The most recent Medicare Communications and Marketing Guidelines (MCMG) released by CMS provides the following guidance on requirements for Third Party Marketing:

- All multi-plan marketing materials for Medicare Advantage or PDP plans must be submitted to CMS prior to use.
- Marketing Materials may not be used before they are filed and accepted by CMS.
    - File and Use filings are accepted by CMS in HPMS 5-days following submission of the material into the HPMS system.
- Marketing materials that are online videos and/or TV ads are subject by CMS to a 45-day review period.
- All carriers must be allowed to pre-review and approve agent created multi-plan marketing materials prior to the materials being submitted to HPMS.

What is the difference?

Per CMS, "*Advertisements intended to draw a beneficiary's attention to an Medicare Advantage plan or plans AND include or address content regarding plan premiums, cost sharing or benefit information,* **including those not mentioning a specific plan by name** *(as well as instances where such advertisements are made on behalf of multiple MA organizations), are marketing. These advertisements, as marketing materials, must be submitted to CMS prior to their use.*" Any agent created printed or electronic advertising material, that mentions an insurer by name, **must** be submitted to SMS at Compliance@seniormarketsales.com for submission to the carriers.

Communications are advertisements that do not have **intent and/or content,** these must still be compliant with CMS, state and federal guidance. **Generic communications/advertisements generally do not need carrier pre-review or filing with CMS**.

What you need to know:

Because of changes to requirements for marketing materials, especially the new CMS requirement ***that requires all marketing materials to include the name(s) of the MA organizations or Part D sponsors offering the products or plans, benefits or costs identified in the marketing materials***, SMS strongly recommends that agents use carrier created advertising or create communications rather than marketing materials.

The 2023 CMS final rule impacts past marketing materials that SMS Compliance has filed for agents in HPMS. Be aware that SMS Compliance must withdraw in HPMS any marketing materials that are no longer compliant. This includes advertising materials filed as "Evergreen".

Please review any past submitted marketing materials for any compliance issues and resubmit any revised marketing materials that you are planning to use for CY 2024 advertising to SMS Compliance at Compliance@seniormarketsales.com. We will review them on a first in first out basis. All such materials need to be reviewed by MA organizations prior to SMS filing them in HPMS.

Two Reminders:

From January 1st – March 31st, during the Medicare Advantage OEP, agents are not allowed to send unsolicited materials to members that advertise the ability to make an additional enrollment change, or even reference MA OEP. Prohibited activities for agents include:

- Promoting activities that target MA OEP as an opportunity for making more sales
- Targeting members who are in the MA OEP because they made a choice during AEP by buying mailing lists or other ways of ID'ing a member.
- Calling former enrollees who selected a new MA plan during the previous AEP.

Field agents that are performing telephonic sales and enrollments are required by CMS to follow a CMS approved script. SMS will have an approved generic script template for use by agents for telephonic enrollments. Agents can use the script template to create their own scripts. Please contact SMS for a copy of the script template at Compliance@seniormarketsales.com.

Action Required:

If an agent creates multi-plan marketing materials each such advertisement will need to be submitted separately, by email to compliance@seniormarketsales.com as soon as possible. SMS will send these materials to all of the carriers listed on the marketing material for their prior review and approval. After we receive their approval, we will file the materials in HPMS.

The Carriers will conduct reviews. All submitted materials need a Standard Material ID (SMID) on them. Agents and agencies are responsible for creating and tracking the SMID. The SMID needs to appear on the submitted document and is limited to 50 characters, must

- Begin with "MULTIPLAN_"
- Contain a unique set of numbers/letters
- End with "_M"

So for example: MULTIPLAN_1234abcd_M. The submitter will be notified if a material is denied approval by any appointed carrier. Agents/agencies are expected to maintain records of the distribution of materials covered under these requirements.

In cases where the exact same marketing material needs to be submitted by multiple agents that are contracted with different carriers, a unique SMID is required. When a material that has already been filed in HPMS is filed by a different TPMO, an underscore and initials of the TPMO should be added just before the 'M' in the original material ID when submitting.

Examples:

- Original TPMO Material ID: MULTIPLAN_TPMO_DirectMail_M
- Additional TPMO Material ID: MULTIPLAN_TPMO_DirectMail_SQP_M

All multi-plan marketing materials (except banner ads) including all agent created public facing websites need the following disclaimer added to the materials so that they can be viewed by the public:

Plans are insured or covered by a Medicare Advantage (HMO, PPO and PFFS) organization with a Medicare contract and/or a Medicare-approved Part D sponsor. Enrollment in the plan depends on the plan's contract renewal with Medicare.

Additional disclaimer required for multi plan marketing materials:

CMS regulations require (among other things) that an additional disclaimer be used on all marketing materials for the 2024 contract year. On or after September 30 for any marketing materials, including print materials and television/video advertisements, for agents that do not sell for all carriers in a service area must state:

We do not offer every plan available in your area. Currently we represent [insert number of organizations] organizations which offer [insert number of plans] products in your area. Please contact Medicare.gov, 1-800-MEDICARE, or your local State Health Insurance Program (SHIP) to get information on all of your options.

Any marketing materials, including print materials and television advertisements, for agents that do sell for all carriers in a service area must state:

Currently we represent [insert number of organizations] organizations which offer [insert number of plans] products in your area. You can always contact Medicare.gov, 1-800-MEDICARE, or your local State Health Insurance Program (SHIP) for help with plan choices.

One of these above required disclaimers must also be electronically conveyed when communicating with a beneficiary through email, online chat, or any other electronic means of communication and be prominently displayed on all third-party marketing organization (TPMO) websites, including those of independent agents and brokers.

FAQs:

Q: Are all marketing materials impacted?

A: Yes, all partners that create or use multi-plan marketing materials are required to submit all such materials to Senior Market Sales compliance email address. We strongly encourage agents to use carrier created advertising materials. Communications to members must still be compliant with federal, state and carrier guidance, but they do not require filing with CMS in HPMS.

Q: Can I market new plans prior to October 1st?

A: No. Agents are not allowed to communicate about the following year's Medicare plans prior to October 1st.

Q: Does Senior Market Sales have materials that are compliant and available now that I can use without going through this process?
A: Yes. Please contact your SMS Marketing Coordinator to learn more.

Please contact your SMS Marketing Coordinator with any questions.