

2024 PY Final Rule Checklist

New TPMO Disclaimer [42 CFR 422.2267\(e\)\(41\)](#)

- ☐ Update your website with the new TPMO disclaimer.
- ☐ Update your email signature with the new TPMO disclaimer.
- ☐ Deliver the new TPMO disclaimer in the first minute of a sales call.
- ☐ If you use any material that meets the CMS definition of Marketing, be sure the material is updated with the new TPMO disclaimer and has been approved. See the 2024 Communication checklist for more information.

Educational Events

- ☐ Don't hand out, make available, send, or accept SOA at educational events. [42 CFR 422.2264\(c\)\(1\)\(ii\)\(D\)](#)
- ☐ Do leave a stack of PTC/BRC for attendees to pick up on their own. If an attendee chooses to fill out a PTC/BRC you can accept it at the educational event.
- ☐ Don't schedule marketing events at the same venue or adjacent building within 12 hours of an educational event. [42 CFR 422.2264\(c\)\(2\)\(i\)](#)

Scope of Appointment [42 CFR 422.2264\(c\)\(3\)\(i\)](#)

- ☐ Collect SOA at least 48 hours prior to sales/enrollment/marketing meetings or calls.
- ☐ If your client qualifies for one of the exceptions to the 48-hour rule, document the exception.
 - 1) Last four days of valid election period.
 - 2) Beneficiary initiated in-person walk-in.

Permission to Contact

- ☐ Remember that permission to contact granted by a Scope of Appointment or a Business Reply Cards is now valid for 12 months.

Phone Calls [42 CFR 422.2274\(g\)\(2\)\(ii\)](#)

- ☐ Only required to record sales/enrollment/marketing calls.
- ☐ Record the audio portion of virtual meetings/video calls.
- ☐ Store your recordings for 10 years.
- ☐ Advise your client that the call is being recorded.
- ☐ State the new TPMO disclaimer within the first minute of the call. [42 CFR 422.2267\(e\)\(41\)\(ii\)](#)

Impact to Current Coverage [42 CFR 422.2267\(e\)\(4\)\(viii\)](#)

- ☐ Explain the effect of your client's enrollment choice on their current coverage whenever they make an enrollment decision. This should be in PECL in carrier materials.



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2024 Final Rule Communication Material Checklist

Communication-Only Materials

- ☐ Materials that include the Medicare ID Card must be approved by marketing@cms.hss.gov.
- ☐ Materials do not include superlatives or include data to support the superlative.
- ☐ Materials do not use the word Medicare in a way that may mislead a beneficiary to believe it is official, government material or that you are employed by, affiliated with, or endorsed by the Federal Medicare program.
- ☐ Double check communication materials for Marketing content and make appropriate adjustments.

If you wish to use materials that meet the CMS definition of Marketing, it is best to use pre-approved Marketing materials made available by Carriers in their agent portals rather than creating your own multi-plan marketing.

Multi-plan Marketing

- ☐ The SMID is displayed.
- ☐ All required disclaimers are in a font that is easily noticeable.
- ☐ Marketing material has been submitted to all your carriers for acceptance/changes.
- ☐ Marketing material has been submitted to CMS for approval.
- ☐ Marketing does not mention benefits that are not available in the target service area.

Common examples* include websites that display carrier logos or mention carrier names; print materials that list plan benefits such as dental, vision, hearing, OTC cards, premium reduction.

*This is not an all-inclusive list of everything that constitutes Marketing content. These are the most common things I see when reviewing material.

Definition of Marketing copied from electronic Code of Federal Regulations, ecfr.gov

[Marketing](#) means communications materials and activities that meet both the following standards for intent and content:

(1) Intended, as determined under paragraph (1)(ii) of this definition, to do any of the following:

(i)

- (A) Draw a beneficiary's attention to a MA plan or plans.
- (B) Influence a beneficiary's decision-making process when making a MA plan selection.
- (C) Influence a beneficiary's decision to stay enrolled in a plan (that is, retention-based marketing).

(ii) In evaluating the intent of an activity or material, CMS will consider objective information including, but not limited to, the audience of the activity or material, other information communicated by the activity or material, timing, and other context of the activity or material and is not limited to the MA organization's stated intent.

(2) Include or address content regarding any of the following:

- (i) The plan's benefits, benefits structure, premiums, or cost sharing.
- (ii) Measuring or ranking standards (for example, Star Ratings or plan comparisons).
- (iii) Rewards and incentives as defined under [§ 422.134\(a\)](#).