

# CMS Changes for 2019

Take it from the biker gang at Gordon Marketing, with  
Medicare you can't afford to be a rebel

Let's start with the name: it is no longer called the Medicare Marketing Guidelines. For 2019 we now have the "Medicare Communications and Marketing Guidelines" so when you see this new acronym <MCMG> you will know that this means the rules that govern us all. Let's start with the best news first:



**Now agents can proactively offer their business cards at educational events.** This sounds like a simple thing, but in the past we had to wait for a prospective member to request a card. This change alone speaks volumes about the relaxing of regulatory red tape that agents have complained about for so long. The burden on agents is lighter and something to cheer about.

The definition of Communications is also a positive change:

*Social Media with plan benefits = marketing. Tougher rules apply.*

*Social Media that promotes general awareness of Medicare and MAPD plans you offer = communication. Lenient rules.*

**Open Enrollment Period (OEP) Is Back!** — January 1—March 31, members enrolled in an MA plan, including newly MA-eligible individuals, can make a one-time election to go to another MA plan or back to Original Medicare. Individuals using the OEP to make a change may also add or drop Part D coverage.

The MA disenrollment period (Jan - Feb 14) is gone.

It is prohibited for the carriers to knowingly target or send unsolicited marketing materials to any MA enrollee or Part D enrollee during OEP.

**Credentialing** — Plans are no longer required to (but still can) terminate unlicensed agents. Carriers now have flexibility to discipline non licensed agents. However, Plans still can't PAY agents who did not meet state license and/or appointment requirements. Agents still won't be paid if they fail to certify annually.

**Communication and Marketing** — We have a new category called "Communications" to cover materials and activities that provide information on MAPD Plans to current and prospective enrollees. "Marketing" is a subset of "communications" and the definition of "marketing" was updated to include only materials that are most likely to lead to a beneficiary to make an enrollment decision. CMS review is required only for marketing materials. The difference between communication and marketing activities and materials is based on the intent and content of what is being conveyed.

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**Medicare Educational Events** — CMS now allows agents to set up future marketing appointments, distribute business cards, and contact information for beneficiaries to initiate contact, and they may include communication activities and distribution of communication materials.

Don't forget that agents may not solicit or accept enrollment applications for a January 1, 2019, effective date until October 15, 2018, unless the beneficiary is eligible under a SEP.

Agents can now pass out information about your agency and all the plans and products that you offer, as long as there are no plan benefits, without getting CMS approval. Think general Medicare, MAPD, and PDP info that isn't going to influence the decision-making process of the prospective member. If you keep your Communication materials broad and general, you can make your own materials to distribute for the first time in a decade! Let's not mess this one up. If you have a doubt about your material, ask your Gordon Marketing marketer at 800-388-8342.

**Agent Websites still must be reviewed by the Carrier if plan benefits are shown.** If you are showing benefits from multiple plans, there is a Multi-plan submission process so you can speed up the process of getting your site approved.

**Business Reply Cards (BRC)** — No requirement to be submitted through HPMS (CMS) **if no plan-specific benefits are mentioned.**

**How Much Agents Can Spend Per Person On Promotional Activities** remains at \$15 but the aggregate moved up from \$50 to **\$75**. Agents can give away drugs or supplemental benefits like a free checkup.

**Limitation to the Part D Special Enrollment Period for Dual & Other LIS-Eligible Beneficiaries** — Stopped allowing DSNP to change plans every month. Dual-eligible and LIS beneficiaries will only be able to use a SEP to move **once per calendar quarter during the first nine months of the year**. Can also be used: 1) within a certain period of time after a CMS or state-initiated enrollment; and 2) within a certain period of time after a change to an individual's LIS or Medicaid status. **It is not available to those identified as "At Risk" or "Potentially at Risk" for prescription drug abuse under drug management programs.**

**Referral fee haven't changed.** Many agents refer cases to us at Gordon Marketing when their clients move out of state or need a product the agent isn't able to sell. **We pay the CMS allowed amount of \$100 to MAPD and \$25 per PDP. You would expect that this amount would go up as agent commissions rise, but it has not.**