

The CY2023 Medicare Advantage/Part D Final Rule updated certain sections of the CFR to accommodate new requirements/obligations for *third-party marketing organizations*

---

### **What does CMS classify as a “third-party marketing organization?”**

Per [422.2260](#) and [423.2260](#), “third-party marketing organization” (TPMO) means an organization or individual, including independent agents and brokers, who are compensated to perform lead generation, marketing, sales, and enrollment-related functions as a part of the chain of enrollment into a Medicare Advantage or Part D plan.

- May be a first-tier, downstream, or related entity (FDR) or provide applicable services to an FDR as a vendor

### **Standardized Disclaimers**

Per [422.2267\(e\)\(41\)](#) and [423.2267\(e\)\(41\)](#), TPMOs must\* use the following standardized 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 of your options.”

*\*Not required if a TPMO offers every plan in a service area*

- Must be provided verbally, electronically, or in writing, depending on how the TPMO is interacting with the prospective enrollee
  - o If using telephone, must be done within the first minute of the call
- Must be prominently displayed on websites and marketing materials, including print materials and television advertising
  - o Medicare Advantage plans are required to ensure TPMO adherence, and thus will be conducting regular and ad hoc oversight of materials being used as part of our overall compliance oversight

### **Additional Requirements**

Per [422.2274](#) and [423.2274](#), TPMOs are also required to do the following:

- Ensure that any vendor or entity you do Highmark-related business with adheres to all applicable requirements and obligations
- Disclose any subcontracted relationships used for marketing, lead generation, and enrollment by October 1, 2022. Any new relationships should be provided prior to services being rendered
- Record **all** sales calls, including those as part of the enrollment process, in their entirety. Call recordings are subject to the same records retention policies agreed to in your contract. Sales calls may include, but are not limited to, appointment setting, preliminary plan reviews, and enrollments.
- Promptly report on at least a monthly basis any staff disciplinary actions or violations of any requirements related to prospective enrollee interaction

- Disclose to prospective enrollees that their information will be provided to a licensed agent for future contact
  - Disclosure must be provided verbally, in writing, or electronically
  - When transferred to a licensed agent, must disclose that the licensed agent can enroll them into a new plan

As with the standardized disclaimer, Highmark will be conducting ongoing and periodic assessment of compliance with these requirements as part of our regular oversight and monitoring. This periodic assessment will include requests for call recordings and other materials to be reviewed for adherence to the new CMS provisions.