

CMS Medicare Marketing Guidelines – Sales Appointment

70.9 - Personal/Individual Marketing Appointments

(Rev. 93, Issued: 06-04-10, Effective/Implementation: 06-04-10)

42 CFR 422.2268, 423.2268

Personal/individual marketing appointments are defined by the intimacy *of the appointment's location (e.g., the setting or environment)*. Personal/individual marketing appointments typically take place in the Medicare beneficiary's home, however, these appointments can also take place in other venues such as a library or coffee shop. 98 If the appointment was set up in accordance with the scope of appointment guidance provided in the next section, the sales person may:

- Distribute plan materials (*we* encourage plan sponsors to provide the *enrollment kit* in one-one appointments, if not, then inform beneficiary on how to access the document through other means (e.g., mail, website).

- Discuss various plan options
- Provide educational content
- Provide and collect enrollment forms

The sales person, however, **may not** do the following:

- *Discuss plan options that were NOT agreed to by the Medicare beneficiary (see scope of appointment information in § 70.9.1).*
- *Market non-health care related products (such as annuities, life insurance or VAIS.)*
- *Ask a beneficiary for referrals.*
- Solicit/accept an enrollment request (application) for a January 1st effective date prior to the start of the Annual Enrollment Period (AEP) unless the beneficiary is entitled to a Special Election Period (SEP) or within their initial coverage election period/initial enrollment period.

70.9.1 - Scope of Appointment

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422.2268(g) and (h), *423.2268 (g) and (h)*

In conducting marketing activities, an MA or Part D plan sponsor may not market any health care related product during a marketing appointment beyond the scope agreed upon by the beneficiary, and documented by the plan, prior to the appointment. Distinct lines of plan business include Medigap, MA, and PDP products.

The scope of appointment must be agreed to by the Medicare beneficiary prior to any face-to-face personal/individual marketing appointment. Agents and brokers can document the scope of appointment in writing via a scope of appointment form. If the scope of appointment is being documented by recording a phone call in advance of the appointment, the call should be placed by the plan sponsor and not the agent/broker. The sales person is bound to only discuss during that appointment those products that have been agreed upon by the beneficiary during that appointment. If other products need to be discussed at the request of the beneficiary, a second scope of appointment form must

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be completed for the new product type and then the marketing appointment may be continued. Upon CMS request, the plan sponsor must be able to produce documentation.

For example, if a beneficiary has agreed to an in-home appointment to discuss a PDP product, an agent can discuss an HMO product with them during that same meeting, if the beneficiary requests it and a new scope of appointment form is completed. To further clarify the requirements around written documentation:

- *Plan sponsors must secure scope of appointment documentation prior to the appointment. A beneficiary cannot agree to the scope over the phone (unless it is recorded) and then sign the documentation form at the beginning of the sales appointment. Any scope of appointment form must be completed by the beneficiary and returned prior to the appointment. If it is not feasible for the scope of appointment form to be executed prior to the appointment, an agent may have the beneficiary sign the form at the beginning of the marketing appointment. However, CMS expects plans to record and maintain documentation on why it was not feasible to obtain the scope of appointment prior to the appointment.*
- The documentation must be in writing, in the form of a signed agreement by the beneficiary, or a recorded oral agreement. A plan sponsor or agent documenting the agreement is not acceptable *for purposes of meeting this requirement*, whether done in writing or using an electronic contact documenting system.
- Plan sponsors are allowed and encouraged to use a variety of technological means to fulfill the scope of appointment requirement, including conference calls, fax machines, designated recording line, pre-paid envelopes, *and* e-mail, etc.
- A beneficiary may sign a scope of appointment form at a marketing presentation for a follow-up appointment. In these instances, the 48 hour waiting period does not apply. For example, if a beneficiary attends a marketing presentation, and, *after* the presentation, requests an individual appointment, the sales person can arrange for that appointment to take place immediately following the sales presentation provided the beneficiary has completed the scope of appointment form.

Marketing/sales events, as described in § 70.8. do not require documentation of beneficiary agreement because the scope of products that will be discussed should be indicated on all event advertising materials. CMS has developed a model scope of appointment form which *is posted at* http://www.cms.hhs.gov/ManagedCareMarketing/09_MarketingModelsStandardDocumentsandEducationalMaterial.asp#TopOfPage). Written scope of appointment forms must be submitted *in HPMS under* Category 4000, Code 4011. We encourage plan sponsors to use our model scope of appointment form. Use of the model without modification may be submitted under File & Use. A modified form must be submitted for forty-five (45)-day review. If the scope of appointment is gathered via a recorded phone call the plan sponsor must ensure that any associated scripts for such calls must be submitted to and approved by CMS prior to their use.

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70.9.2 - Beneficiary Walk-ins to a Plan or Agent/Broker Office or Similar Beneficiary-Initiated Face-to-Face Sales Event

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42 CFR 422.2268(g) and (h), 423.2268 (g) and (h)

In instances where a beneficiary visits a plan or an agent/broker office on his/her own accord, the plan sponsor or agent/broker should complete a scope of appointment form and secure the beneficiary's signature prior to discussing MA, PDP, *or cost* plans. Plan sponsors and agents/brokers should note on the scope of appointment form that the beneficiary was a walk-in. In this instance, the forty-eight (48) hour waiting period does not apply.