED
HAPPENED AS A RESULT OF MIPPA,

AND SO WHAT WE DID IS WE
IMPLEMENTED WHAT WAS IN MIPPA.

WE ALREADY HAD SOME EXISTING
PROPOSED GUIDELINES,

AND THEN WE IMPLEMENTED
WHAT WAS IN MIPPA.

AND THEN WE'VE HEARD FROM YOU,
WE'VE HEARD FROM BENEFICIARIES,

WE'VE GOTTEN COMMENTS,
AND WE'VE REALLY TRIED

TO NARROW HOW THESE WORK AND TRY
AND MAKE THEM MORE SPECIFIC

SO IT'S EASIER FOR YOU
TO IMPLEMENT THEM.

>> OK. THANK YOU.
MY NEXT QUESTION IS,

ARE THE SECRET SHOPPERS FOR
THE CMS SURVEILLANCE, ARE THEY--

>> I'M HAVING TROUBLE
HEARING YOU.

>> SORRY. THE STAFF
THAT ARE GOING THROUGH

THE SECRET SHOPPERS
AND THE SURVEILLANCE

THAT IS PERFORMED
IN THE MARKETING AREA,

ARE THEY CMS STAFF OR ARE THEY
CONTRACTED BY CMS?

>> "WHO ARE THE SECRET SHOPPERS"
IS THE QUESTION.

THERE ARE SOME CMS STAFF
WHO GO OUT

AND THERE ARE ALSO OTHERS
WHO GO OUT AS WELL

WHO HAVE BEEN TRAINED TO GO OUT,
AND ESSENTIALLY JUST THE IDEA IS

TO MAKE SURE,
DID THE EVENT TAKE PLACE

AS IT WAS SCHEDULED
ON THE BOOKS?

WE JUST WANT TO DO
A RANDOM CHECK

AS TO WHETHER THAT'S HAPPENING,

AND THEN, JUST TO MAKE SURE
THAT NOBODY'S SAYING SOMETHING

WILDLY INAPPROPRIATE
WHEN A PRESENTATION IS GIVEN.

SO THAT'S REALLY
WHAT IT'S ABOUT.

>> OK, THANK YOU.

>> MM-HMM. YES?

>> GOOD MORNING. THIS IS KIND
OF A FOLLOW-UP QUESTION

TO THE MARKETING
GUIDELINES CHANGES.

THERE WAS AN OIG REPORT
THAT GOT RELEASED, I THINK,

IN FEBRUARY, AND IT DID TALK
ABOUT--THAT THE OVERALL SUMMARY

WAS BENEFICIARY USE ARE STILL AT
RISK IN THE MARKETING PROCESS,

AND IT HAD A GOOD AMOUNT
OF PROCESS

AND THEN A GOOD AMOUNT OF
DIALOGUE ON THE FMO COMPENSATION

OUTSIDE OF THE DIRECT
AGENT COMPENSATION.

SO DO YOU ANTICIPATE,
AT THIS POINT, ANY CHANGES

PRIOR TO ANNUAL
ENROLLMENT PERIOD?

>> I DON'T KNOW
THE ANSWER TO THAT.

IF YOU CAN SUBMIT
THAT QUESTION, I CAN SEE

IF I CAN GET AN ANSWER
FOR YOU, OK?

>> OK, GREAT. THANK YOU.

>> GOOD MORNING.
>> GOOD MORNING.

>> ...FROM HEALTH FIRST.

I WAS WONDERING, REGARDING THE
EXPRESS PERMISSION OF CONTACT,

YOU ADVISED A SHORT TIME FRAME.

DO YOU HAVE ANY GUIDANCE AS TO

WHAT YOU CONSIDER SHORT-TERM?

WOULD IT BE, LIKE,
A MONTH, TWO MONTHS?

>> THAT'S A VERY GOOD QUESTION.

I DON'T HAVE ANYTHING
SPECIFIC ON THAT,

BUT WE CAN CHECK AND SEE
IF THERE'S SOMETHING

IN THE GUIDELINES
THAT'S SPECIFIC TO THAT.

AGAIN, COULD YOU WRITE
THAT DOWN AND WE'LL--

>> SURE. THE REASON
WHY I ASK IS

BECAUSE THERE'S NO SPECIFIC
GUIDANCE IN THE GUIDELINES.

>> MM-HMM. OK.

IF THERE'S NO SPECIFIC GUIDANCE
IN THE GUIDELINES,

THEN IT'S PROBABLY
A MATTER OF COMMON SENSE,

THAT YOU CAN'T CALL
SOMEBODY A YEAR LATER.

ANYBODY ELSE?

OK. THANK YOU SO MUCH.

I THINK WE'RE GOING TO BRING UP
OUR NEXT PANEL A LITTLE EARLY.

[APPLAUSE]