



Understanding The New CMS Call Recording Changes



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Background

The Centers for Medicare & Medicaid Services (CMS) is enacting new guidelines that directly impact healthcare professionals, insurance vendors, and the healthcare industry at large.

The changes go into effect Oct. 1, 2022, just in time to start the 2023 Annual Election Period for Medicare Advantage and Medicare Part D plans. Many agents and brokers are scrambling to determine the most efficient and cost-effective way to comply with the new requirements.

The good news is the technology needed to meet compliance is relatively straightforward. The challenges lie in navigating the nuances of CMS' changes and instituting processes that are consistently followed by agents and brokers to ensure compliance.

Reason for Change

While no specific explanation was provided, most believe the ruling is in response to a massive increase in complaints to CMS about misleading TV commercials. These commercials are distributed by third-party marketing organizations (TPMOs) and often utilize celebrities to distract from questionable statements.

In many cases, complaints are aimed squarely at the TPMOs trying to convince beneficiaries to switch plans to one that does not meet their needs — or even match what was advertised. Regardless, CMS has still decided to expand its definition of TPMOs to include all healthcare agents and brokers.

What are the New CMS Requirements?

The CMS Final Rule 2023 was announced in May 2022 and requires all Medicare and Medicaid marketing calls to be recorded and stored for at least 10 years.

Call Recording Requirements

The language is important here as CMS has confirmed it interprets “enrollment” as “marketing.” The call recording requirement applies to all healthcare agents who enroll beneficiaries in new plans. Healthcare agents and brokers will be required to record all “marketing” calls with beneficiaries in their entirety, including the enrollment process. This rule applies to both new and existing clients. The call recordings must then be stored in a HIPAA-compliant manner for at least 10 years.

CMS considers a “marketing” call anything that falls under the “Chain of Enrollment,” which is defined as any events from the point when a beneficiary is made aware of an MA/PDP plan to the end of the enrollment process.

Some examples of what the new recording rules cover include:

- Contacting potential clients
 - Scheduling appointments for new and current clients
 - Collecting drug and provider lists
 - Hosting informational meetings
 - Enrolling clients by phone
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Disclaimer Requirements



All agents will also be required to include the following disclaimer:

“We do not offer every plan available in your area. Any information we provide is limited to those plans we do offer in your area. Please contact Medicare.gov or 1-800-MEDICARE to get information on all your options.”



The disclaimer must be included in the following places:

- Verbally expressed within the first minute of a sales phone call
- Electronically conveyed when communicating with a beneficiary through email, online chat, or other electronic means
- Prominently displayed on the agent's or broker's website
- Included in all marketing materials, including print collateral (12-point font) and television advertisements

Additionally, the following requirements must be included in all call recordings and appointment forms:

- Date of appointment
- Beneficiary and agent contact information
- Product types to be discussed

CMS has stated that there is no obligation to re-enroll current Medicare participants and their enrollment status will not be affected. Automatic enrollment will also not occur. That said, a new Scope of Appointment (SOA) is required if the beneficiary requests information about a plan not previously discussed.

NOTE: CMS has not laid out a compliance verification or auditing plan for the Final Rule 2023 changes.

How to Achieve Compliance

Ensuring agents can meet these new CMS requirements by October 1, 2022, comes down to two primary factors: technology and training.



PSM and YourMedicare have launched the Telephony system to agents nationwide. This new system gives agents the ability to make and receive calls through the YourMedicare SunFire platform. The system assigns agents a virtual phone number with a customizable area code, making the number more familiar for their clients.

Let's address the new disclaimer CMS requires agents to state during the first minute of each call. With the YourMedicare SunFire platform, each call starts with a recording of the disclaimer, so there's absolutely no need to worry about it.

Now is a great time to make sure you have access to **Sunfire's enrollment platform** and have a solution in place to remain compliant.



Highlights Include:

- **INBOUND & OUTBOUND DIALING** - Obtain a virtual phone number and use it directly in Sun Fire or with your personal cell phone.
 - **RECORDING & STORAGE** - Record conversations in a safe and HIPAA compliant manner. Various storage options based on call outcome.
 - **REQUIRED DISCLOSURES** Integrated prompts within Sun Fire to ensure you have the tools you need to meet the requirement.
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