



New Requirements for TPMO When Selling Medicare Advantage and/or Part D Plans

Effective October 1, 2022

The Centers for Medicare & Medicaid Services (CMS) have released their final ruling on requirements for the marketing and communication of Medicare Advantage and Part D plans. The requirements are aimed at safeguarding Medicare beneficiaries and include requirements for disclaimers and recording of phone calls. If Medicare Part D is included in a bundle with another product, the sales process is still subject to this law. There has been an increase in complaints to CMS as it relates to misleading advertisements from third-party marketing organizations (TPMOs) and CMS has now expanded the definition of TPMO to include agents and brokers. If you sell Medicare Advantage or Medicare Part D plans, you are required to follow these new regulations and must be in compliance by October 1st, 2022.

Disclaimer:

This exact disclaimer must be used in the following places:

"We do not offer every plan available in your area. Any information we provide is limited to those plans we do offer in your area. Please contact Medicare.gov or 1-800-MEDICARE to get information on all your options."

- Verbally conveyed within the first minute of a sales call or in-person meeting.
- Electronically or in writing when interacting with the beneficiary through email, online chat or other electronic means of communication.
- Prominently displayed on your website
- Included in any marketing materials such as print materials and television advertising.

Call Recording Requirement:

All sales calls with beneficiaries must be recorded in their entirety. This means that all marketing calls with both clients and prospects where Medicare Advantage and Medicare Part D plans are discussed must be recorded. The recordings must also be retained in a HIPAA-compliant manner for **10 years**.

Any conversation within the "chain of enrollment" must be recorded. This includes everything from the moment a beneficiary becomes aware of Medicare Advantage or Part D plans to the enrollment process itself. Medicare supplements are not included in the new call recording rules.

In-person, face-to-face marketing and sales meetings are excluded from the recording requirement (not the disclaimer requirement), however, follow-up calls related to those meetings would need to be recorded.

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Also, agents must report any staff disciplinary actions associated with Medicare beneficiary interaction on a monthly basis.

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What you need to do:

Disclaimer:

- ☐ Update your website footer and any contact/submission form on your website to include: "We do not offer every plan available in your area. Any information we provide is limited to those plans we do offer in your area. Please contact Medicare.gov or 1-800-MEDICARE to get information on all your options."
- ☐ Update any marketing materials supplied via hard-copy or email to include the disclaimer.
- ☐ If you use a chatbot or online messaging system with clients, add the disclaimer so it's prominently displayed.
- ☐ Create a new Medicare-only email signature which includes the disclaimer.
- ☐ Update workflows to include a review of the disclaimer when on the phone or having an in-person contact

Recording Phone Conversations:

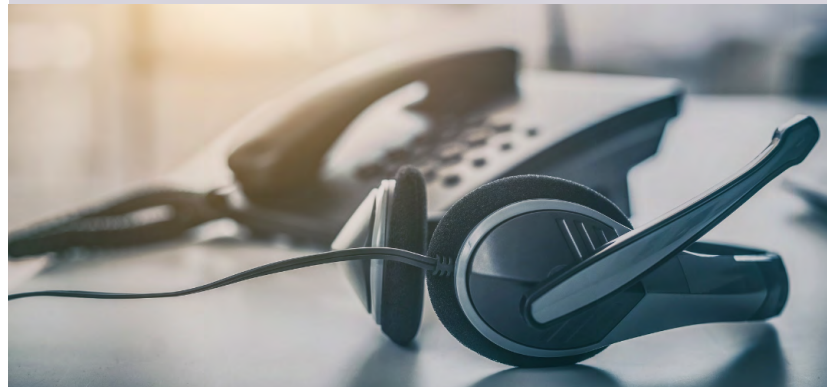
- ☐ Record all conversations following CMS guidelines
- ☐ Save all conversations in a HIPAA-compliant system for ten years

Important things to remember:

- Ensure you have adequate space for your recordings (AMS or other system)
- Confirm recordings are stored in a HIPAA-compliant manner
- Review contract terms, system requirements and length before committing to a new phone system
- Wisconsin does require two-party consent for recording phone calls in order for the conversation to be admissible in court (Additional two-party consent states are CA, CO, CT, DE, FL, IL, MD, MA, MI, MT, NV, NH, OR, PA, & WA. States not listed are deemed to be one-party states for consent).

Source: MWL-Law.com

Solutions:



Here are a few VoIP solutions that allow you to record phone conversations:

Bridge: Price: \$55/month per user

RingCentral: \$45/month or \$35 per user per month for annual contract *Premium level

Lightspeed Voice: 1 year contract - \$50/month per user, 2 year - \$45/month per user, 3 year - \$40/month per user

Zoom Phone: \$15/month per user or \$180/year per user.

GoTo Connect: \$29/month per user or \$312/year per user

8x8: \$15/month per user

blueButler: \$11/month per user (integrates with existing phone system to record conversations)

Don't forget to check with your local provider and ask if they have a call recording option.

Need help selecting a VoIP system that works best for your agency? Visit Catalyit.com.

Additional Questions?

Contact the IIAW with any additional questions about the new requirements for selling Medicare Advantage and/or Part D Plans.

Phone: 608-256-4429

Email: info@iiaw.com