How to stay CMS-Compliant in 2025 Medicare Contract Year

Description

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This article discusses the recent CMS final ruling requiring one-to-one consent from seniors to share their personal data and be contacted for marketing and enrollment purposes. It also provides insights on how agents and brokers can adapt their marketing practices to be compliant.

In April 2024, the Centers for Medicare & Medicaid Services (CMS) issued a final ruling (CMS-4205-F) that will significantly impact how health insurance agents and brokers can legally market the Medicare Advantage Program and Part D to eligible seniors.

What is the final ruling for the Medicare 2025 contract year?

The new ruling, which takes effect at the start of the Annual Enrollment Period (AEP) in October 2024, seeks to further limit the distribution of Medicare beneficiariesâ?? personal data by third-party marketing organizations (TPMOs). This is not a particularly new charge for CMS, as there are existing rules that prohibit TPMOs from cold calling seniors and applying highly aggressive marketing tactics. The new ruling takes it a step further, requiring:

- An individualâ??s personal data that are collected by TPMOs for marketing or enrolling the eligible individual into a Medicare Advantage or Part D plan can only be shared with another TPMO if this individual gives prior express written consent.
- Written consent must only be acquired through a clear, prominently displayed disclosure where the individual gives their consent to share their information and be contacted for marketing and enrollment purposes.
- A separate written consent must be obtained for each TPMO that receives the individualâ??s data (i.e., establishing one-to-one consent between the individual and a TPMO).

Adapting marketing approaches to be CMS-compliant in 2025

While some agentsâ?? and brokersâ?? marketing practices will already align with this new ruling, many will find they need to tweak or make significant changes to their marketing approaches. Ahead of the

2025 contract year, Medicare agents and brokers should:

- **Consider different types of sales leads**

The types of sales leads that your organization chooses will go a long way in making sure you are compliant. On a very basic level, your sales leads will need to be opt-in leads rather than cold call contacts. Your leads should only include seniors who have â??opted inâ?• to learning more about Medicare and possibly having a discussion with your team. Cold call lists and any leads that are not opt-in are noncompliant.

Next, consider the specific types of leads that will best achieve your marketing and compliance objectives. While there are many types of leads in the market â?? aged, real-time, call transfers, click-to-calls, direct mail, etc. â?? some are better than others when looking through the lens of CMS compliance.

Any leads that are customer-initiated, inbound calls will be the most CMS-compliant in 2025. When individuals initiate direct contact with an agent or broker, either through clicking to call from an online marketing creative or placing a call to a number on a direct mail piece, they offer one-to-one consent. Click-to-call and/or direct mail leads will offer the highest level of compliance. Other types of leads, such as real-time leads, may also be compliant as long as they are exclusive and are a direct opt-in to a conversation.

- **Buy exclusive sales leads**

Moving into the 2025 contract year, agents and brokers should focus on obtaining exclusive leads. Exclusive leads are never resold to another agent or broker. If a lead is never given to any other agent or broker, the individualâ??s one-to-one consent they gave when the lead was first developed remains in effect.

Use of non-exclusive leads would make it difficult and unnecessarily complicated to be CMS compliant. Under this new ruling, each TPMO who accesses the lead and an individualâ??s personal data must have a separate consent from the individual.

- **Ensure marketing creatives and scripting are approved by CMS**

The safest way to ensure you are compliant in 2025 is to buy leads that were developed from CMS-approved creatives and scripting. While this would seem obvious, many agents and brokers are drawn to leads developed from noncompliant creatives. By design, CMS-approved creatives can be perceived as lacking in style. Their primary intent is to clearly convey information, so as not to confuse eligible seniors. They are not â??salesyâ?• or â??flashy,â?• but they are highly effective and, more importantly, legal.

So why donâ??t all leads companies use CMS-approved creatives and scripting? The short answer is, it takes a lot of time and energy. The process for gaining approval from CMS involves multiple steps of review, feedback, and approval, often stretching over several months. The process can be daunting, with many leads providers avoiding or abandoning the process in favor of quickly developing and uploading noncompliant creatives and scripting.

With the new CMS ruling, it is even more important for agents and brokers to fully understand the creatives and scripting by which their Medicare leads were developed. Align yourself with leads providers who can show you their CMS-approved creatives and scripting on demand.

Getting started on being compliant in 2025 and beyond

Recognizing that the rules for Medicare marketing have changed is the first step in becoming compliant and avoiding CMS fees and other legal fees in the future. Agents and brokers can ensure compliance by making sure the sales leads they buy are customer-initiated, exclusive, and developed from CMS-approved creatives and scripting.

If you would like more information on how you can be compliant in 2025, give The Leads Warehouse a call at **1-800-884-8371** or visit our website at https://theleadswarehouse.com.

For more information on the Contract Year 2025 Medicare Advantage and Part D Final Rule (CMS-4205-F), go to CMS.gov

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