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Preventing Medicare Fraud

**Marketing and
Senior Medicare Patrol
Updates**

**2023 Fall Medicare Training for Wisconsin Professionals
Monday, October 2, 2023**

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Session Topics

- ✓ **Overview of marketing guidelines**
- ✓ **What's new with guidelines for 2023?**
- ✓ **SMP Resources**
- ✓ **Medicare Fraud in Wisconsin**



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Senior Medicare Patrol (SMP)

The mission is...

to empower and assist Medicare beneficiaries, their families, and caregivers

to prevent, detect, and report health care fraud, errors, and abuse

through outreach, counseling, and education.





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Medicare Parts C & D Marketing Guidelines

- ✓ **Rules that insurance companies and plan representatives (insurance agents and brokers) must follow when selling Medicare Advantage plans, Part D plans, cost plans, and Medicare-Medicaid plans (with some exceptions)**
- ✓ **Guidelines intended to prevent plans from presenting misleading information about plan costs and benefits**
- ✓ **Includes rules for how plan representatives may contact and market to beneficiaries**



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Educational Events

- ✓ Information only, no marketing or sales pitches during the presentation
- ✓ Must be advertised explicitly as educational
- ✓ Beneficiary-initiated questions can be answered
- ✓ Can set-up marketing appointment if requested by beneficiary
- ✓ No marketing materials or enrollment forms can be distributed
- ✓ Insurance rep can distribute business cards and contact info for beneficiaries to initiate contact



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Marketing/Sales Events

- ✓ Designed to steer potential enrollees or retain current enrollees toward a plan or limited set of plans

- ✓ Health and Drug plans:
 - ✓ Must submit talking points and presentations to CMS prior to use including those to be used by agents/brokers
 - ✓ Can not require attendees to provide contact information as a pre-requisite for attending an event

- ✓ Sign in sheets must be clearly labeled as OPTIONAL

- ✓ Health screenings or other activities that may be perceived as, or used for, “cherry picking” are not permitted

- ✓ Contact information provided for raffles or drawings may only be used for that purpose



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Scope of Appointment

- ✓ Scope of Appointment documentation is required for ALL marketing appointments, regardless of venue
- ✓ Scope of Appointment must include:
 - ✓ Product types to be discussed
 - ✓ Date of appointment
 - ✓ Beneficiary and agent contact information
 - ✓ Statement that no obligation to enroll, current or future Medicare enrollment status will not be impacted, and automatic enrollment will not occur
- ✓ Encourage beneficiaries to request a copy of the Scope of Appointment documentation for their records



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What's new in 2023?

- ✓ **Beneficiary Contact**
- ✓ **Marketing Requirements**
- ✓ **Third Party Marketing Organization (TPMO) Requirements**



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Beneficiary Contact Changes

- ✓ Business Reply Cards (BRC) and Scope of Appointments (SOA) are not allowed to be **distributed** at educational events
- ✓ A marketing event may not occur within 12 hours of an educational event at the same venue
- ✓ Requirement: enrollees be **notified annually in writing** of ability to opt-out of plan business calls
- ✓ Requirement: there must be 48 hours between scheduling a personal marketing appointment/filling out an SOA and the meeting with the beneficiary
- ✓ Authority for agent to talk to member based on a request for more information limited to 12 months



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TV Ads to Attract Enrollees

TV Commercials by the numbers, 2022 open enrollment period:

- ✓ 650,000 airings of Medicare ads appeared during nine weeks of advertising, more than 9,500/day
- ✓ One in every five TV ads sponsored by brokers and other third-party entities/marketing firms
- ✓ TV ads for Medicare Advantage(MA) plans counted for 85% all airings
- ✓ TV ads for MA often showed images of government-issued Medicare card or urged viewers to call a “Medicare” hotline other than 1-800-MEDICARE
- ✓ Some ads suggested people were missing out on benefits entitled to them if not enrolled in a MA plan
- ✓ Vast majority highlighted low costs and extra benefits
- ✓ Ads sponsored by brokers/third-party entities used celebrity endorsements





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Marketing Requirement Changes

- ✓ Limits placed on use of the Medicare name, logo, and image of the Medicare ID card
- ✓ All TV ads and print materials to be submitted to CMS ahead of time and reviewed **PRIOR** to airing/distributing
- ✓ Door-to-door contact considered unsolicited and prohibited
- ✓ Superlatives (best, most, biggest) not allowed in marketing copy without evidence to support the statement



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Marketing Requirements (cont.)

- ✓ To provide meaningful comparisons, medical benefits are required to be in a specific order and listed at the top of a plan's Summary of Benefits
- ✓ Requiring (online) provider directories to be searchable by every element
- ✓ Marketing of benefits not available by any of the plans in that service area is prohibited



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Third Party Marketing Organizations (TPMO) Requirements

- ✓ Definition: an organization or individual, including independent agents and brokers, who is compensated to perform lead generation, marketing, sales, and enrollment-related functions as part of the chain of enrollment
- ✓ Plans must have an oversight program to monitor agent/broker activity and report incidences of non-compliance to CMS
- ✓ Clarifying that the requirement to ensure that TPMOs record all marketing calls with beneficiaries **includes** technology like Zoom



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TPMOs Requirements (cont.)

- ✓ TPMO disclaimer to include all plans the TPMO sells (in print) or mention how many organizations the TPMO sells (when spoken)
- ✓ Adding the State Health Insurance Assistance Program (SHIP) to the TPMO disclaimer
- ✓ Requiring agents to explain the effect of enrollment on current coverage (e.g., enrolling in Medicare Advantage plan will cancel current plan/coverage, primary care provider status)
- ✓ Requiring agents to go through a CMS-developed list of items before enrollment (pre-enrollment check list)



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Misleading Statements

ALLOWED:

- ✓ May call beneficiary who has given advanced permission
- ✓ Must use approved disclaimer language in the first minute of the call
- ✓ All calls/virtual communications must be recorded and stored.



NOT ALLOWED:

- ✓ Cannot state they are from Medicare or use words or symbols including “Medicare” in misleading manner
- ✓ Cannot state they are approved, endorsed or authorized by Medicare, or that Medicare asked them to call or see the beneficiary





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Is This Allowed?

A representative tried to talk with me about their plan in the hospital patient room.




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This is NOT Allowed

- ✓ May conduct marketing/sales activities in common areas of healthcare settings.
 - ✓ Appropriate common areas: waiting rooms, cafeterias, community or recreational rooms and conference rooms in hospitals, nursing homes, assisted living centers, or other congregate housing units.
- ✓ Restricted areas include exam rooms, hospital patient rooms, dialysis centers, and pharmacy counter areas.

A representative tried to talk with me about their plan in the hospital patient room. 



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Is This Allowed?

I'm getting calls and texts from a plan without my permission, and I'm not a member.



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This is NOT Allowed

- ✓ Plans are not allowed to cold call/text individuals.
- ✓ Permission must be given by the beneficiary for contact if not already a member of that plan.

I'm getting calls and texts from a plan without my permission, and I'm not a member.





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Is This Allowed?

A plan is
offering cash if
I join.



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This is NOT Allowed

- ✓ Plans can offer nominal gifts to potential enrollees for marketing purposes, but it may NOT be in the form of cash or other monetary rebates.
- ✓ Per individual: \$15 or less in value
- ✓ Given regardless of enrollment and without discrimination
- ✓ May not provide or subsidize meals but may provide refreshments and light snacks

A plan is offering cash if I join.





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Is This Allowed?

I got an unwanted email, but it included an “opt-out” function.



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This IS Allowed

- ✓ Direct messaging is allowed but must have an “opt-out” function

I got an unwanted email, but it included an “opt-out” function.





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What happens when a marketing violations is reported to the Senior Medicare Patrol?

- ✓ Suspected marketing violations/agent misconduct issues go to the Centers for Medicare and Medicaid Services SMP liaison
- ✓ If an insurance agent is involved, agent information is reported in a complaint to the Wisconsin Office of the Commissioner of Insurance
- ✓ If a Complaint Tracking Module (CTM) entry has occurred, SMP will include that in case information
- ✓ The more information/details available, the stronger the complaint/case



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Resources

- ✓ [Wisconsin Senior Medicare Patrol Website](#)
 - ✓ Home Page Banner: Important things to know about Medicare's Open Enrollment Period



What We Do

Relevant News

Volunteer

Medicare Open Enrollment: October 15 – December 7: Important things to know >

- ✓ **Decision Making Tools**
 - ✓ [Ask the Right Questions](#)
 - ✓ [Comparing Medicare Coverage Options](#)
 - ✓ [To Navigate the Medicare Maze, Know Your Resources!](#)
- ✓ [Fall 2023 Edition of The SMP Scoop](#)



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Resources (cont.)

- ✓ **Toll-Free Helpline: (888) 818-2611**

- ✓ **Statewide Radio Campaign and Interviews**

- ✓ **GWAAR Open Enrollment Toolkit**
 - ✓ October 2023 Medicare Minute: Protecting Yourself from Marketing Violations handout
 - ✓ Other resources to be uploaded as available



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Resources (cont.)

- ✓ **Facebook Accounts to Follow/Share:**
 - ✓ [SHIP National TA Center](#)
 - ✓ [SMP National Resource Center](#)
 - ✓ [Wisconsin Senior Medicare Patrol](#)
 - ✓ [Medicare](#)





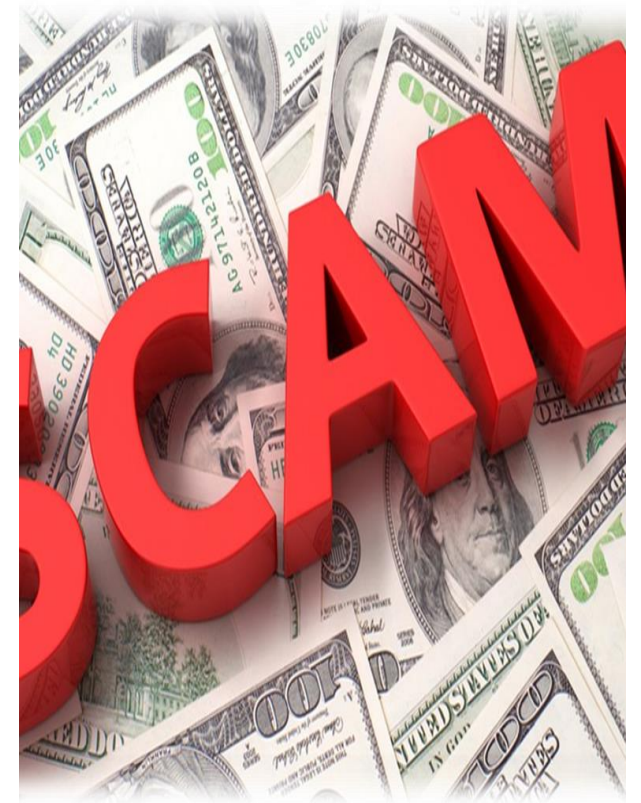
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What are we hearing from Wisconsin Medicare beneficiaries?

- ✓ **Durable Medical Equipment Scams**
 - ✓ **Urinary Catheter Kits**
- ✓ **New Medicare card scams**
- ✓ **Covid-19 Test Kit Scams**
 - ✓ As of **September 25th**: Four free rapid tests from the government
 - ✓ www.covid.gov/tests
 - ✓ 1-800-232-0233
 - ✓ TTY: 1-888-720-7489





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How to contact the Wisconsin Senior Medicare Patrol

- ✓ [Visit us online](#)
- ✓ **Call our Toll-Free & Confidential Helpline:
(888) 818-2611**
- ✓ [Follow Us on Facebook](#)
- ✓ **Email: smp-wi@gwaar.org**

