

# CMS Surveillance Activities in Contract Year 2010

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# Oversight of Marketing Sales Events

- Vulnerability in the marketing area was identified, due to persistent complaints and evidence of agent and broker misconduct
- Led to the development of a comprehensive surveillance strategy
  - Designed **to detect, prevent, and respond** to marketing violations

# Surveillance Activities CY2010

- Secret shopping of public sales events
  - Over 1300 events conducted to date
- Secret shopping of one-on-one appointments (Pilot)
- Special focus on non-renewals (NR)
  - Secret shopping in 55 markets with highest NR rates

# Surveillance Activities CY2010

- Marketing Website Review
  - Examine websites for required links (e.g., Summary of Benefits, LIS Information)
- Clipping Service Review
  - Unreported Marketing Events
  - Non-Renewal Marketing Advertisements
- Call Center Performance for Non-Renewing Plans only (Pilot)
  - Narrowly focused on specific non-renewal related questions

# Surveillance Philosophies

- “Real-time” observations and responses
- Resources allocated initially based on risk - then adjusted based on performance
- Industry provided the opportunity to research and respond to violations
- Compliance action taken only when deficiencies are confirmed and validated
- Severity of compliance action based on severity and recurrence of violations

# AEP Surveillance Report

<http://www.cms.gov/managedcaremarketing/>

# Industry Performance

- Room for Improvement
  - Approximately 40% of public sales events had one or more violations
  - Lower incidence of egregious behavior / aggressive marketing tactics than prior years
  - Still problems in providing clear, complete, and accurate information around health plan and drug benefits

# Industry Performance

- Most Common Deficiencies at Public Sales Events
  - Failure to provide clear and accurate information related to drug coverage
  - Requiring beneficiaries to provide personal contact information
  - Inappropriate, *unsubstantiated* comparative marketing claims (e.g., the plan is “the best” or “the most highly rated”)
  - Agents that did not show up for scheduled marketing events

# Industry Performance

- Positive Trends
  - Improvement in performance observed during the Open Enrollment Period
  - Significant reduction in violations observed for plans that received compliance notifications
  - Organizations are acting proactively to respond to violations and implement new strategies and best practices

# Improvement in Performance Following Compliance Action

Organizations that received compliance notifications (by Risk Type)	October Performance (Percent of deficient events)	November Performance (Percent of deficient events)
High Risk	55.1%	39.6%
Moderate Risk	74.1%	38.8%
Low Risk	92.8%	16.7%
Overall	62.1%	36.9%

# Industry Best Practices

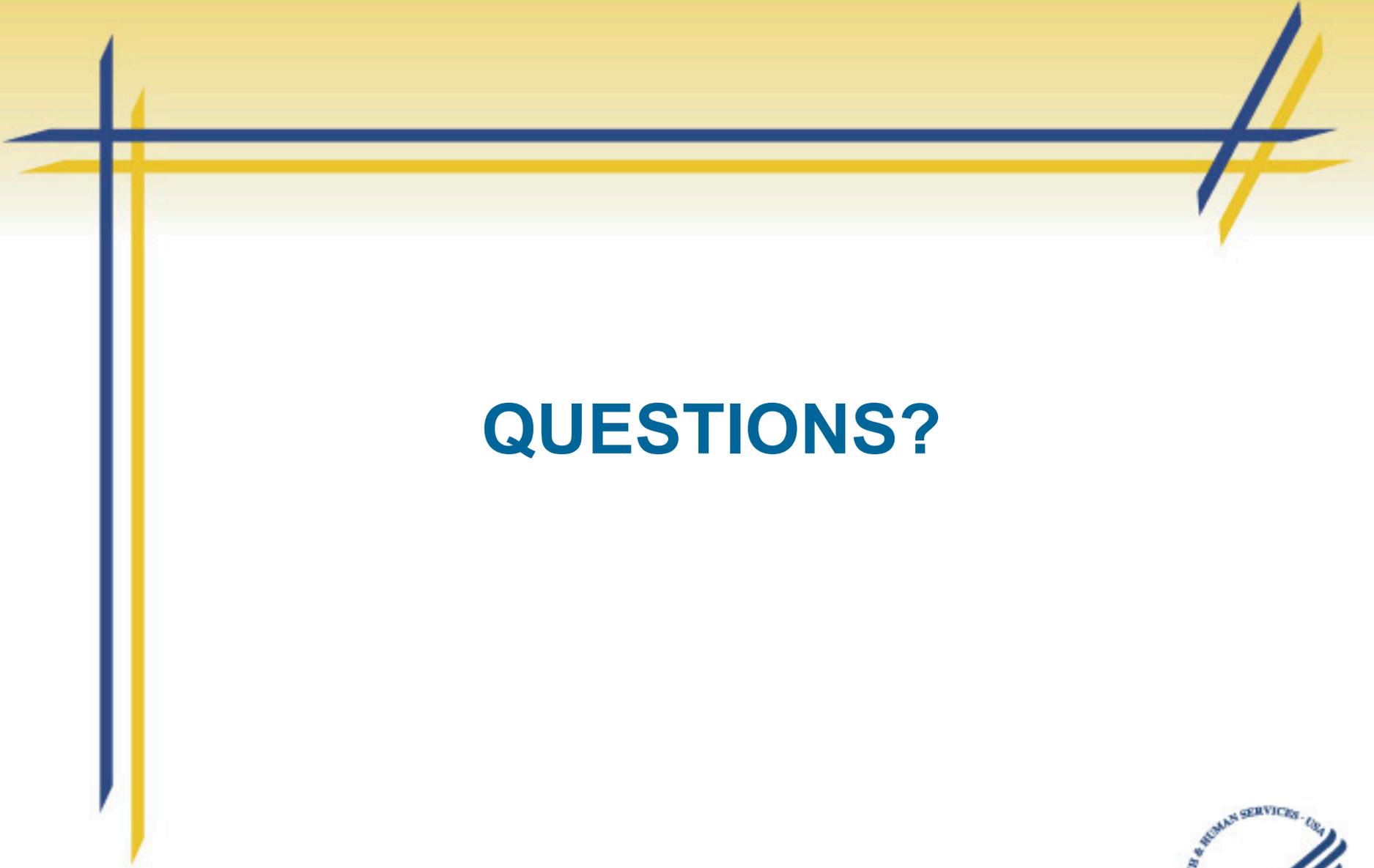
- Organizations have reported the following best practices:
  - Standardizing training packages
  - Implementing more effective controls to track agent/broker licensing information
  - Utilizing 3<sup>rd</sup> party vendors to conduct internal secret shopping
  - Enrollment verification programs
  - Financial penalties written into agent/broker contracts for marketing violations

# Strengthened Information Sharing

- Complaint/information exchanges with State Departments of Insurance (DOIs)
  - Information sharing based on MOU includes:
    - Information related to specific agents/brokers
    - Consumer complaints
    - Information on CMS enforcement actions
  - Recent Partnership with Compliance and Enforcement (C&E) MEDIC
  - CMS establishing a State referral notification to provide status of pending MEDIC investigation of agents

# Surveillance Lessons Learned

- Activities in CY2011 will be further strengthened through lessons learned and listening session feedback
- Common feedback:
  - Consider special product types in examining marketing requirements
  - Develop a weighted or scoring system for violations
  - Console reporting and extract functionality
  - Additional detail in shopping observations



**QUESTIONS?**