CY2014 Annual Election Period Marketing Surveillance Summary Report

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Medicare Drug & Health Plan Contract Administration Group
Division of Surveillance, Compliance, and Marketing

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1 INTRODUCTION AND BACKGROUND

The Centers for Medicare & Medicaid Services (CMS) provides oversight of plan sponsor entities, Medicare Advantage (MA) Organizations, Medicare Advantage-Prescription Drug Plans (MA-PDs), and Prescription Drug Plans (PDPs), collectively referred to as Plan/Part D Sponsors, that have entered into contracts with CMS to offer private Medicare coverage. Plan/Part D Sponsors must ensure that marketing representatives, agents, and brokers comply with CMS marketing requirements and guidelines. CMS has been providing this oversight by directly monitoring compliance with CMS marketing requirements since Contract Year (CY) 2007. Through the market surveillance program, CMS strives to:

- Ensure agents, brokers, and Plan/Part D Sponsors appropriately market their health plan products;
- Identify areas of non-compliance and take appropriate action to correct the deficiencies;
- Analyze trends across Plan/Part D Sponsors with respect to marketing practices; and
- Ensure agents, brokers, and Plan/Part D Sponsors are adhering to CMS requirements.

For CY2014, market surveillance efforts included three (3) oversight activities: public event secret shopping (secret shopping), unreported marketing events and advertisement compliance reviews, and surveillance marketing allegation response team (SMART) activities. The following sections present the findings from these activities conducted during the CY2014 Annual Election Period (AEP) and beyond.

2 CY2014 MARKET SURVEILLANCE PREPARATIONS

CMS focused most of its CY2014 market surveillance efforts during the AEP, which took place between October 15 and December 7, 2013, but CMS' market surveillance and compliance efforts continue throughout the year. Each section below highlights selected pre-season preparatory and prioritization activities that shaped CMS' CY2014 surveillance efforts.

2.1 Methodology for Selecting Events for Secret Shopping

Plan/Part D Sponsors report sales/marketing events to CMS through CMS' Health Plan Management System (HPMS). CMS and contractors identify a sampling of events from HPMS to secret shop.[1] Although any marketing event may be selected for secret shopping, CMS targets events in areas with high concentrations of potentially affected beneficiaries, with a focus on areas with vulnerable populations such as low-income and limited English proficiency.

Additionally, CMS considers the following criteria in the selection process: plan size, historic plan performance (as measured by marketing-related intermediate sanctions and compliance actions), length of time as a Medicare-contracted organization, and competitive pressures (such as those that might occur in markets with explosive Medicare Advantage growth or in areas

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[1] Plan/Part D Sponsors are required to upload event information for all formal and informal marketing/sales events into HPMS prior to advertising the event or seven (7) calendar days prior to the event's scheduled date, whichever is earlier. Plan/Part D Sponsors must update changes to marketing/sales events, (e.g., cancellations and room changes) in HPMS at least 48 hours prior to the scheduled event.

where competitor Plan/Part D Sponsors did not renew their contract with CMS). This methodology allows CMS to efficiently allocate resources, target oversight efforts according to risk of non-compliance, and protect beneficiaries for whom marketing misrepresentations may have a more adverse impact.

2.2 Revisions to the Public Marketing and Sales Events Secret Shopping (PESS) Tool

Shoppers use the PESS Tool to facilitate and electronically record their evaluations of marketing events to ensure compliance with CMS requirements. The PESS Tool is designed to capture various compliance aspects of a representative's or agent's presentation, including their actions and provided materials. Additionally, it captures general information about the event, such as the number of people in attendance, the type of venue where the event was held, and the language in which the agent presented the event.

Each year, CMS refines the PESS Tool to reflect current marketing guidance and capture any deficiencies resulting from identified non-compliance trends. For example, for CY2012 CMS categorized PESS questions into nine (9) deficiency categories. For CY2013, CMS added four (4) additional PESS Tool deficiency categories for a total of 13 deficiency categories.

For CY2014, one (1) additional deficiency category was added to address whether agents/ presenters were correctly describing Part C (medical coverage) benefits. Specifically, the CY2014 PESS Tool included the question, "*Was medical coverage discussed in an incorrect, misleading or inappropriate way?*" In previous years, this deficiency was captured within the "Miscellaneous" or "Ad Hoc" category, making analysis challenging. Further details regarding the deficiencies captured and categorized within the PESS Tool over the past three (3) years are provided in Exhibit 2.

2.3 Market Surveillance Training

For CY2014, CMS developed two (2) interactive secret shopper training modules to assist shoppers in their understanding of relevant marketing guidelines and regulations associated with MA, MA-PD, and PDP marketing events, as well as how to appropriately document secret shopper findings. The first module contained information about the secret shopper initiative and shopping techniques, a review of marketing requirements and regulations, and a full description of the PESS Tool, including instructions for completing each question. The second module incorporated lessons learned from previous years, emphasizing areas with higher potential for non-compliance and changes to the CY2014 Medicare Marketing Guidelines (MMG). The training also included updates for shoppers on new developments affecting the MA/MA-PD/PDP landscape, including implementation of key features of the Affordable Care Act (ACA), such as the Financial Alignment Demonstration Initiative (Medicare-Medicaid Plans, or MMPs) that are being launched in select states. Furthermore, the training included relevant references, citations, and knowledge checks to reinforce key concepts.

3   SECRET SHOPPING

CMS continues to maintain a secret shopping presence. In CY2013, CMS conducted secret shops of marketing events sponsored by 114 Plan/Part D Sponsors in 41 states, the District of Columbia (DC), and Puerto Rico. In this past year (CY2014), CMS' secret shopping activities encompassed events held by 101 Plan/Part D Sponsors in 42 states and DC. A map highlighting the geographic distribution of secret shopping activity for CY2014 is available in Appendix A.

3.1   Secret Shopping Findings

During the CY2014 AEP, secret shoppers attended a total of 1,366 public marketing events held by 101 Plan/Part D Sponsors of varying enrollment size (see Appendix B). This number includes no-show events (events where the sales agent was not present and adequate measures were not taken to inform attendees of event cancellation), and events where shoppers were unable to complete the PESS Tool as a result of logistical complications (e.g., shoppers were denied access to the venue[2] or the event did not take place at the time listed in HPMS). Excluding no-show and other incomplete events, shoppers completed 1,320 shops in their entirety.

Since CY2011, the percentage of no-show events has generally remained consistent, at about 3% to 6% of attempted shops. Exhibit 1 illustrates a comparison of CY2014 no-show events to CY2010, CY2011, CY2012, and CY2013 no-show events.

Exhibit 1. Event No-Show Comparison (Total Scheduled CY2014 Events = 1,366[3])

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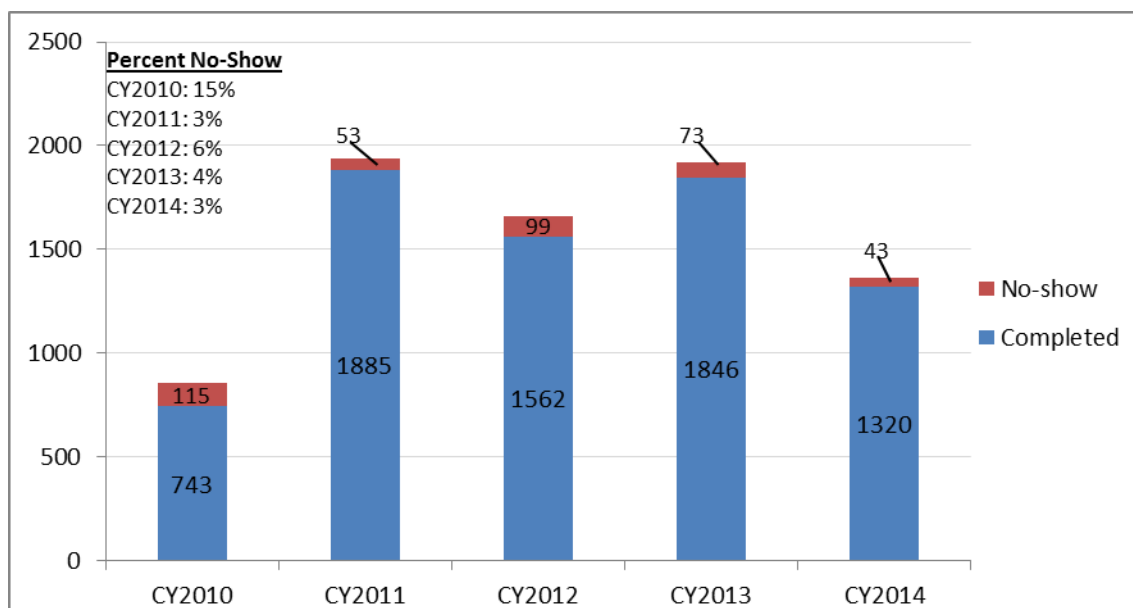
[2] Marketing guidelines prohibit agents from denying access to any individual wishing to attend a sales event. However, in some instances, shoppers were prevented from attending events because they were unable to access the venue itself. For instance, some shoppers were denied access to nursing homes because visitors were required to have immediate family members in residence at the facility. Shoppers marked all such events as an "incomplete shop" and included a summary of the circumstances in the PESS Tool.

[3] This number includes three (3) incomplete shops that are not accounted for within the chart

Although shoppers completed fewer shops in CY2014 (1,320) than in CY2012 (1,562) and CY2013 (1,846), secret shopping efforts in CY2014 were more geographically dispersed and increasingly targeted towards high-risk areas and populations, using the methodology described in Section 2.1. For example, secret shopping took place in 272 counties in CY2014 compared to 245 counties in CY2013, an increase of 11%. In CY2014, shoppers completed twice as many shops (91) than in CY2013 where the agent presented in a language other than English. CMS has tailored the market surveillance program to address the dynamic demographics of the Medicare population by expanding the variety of languages and number of non-English shops for which CMS provides oversight. While non-English language shops accounted for 1% of the completed shops in CY2012; they accounted for 2.4% in CY2013 and nearly 7% in CY2014, including:

- 65 events presented in Spanish,
- 18 events presented in Cantonese or Mandarin,
- Four (4) events presented in Korean,
- Four (4) Bilingual/Multilingual events[4]

Of the 1,320 completed shops in CY2014, 1,133 (85.5%) had no validated deficiencies and were entirely compliant with Medicare regulations, which was nearly 20% greater than in CY2013 (65.7%). Of the 101 parent organizations shopped, 42 (or 41.6%) had no validated deficiencies, compared to 20.2% in CY2013. These 42 parent organizations represent 211 shops or approximately 16% of the total completed shops.

Overall numbers, however, can mask important differences with regard to event language. For example, 86.2% of the completed English language shops had no validated deficiencies while only 80.2% of non-English language shops had no validated deficiencies. Non-English language shops also experienced a greater number of validated deficiencies than English language shops, on average. Specifically, the average number of validated deficiencies per attempted shop was 83% higher for non-English language shops (0.38) than for English language shops (0.21).

Generally, the overall rate of observed deficiencies has decreased over the past three (3) years, though some areas remain problematic for presenters. Exhibit 2 provides a breakdown of the deficiencies observed by category for CY2012, CY2013, and CY2014. Since the shops selected for these years were not drawn from comparable samples, quantitative cross-year comparisons cannot be made.

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[4] Multilanguage shops included two (2) shops presented in English and Spanish; one (1) shop presented in English, Spanish, and Mandarin/Cantonese; and one (1) shop presented in English, Spanish, and Tagalog

Exhibit 2. Number and Percentage of Deficiencies by Category (CY2012-CY2014)

Categories	CY2012 Number	CY2012 Percentage	CY2013 Number	CY2013 Percentage	CY2014 Number	CY2014 Percentage
Special Needs Plan (SNP) Information	153	23.22%	2	0.29%	1	0.33%
Drug Coverage (Part D)Statements	140	21.24%	14	2.05%	13	4.26%
Shop Did Not Take Place	99	15.02%	83	12.13%	46	15.08%
Absolute Marketing Statements	75	11.38%	52	7.60%	11	3.61%
Contact Information	51	7.74%	38	5.56%	9	2.95%
Inappropriate Statements/ Inaccurate Statements/ Scare Tactics	50	7.59%	32	4.68%	17	5.57%
Food/ Gifts	6	0.91%	14	2.05%	2	0.66%
Private Fee-for-Service (PFFS) Information	5	0.76%	0	0.00%	0	0.00%
Miscellaneous Deficiencies *(represents those deficiencies that could not be categorized into a major topic area)*	80	12.14%	85	12.43%	35	11.48%
Ad Hoc Deficiencies *(New Category for CY2013)*	--	--	31	4.53%	5	1.64%
Star Rating (Plan Rating) *(New Category for CY2013)*	--	--	163	23.83%	69	22.62%
Multi-Language Insert *(New Category for CY2013)*	--	--	48	7.02%	39	12.79%
Sign-In Sheet *(New Category for CY2013)*	--	--	122	17.84%	53	17.38%
Medical Coverage (Part C)Statements *(New Category for CY2014)*	--	--	--	--	5	1.64%
Total Deficiencies	**659**	**100%**	**684**	**100%**	**305**	**100%**
Total Completed Shops	*1,562*	*--*	*1,781*	*--*	*1,320*	*--*

Because the PESS Tool is modified yearly, deficiencies are not comparable for all categories. However, general trends can be observed by comparing year-to-year surveillance results. For example, *Special Needs Plan (SNP) Information* had the highest number of observed deficiencies in CY2012, but one of the lowest percentages of deficiencies (0.3%) in CY2014. SNP Information includes SNP-specific questions regarding the specific eligibility requirements, enrollment and disenrollment requirements and time periods, and drug coverage details.

Similarly, validated deficiencies for the *Drug Coverage (Part D) Statements* category precipitously declined in CY2013 and CY2014. In CY2010 there were 140 validated deficiencies compared to 14 and 13 for CY2013 and CY2014, respectively. These PESS Tool questions pertain to Plan/Part D Sponsors' prescription drug coverage including information regarding the coverage gap, beneficiary cost sharing, and drug formulary details. It is critical that beneficiaries are well informed of Plan/Part D Sponsors' prescription drug coverage to ensure appropriate coverage for beneficiary-specific needs. When an agent does not adequately explain a Plan/Part D Sponsor's drug coverage or the associated cost, a beneficiary may be unable to make an educated decision regarding his or her drug coverage.

Shops that Did Not Take Place continue to represent a sizeable percentage of observed deficiencies for CY2014 (15% of observed deficiencies). These events failed to occur as scheduled in HPMS and were not canceled, as required by CMS policy, which can greatly

inconvenience or even harm a beneficiary who may rely on these events to make important enrollment decisions. This category reflects "no-show events," where the agent is not present at his or her scheduled event. For the 46 events that did not take place in CY2014, 43 were due to agent no-shows.

The use of ***Absolute Statements*** by agents and brokers at marketing events continued to be noted by secret shoppers, although this finding was not as prevalent as in past years. Approximately 3.6% of validated deficiencies (compared to 7.6% in CY2013) resulted from agents making an unqualified superlative statement when discussing their plan. To ensure accurate and fair marketing, agents are not permitted to make such claims unless they are substantiated with data.

Inappropriate/Inaccurate Statements and Scare Tactics were also observed at marketing events. Although this category accounted for only 6% of observed deficiencies, this type of deficiency is particularly concerning because it may place undue pressure and result in beneficiaries enrolling in plans that are not suited to their medical needs. Some of the inappropriate and inaccurate statements or scare tactics observed by shoppers during CY2014 shops included:

- *An agent stating that doctors do not like to take Original Medicare patients because they "suffer Medicare's intrusive documentation and paperwork requirements"*
- *An agent implying that drug representatives supply gifts and "talk" doctors into prescribing higher-priced drugs*
- *An agent mentioning, by name, two (2) competitor Plan/Part D Sponsors stating, "These plans are making doctors pay to be in their plans, [which] sounds like extortion to me. These plans will be out of business in the near future or if they do survive they won't have many doctors to choose from because the doctors are leaving."*

Similar to CY2013, failure to provide the ***Plan Rating (Star Rating***) worksheet during formal shopping events accounted for the highest deficiency category in CY2014, with 69 observed deficiencies at secret shopping events[5]. This PESS Tool question was added in CY2013 due to revisions made to the MMG, which require Plan/Part D Sponsors to distribute the standardized plan rating document whenever beneficiaries are provided an enrollment instruction form (CY2014 MMG 30.12; 42 CFR § 422.2268).

Failure to provide the standardized ***Multi-Language Insert*** occurred at 39 shops, though this may be partly attributed to the prioritized sampling of foreign language shops in CY2014 (see Section 2.1). Plan/Part D Sponsors must include the Multi-Language Insert with the Summary of Benefits, the Annual Notice of Change, and Evidence of Coverage during formal shopping events (CY2014 MMG 30.7.1; 42 CFR § 422.2268). It is important that limited English proficiency beneficiaries understand the full range of health and financial implications of the health plans they are considering.

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[5] Failure to provide the Plan Rating worksheet was only counted as a deficiency at events where plan enrollment forms were provided (as required by CMS marketing guidelines).

Ad Hoc Deficiencies was a newly assessed category in CY2013. In CY2014, shoppers identified five (5) deficiencies in this category, which were captured in the additional comments section of the PESS Tool. Findings that did not correspond directly to one of the defined deficiency categories were grouped together as ***Miscellaneous Deficiencies.*** This category included deficiencies related to Plan/Part D Sponsors' marketing materials, enrollment kits, inaccurate statements related to enrollment periods, event room set-up, or recorded events.

Deficiencies related to the collection of ***Contact Information*** and ***Sign-In Sheets*** remained relatively consistent in comparison to last year. Inappropriately requiring event attendees to provide contact information or complete a registration accounted for 5.6% of observed deficiencies in CY2013 and for 3% in CY2014. Similarly, failing to clearly indicate on sign-in sheets that providing personal contact information was optional accounted for 17.8% of deficiencies in CY2013 and 17.4% of deficiencies in CY2014. These deficiencies can lead beneficiaries to feel undue pressure and allow unsolicited contact from agents and brokers in the future.

CMS included a new question in CY2014 pertaining to presenters' ***Medical Coverage (Part C) Statements***. This deficiency was added to ensure that presenters are discussing medical coverage details in an accurate and appropriate way. Although this deficiency was observed at only five (5) events, its potential impact is significant. Presenters must ensure that beneficiaries receive accurate information about the coverage and cost details of the plans marketed to allow beneficiaries to make informed decisions regarding their healthcare options.

To more accurately capture analysis findings by compliance category, CMS reviewed the deficiency categories in CY2014 and further evaluated the Miscellaneous and Ad Hoc deficiencies in order to place them into more descriptive categories. For example, deficiencies related to the CMS Marketing ID number, Multi-Language Insert and other marketing material are reclassified as "Marketing and Enrollment Forms." Under the previous classification, Marketing ID number deficiencies were categorized as "Miscellaneous," and Multi-Language Insert deficiencies were categorized as a separate group. After the reclassification, 23 deficiencies which would have been grouped as "Miscellaneous" and all five (5) deficiencies grouped as "Ad Hoc" per previous years' classification were placed in more explanatory categories. Appendix C provides the new mapping of PESS questions/categories and the adjusted number of validated deficiencies for each.

3.2   Secret Shopping Compliance Actions

CMS analyzed and validated the deficiencies identified in each CY2014 PESS Tool entry to determine the appropriate compliance action. In order of increasing severity, potential compliance action options consist of:

- Technical Assistance Letters (TALs)—not actual compliance notices
- Notices of Non-Compliance (NONCs)
- Warning Letters with or without a Request for Business Plan (WLs)
- Ad Hoc Corrective Action Plans (CAPs)

For CY2014, CMS sent 108 TALs and issued six (6) NONCs to Plan/Part D Sponsors. Although more severe compliance actions, such as WLs and CAPs, could have been taken, no deficiencies were determined egregious enough to warrant a higher-severity compliance action. CMS sent TALs to Plan/Part D Sponsors that were shopped below the minimum six (6) shop threshold, regardless of the number of deficiencies identified. TALs carry no penalty for the Plan/Part D Sponsor. Compliance notices were not issued to Plan/Part D Sponsors shopped fewer than six (6) times because resulting compliance findings may not accurately reflect the plan's overall marketing behaviors. Exhibit 3 details the compliance actions taken by CMS as a result of secret shopping for CY2012, CY2013, and CY2014.

For CY2014, CMS took 114 actions involving 59 Plan/Part D Sponsors: 95% were TALs and 5% were NONCs. As noted in Section 2.1, CMS shops Plan/Part D Sponsors and agents with higher risks of non-compliance at a higher frequency, so the number of compliance actions may not be indicative of overall marketing behavior or the Medicare marketing environment.

Exhibit 3. Compliance Actions Taken by Risk Level for Secret Shopping

Action	CY2012	CY2013	CY2014
Technical Assistance Letter	104	183	108
Notice of Non-Compliance	13	4	6
Warning Letter	1	2	0
Total Actions Taken	**118**	**189**	**114**
Attempted Shops	*n=1,661*	*n=1,918*	*n=1,367*

Note: This does not include Plan/Part D Sponsors under referral/enforcement.

4 UNREPORTED MARKETING EVENTS AND PRINT ADVERTISEMENT COMPLIANCE REVIEWS

CMS conducted searches for printed advertisements by Plans/Part D Sponsors that contained information related to Medicare, Medicare Advantage, and Medicare Prescription Drug Plans. A total of 4,743 advertisements were reviewed, including advertisements in languages other than English. These advertisements were reviewed to determine whether the marketing events advertised were properly reported to CMS and whether the advertisement was compliant with CMS' marketing requirements.

4.1 Unreported Marketing Events and Actions

CMS identified more than 16,000 advertised events. Of these, 298 events were not reported to CMS through HPMS[6], accounting for less than 2% of all events. Of note, one (1) organization accounted for 133 of the unreported events. CMS issued six (6) NONCs and 16 TALs related to unreported marketing events. Ten (10) organizations reported all of their advertised events.

4.2 Print Advertisement Compliance Reviews and Actions

Print advertisements fall into the category of general audience materials (CY2014 MMG Introduction, Section 10.0) and must comply with CMS marketing guidelines. The selected print

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[6] Plan/Part D Sponsors are required to submit all formal and informal marketing/sales events via HPMS prior to advertising the event or seven (7) calendar days prior to the event's scheduled date, whichever is earlier.

advertisements were reviewed to ensure that they adhered to applicable marketing guidelines in the MMG, including, but not limited to, the guidelines for:

- Missing HPMS Material ID (Section 40.1)
- Star Rating (Section 30.10.1)
- Missing Disclaimers (Section 50)
- Prohibited Terminology/Misleading/Superlative Statements (Sections 40.3 and 40.4)
- Call Center Hours of Operation (Section 40.6)

The most common deficiency findings for print advertisement reviews were Plan/Part D Sponsors failing to disclose call center hours of operation and missing disclaimers, particularly benefit and Part B premium disclaimers. CMS' review of these print advertisements resulted in the issuance of 14 TALs and two (2) NONCs.

# 5 SURVEILLANCE MARKETING ALLEGATION RESPONSE TEAM (SMART)

While the majority of secret shopping, unreported marketing event analysis, and compliance reviews take place during the AEP, the SMART program receives complaints and allegations throughout the year. The SMART program reviews ad hoc complaints and allegations of inappropriate marketing activities, tracks and resolves these allegations by investigating the claims, and ensures appropriate compliance action is taken, as needed. The SMART program complements other CMS surveillance programs by working with stakeholders to obtain information about improper marketing activity. Complaints and allegations are referred to the SMART program from a variety of sources including, but not limited to: CMS regional offices; state departments of insurance; State Health Insurance Assistance Programs; Senior Medicare Patrols; advocacy groups; Plan/Part D Sponsors; agents or representatives; caregivers; and beneficiaries. These complaints differ from those that are received through 1-800-Medicare, primarily a beneficiary resource, because SMART offers a way for state and local stakeholders to submit allegations related to potential marketing violations witnessed or experienced in the field. Complaints may be specific allegations involving named agents, representatives, or Plan/Part D Sponsors, or they may be non-specific.

Upon receipt referrals are tracked in SMART and investigated. If deemed actionable the referral is assigned to a CMS Account Manager (AM) or to CMS' Center for Program Integrity for further analysis. All referrals submitted to SMART are tracked using a database and weekly status reports are produced. Referral categories (e.g., Agent/Broker Conduct; Door-to-Door Solicitation; Fraud, Waste, and Abuse) and allegation information trends are identified and reported monthly.

5.1 SMART Findings

In CY 2013, SMART received 20 allegations from various sources. Allegations were tracked by behavioral category (as shown on the X axis of Exhibit 4) to monitor for trends. In 2013, the greatest number of allegations (25%) fell under door-to-door solicitation. Exhibit 4 displays the referral categories and the distribution in greater detail.

Exhibit 4. Calendar Year 2013 SMART Referrals by Behavioral Category
(N=20)
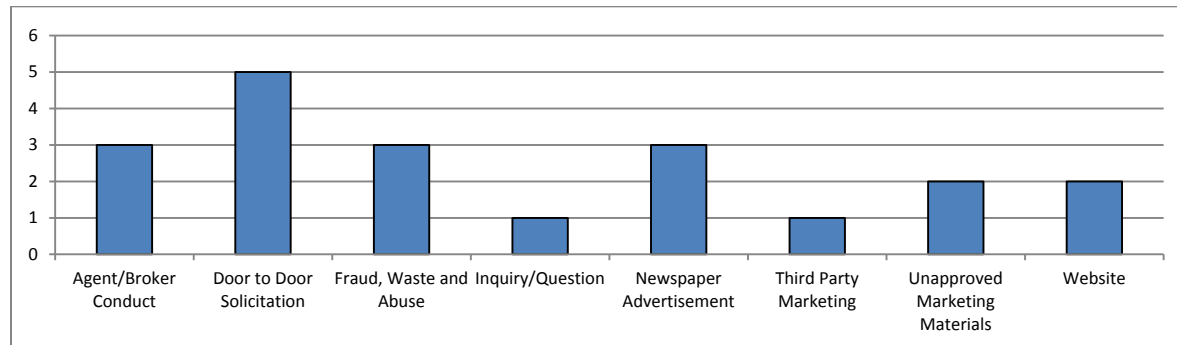
5.2 SMART Referrals and Compliance Actions

Of the 20 allegations received by SMART in calendar year 2013, 16 were deemed "actionable." The majority of actionable allegations were sent to CMS AMs for further investigation and follow-up. The remainder was referred to compliance entities such as the CMS Center for Program Integrity. Upon receipt of a complaint, the AM typically alerted the related Plan/Part D Sponsors of the allegation. The Plan/Part D Sponsor then investigated, took appropriate action, and reported back to the AM following the Plan/Part D Sponsor's review.

In certain circumstances, CMS referred SMART allegations to a surveillance contractor for either secret shopping or a Targeted Observation (TO). A TO consisted of contacting agents or plans via telephone and asking them investigative questions in order to validate the allegation or further verify potential misconduct. SMART surveillance reported on 21 TOs across seven (7) allegations categorized as agent/broker conduct, door-to-door solicitation, inappropriate newspaper advertisement, and inappropriate website content.

6 CY2014 MARKET SURVEILLANCE SUMMARY

CMS has worked to modify the market surveillance program to meet the changing needs of the Medicare population, build on program successes, protect vulnerable populations, and mitigate oversight challenges. As a result, the program has been an effective mechanism to protect Medicare beneficiaries and ensure they receive accurate information that complies with the MMG.

In CY2014, CMS continued to leverage the market surveillance program to confirm and encourage compliance with Medicare marketing requirements. Although there were decreases in the number of Plan/Part D Sponsors shopped (114 in CY2013 vs. 101 in CY2014) and number of shops completed overall (1,846 in CY2013 vs. 1,320 in CY2014), CMS has increased targeted shops in areas with vulnerable populations and expanded its oversight presence to more counties. For example, comparing CY2014 to CY2013, CMS shopped twice as many non-English language events and conducted shops in more counties and states, overall (245 counties and 41 states in CY2013 vs. 272 counties and 42 states in CY2014).

Plan/Part D Sponsors compliance with CMS marketing requirements has continued to improve in CY2014 as compared to CY2013. In CY2014, the percentage of events that were completely compliant rose from 66% to 86%. Also, the percentage of Plan/Part D Sponsors that had no validated deficiencies doubled in CY2014, as compared to CY2013. While CMS issued 114 compliance actions letters to 59 Plan/Part D Sponsors, 108 (or 95%) of these letters were TALs, indicating minimal findings or that Plan/Part D Sponsors did not meet the minimum threshold of six (6) events shopped. Of the more than 16,000 advertised events identified in print publications, only 2% were not properly reported in HPMS, and many of those were attributed to only one (1) organization.

CMS will continue to monitor Plan/Part D Sponsors' compliance with marketing requirements and adapt its oversight strategies to meet changing market trends, while continuing to tailor and target individualized surveillance investigations to address agents, brokers, Plan/Part D Sponsors, or geographic areas for which CMS has particular concern or for which CMS has received allegations of non-compliance. CMS will also work with Plan/Part D Sponsors regarding compliance challenges and issue compliance clarifications, as needed, in an effort to support continued compliance with CMS marketing requirements.

APPENDICES

Appendix A.   Geographic Distribution of Secret Shopping for CY2014

CT	8
DE	2
DC	32
MA	30
MD	12
NH	4
NJ	36
RI	1
VT	1
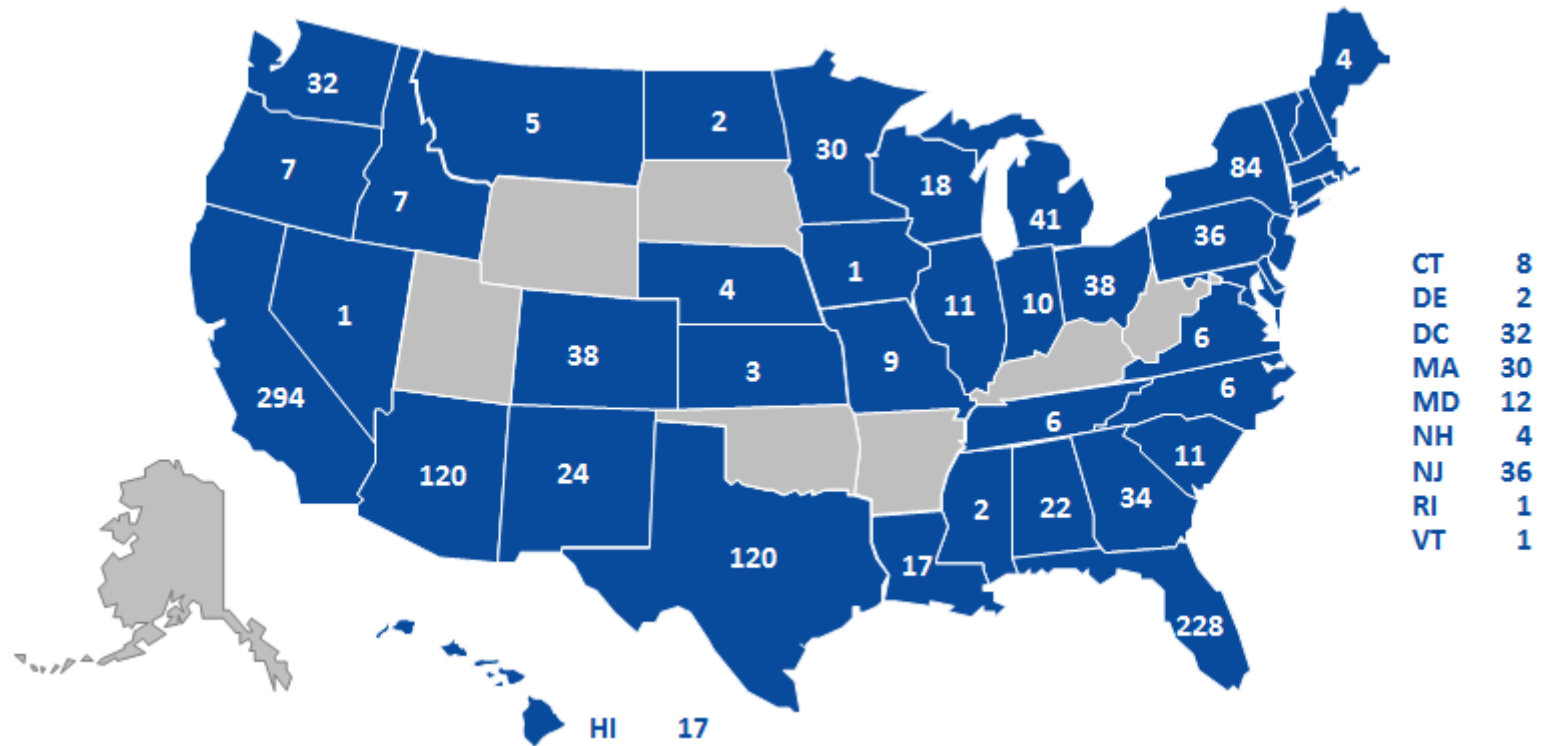
Appendix B.   Plan Enrollment (October 2013) of Plan/Part D Sponsors Secret Shopped in CY2014

CMS shopped a total of 1,366 public marketing events held by 101 unique Plan/Part D Sponsors of varying enrollment size. The following table provides the number of attempted and completed shops for Plan/Part D Sponsors in four (4) ranges of enrollment size at the start of the CY2014 AEP (October 2013).

Parent Organization Enrollment Size (Oct. 2013)	Completed Shops	Total Attempted Shops
0 - 10,000 members	187	198
10,001 - 100,000 members	463	479
100,001 - 1,000,000 members	377	389
1,000,001+ members	293	300
Total	*1,320*	*1,366*

Appendix C.   Mapping of CY2014 observed deficiencies (n=305) to newly Assessed Deficiency Categories

Assigned Deficiency Category	Description	Number of CMS-validated Deficiencies
Plan Rating (Star Rating)	The presenter did not discuss and/or provide information on the plan's overall Plan Rating. These deficiencies also account for instances where the Plan Rating worksheet was provided but did not include the requisite information (i.e., plan name, contract number, CMS marketing ID).	69
Marketing and Enrollment Forms	The presenter failed to provide or make available Summary of Benefits, Multi-Language Insert, and/or Provider Directory when Enrollment Form provided OR Printed marketing material did not include the requisite CMS Marketing Identification Number	67
Sign-In Sheet or Roster	The sign-in sheet and/or the presenter did not clearly indicate that providing personal contact information was optional.	53
Event Did not Take Place / Incomplete Shop	Event did not take place (e.g., agent "no show)	46
Presentation Overview and Presenter Conduct	The presenter made inappropriate or inaccurate statements, or used "scare tactics" in order to pressure beneficiaries to enroll in their plan.	28
Part D Benefits Statements	The presenter inaccurately described prescription drug benefit coverage, such as elements related to costs, network coverage, exception process, or the coverage gap/donut hole.	13
Miscellaneous Deficiencies	Deficiencies that could not be categorized into a major topic area (e.g., barriers to accessing event, incorrect statements regarding election periods, event did not take place per the 'Type of Event' HPMS designation).	12
Contact Information	Attendees required to provide contact information or complete a registration form to attend the event.	10
Part C Benefits Statements	The presenter discussed medical coverage in an incorrect, misleading or inappropriate way.	5
Food / Gifts	Food / Gifts offered at the event did not comply with marketing restrictions.	1
Special Needs Plan (SNP) Information	The presenter inaccurately described or failed to describe how medical or drug coverage works with the SNP marketed (only assessed for events where a SNP was marketed).	1
Private Fee-for-Service Plan (PFFS) Information	The presenter inaccurately described or failed to describe how medical or drug coverage works with the PFFS marketed (only assessed for events where a PFFS was marketed).	0
Total		**305**