

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 3rd 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?