

What you Need to Know About CMS's Lead-Generation Guidelines

Confused about the October 8, 2021, Centers for Medicare & Medicaid Services' (CMS) advisory regarding the marketing of Medicare Advantage (MA) and associated prescription drug (MAPD) plans? Here are a few key points to help demystify the latest update and help you comply with the rules for your lead-generation activities.

1. Marketing vs. Communications – What is CMS's end game?

To put it simply, CMS wants to ensure that any promotional content being used to attract consumers to MA or MAPD products isn't misleading or confusing. This, however, isn't a new rule. What is new, though, is the additional scrutiny CMS is placing on what it views as "marketing." CMS defines "marketing" as any promotional content (including websites, video, ads, email, social media and other mediums) – regardless of whether or not it mentions a specific plan – that includes information or messages on:

- ♥ Plan premiums
- ♥ Cost sharing
- ♥ Benefit information

2. What Is the Process for Regulating Lead Generation?

The Health Plan Management System (HPMS) is CMS's primary tool for reviewing and approving MA and MAPD marketing content. Any content that meets the criteria as described above must be submitted through HPMS and receive a Standardized Material Identification (SMID) code to indicate approval.

3. Who's Responsible for Submitting Content for Approval?

FDRs (first-tier, downstream or related entities, such as YourMedicare) and carriers have traditionally managed efforts in acquiring HPMS approval for MA and MAPD marketing content. However, lead-generation vendors or other organizations that produce marketing content for other parties must also acquire HPMS approval for their materials.

Although the FDR is responsible for submission and approval directly with CMS via HPMS, the FDR could include an agent, agency or lead source vendor in our business.

What does that mean? **Ultimately, you are responsible for ensuring your marketing materials are compliant. Failure of a third-party vendor to gain HPMS approval will not absolve YourMedicare, its affiliates or agents from penalties stemming from the use of unapproved marketing messages.** CMS compliance for our marketing content is our responsibility.

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or call (844) 206-2927.**

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4. What Do I Need to Do to Ensure Compliance?

First, carefully review all MA and MAPD marketing content that you are using for lead generation. This includes any materials being leveraged with lead vendors NOT on our list of vendors who have proven diligent about acquiring HPMS approval.

Then, go through the following checklist:

♥ **Ask:** Has the collateral received prior HPMS approval (as indicated by an SMID code)?

- **If "Yes":** Ask if the HPMS approval documentation has been shared with YourMedicare Compliance.
 - **If "yes,"** the collateral may be used for lead generation.
 - **If "no,"** send HPMS approval documentation to YourMedicare Compliance (Compliance@YourMedicare.com).
- **If "No":** Ask yourself if the collateral references plan premiums, cost-sharing or benefits.
 - **If "Yes,"** submit the collateral to YourMedicare Compliance for team review and HPMS filing.
 - **If "No,"** the collateral may be used for lead generation.

♥ **Consider:**

- **If the collateral does not meet the CMS definition of marketing as outlined above, it does not need to be sent to YourMedicare Compliance.** If you are unsure, please submit the materials to Compliance. If it is deemed to be marketing, Compliance will file it with HPMS for approval.
- **If you are using collateral from a third-party, please request the accompanying SMID code from that organization.** Having that code and sending it to Compliance will allow YourMedicare to catalog the material as approved and speed up your ability to use it for leads.

♥ **Remember:**

- **You may not use any marketing content until Compliance has indicated approval and provided your content with an SMID code!**

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5. Which Third-Party Lead Companies Are CMS Compliant?

YourMedicare has identified several companies that have proven diligent about acquiring HPMS approval. **These include:**

- Healthcare.com
- Apollo Interactive
- DMS
- Call Trader
- Policy Scout
- Datalot
- Inside Response
- Everquote

This list will be updated as additional vendors are reviewed. If you are using lead-generation materials from companies not listed above, and find that they are readily able to provide SMID codes for marketing content, please let YourMedicare Compliance know and they will add them to its list of approved lead providers.

6. Penalties – What Are the Consequences for Non-Compliance?

Sanctions may range in severity from cease-and-desist orders to fines to license suspension. Regardless, our main concern – and intent – is 100% CMS compliance. We believe that it is our collective responsibility to maintain the highest level of compliance with these regulations, and we fully support every effort to provide consumers with the most honest and transparent information possible.

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