

Contact with Medicare Beneficiaries

Sections 70.4, 70.5, 70.6 & Appendix 2 of Medicare Marketing Guidelines

CMS developed the following guidelines to clarify restrictions on unsolicited contact with Medicare beneficiaries.

- CMS prohibits any type of marketing through unsolicited contact
- Referred beneficiaries must contact the plan, agent, broker or producer directly
- Permission given to be contacted or called must be event specific, may not be treated as open-ended for future contacts

Outbound Calls:

Outbound calls must comply with these federal requirements:

- Federal Trade Commission's Requirements for Sellers and Telemarketers
- Federal Communications Commission rules and applicable state law
- National Do-Not-Call Registry
- Must honor "do not call" requests and abide by federal and state calling hours

Electronic Communication:

You must not initiate separate electronic, or otherwise, contact (e.g., e-mail, direct message) *unless* an individual has agreed to receive those communications.

MUST or ACCEPTABLE	PROHIBITED
Pop-ups or targeted advertisements are permitted on social media	If an individual comments ("likes" or "follows") a plan on social media, this does not constitute agreement to receive plan communications outside of the public forum
Responding to a question or statement initiated by a beneficiary, but may not address subjects beyond the scope of the question/statement	Initiating separate communications to specific social media users
Must provide an opt-out process for enrollees to stop receiving e-mail communications	Renting or purchasing e-mail lists to distribute information about MA, MA-PD or PDP plans
	Sending electronic communications to individuals at e-mail addresses or on social media obtained through friends or referrals

Marketing:

You may not market through unsolicited direct contact.

ACCEPTABLE	PROHIBITED
Leaving information at a beneficiary's residence if a pre-scheduled appointment at a beneficiary's residence becomes a "no show"	Leaving information such as a leaflet or flyer at a residence or on a car
Using mail and other print media to contact beneficiaries (i.e., advertisements, direct mail)	Door-to-door solicitation
Discussing plan specifics at an informal event <i>after</i> the beneficiary approaches your table or kiosk	Approaching beneficiaries in <i>common areas</i> (i.e., parking lots, hallways, lobbies, sidewalks)
	Leaving telephonic or electronic solicitation, including electronic voice mail or text messaging

Telephone:

You may contact your own clients and plans may contact current members at any time to discuss plan business.

ACCEPTABLE	PROHIBITED
Calling beneficiaries who submit enrollment applications to conduct quality control and agent/broker oversight activities	Making unsolicited calls about other business as a means of generating leads for Medicare plans; bait-and-switch strategies

ACCEPTABLE
Calling or using third parties to contact your current members (i.e., calling members aging-in to Medicare from commercial products offered by same sponsoring organization, calling an organization's Medicaid plan members to talk about its Medicare products)
Calling individuals who have given permission for a plan or agent to contact them, (i.e., filling out a business reply card (BRC), or asking a Customer Service Representative (CSR) to have an agent call them)
Returning phone calls or messages
Calling your enrollees to conduct normal business related to enrollment in the plan, including calls to enrollees who have been involuntarily disenrolled to resolve eligibility issues
Calling your former enrollees after disenrollment effective date to conduct disenrollment surveys for quality improvement purposes
Calling current MA members to promote other Medicare plan types or to discuss plan benefits (i.e., we may contact our PDP members to promote our MAPD offerings; plans that are also Medigap issuers may market their MA, PDP, or cost plan products to their Medigap customers)
Calling current enrollees, including via automated telephone notification to discuss/inform them about general plan information (i.e., AEP dates, flu shots availability, upcoming plan changes, educational events and other important plan information)
<i>Subject to advance approval from appropriate CMS Regional Office and under limited circumstances, calling LIS-eligible enrollees that a plan is prospectively losing due to reassignment to encourage them to remain enrolled in their current plan</i>

PROHIBITED
Calling beneficiaries who attended a sales event, <i>unless</i> beneficiary gave permission at the event for a follow-up call (documentation of permission to be contacted must be obtained and saved, i.e., Permission-to-Contact form)
Permission given to be contacted applies only to the entity from which the individual requested contact, for the duration of that transaction, for the scope of product (i.e., MAPD or PDP) as previously discussed or indicated on a reply card
Calling beneficiaries to confirm receipt of mailed information, except as permitted
Calling former members who disenrolled, or current members who are voluntarily disenrolling, to market plans or products, except as permitted
Calling or contacting members who voluntarily disenrolled from a plan for sales purposes or asking for consent in any format to further sales contacts
Making calls based on referrals – a referred individual must contact the plan or agent directly