(4) Explain how Medicare services are covered under an MA plan, including conditions that apply to such coverage.
(5) May include, but are not limited to, the following:
   (i) General audience materials such as general circulation brochures, newspapers, magazines, television, radio, billboards, yellow pages, or the Internet.
   (ii) Marketing representative materials such as scripts or outlines for telemarketing or other presentations.
   (iii) Presentation materials such as slides and charts.
   (iv) Promotional materials such as brochures or leaflets, including materials for circulation by third parties (for example, physicians or other providers).
   (v) Membership communication materials such as membership rules, subscriber agreements, member handbooks and wallet card instructions to enrollees.
   (vi) Letters to members about contractual changes; changes in providers, premiums, benefits, plan procedures etc.
   (vii) Membership activities (for example, materials on rules involving non-payment of premiums, confirmation of enrollment or disenrollment, or nonclaim specific notification information).
(6) Marketing materials exclude ad hoc enrollee communications materials, meaning informational materials that—
   (i) Are targeted to current enrollees;
   (ii) Are customized or limited to a subset of enrollees or apply to a specific situation;
   (iii) Do not include information about the plan’s benefit structure; and
   (iv) Apply to a specific situation or cover claims processing or other operational issues.

§422.2264 Guidelines for CMS review.
In reviewing marketing material or election forms under §422.2262 of this part, CMS determines that the marketing materials—
(a) Provide, in a format (and, where appropriate, print size), and using standard terminology that may be specified by CMS, the following information to Medicare beneficiaries interested in enrolling:
   (1) Adequate written description of rules (including any limitations on the providers from whom services can be obtained), procedures, basic benefits and services, and fees and other charges;
   (2) Adequate written description of any supplemental benefits and services;
§ 422.2266  Deemed approval.

If CMS has not disapproved the distribution of marketing materials or forms submitted by an MA organization with respect to an MA plan in an area, CMS is deemed not to have disapproved the distribution in all other areas covered by the MA plan and organization except with regard to any portion of the material or form that is specific to the particular area.

§ 422.2268  Standards for MA organization marketing.

In conducting marketing activities, MA organizations may not—

(a) Provide cash or other monetary rebates as an inducement for enrollment or otherwise.

(b) Offer gifts to potential enrollees, unless the gifts are of nominal (as defined in the CMS Marketing Guide- lines) value, are offered to all potential enrollees without regard to whether or not the beneficiary enrolls, and are not in the form of cash or other monetary rebates.

(c) Engage in any discriminatory activity such as, for example, attempts to recruit Medicare beneficiaries from higher income areas without making comparable efforts to enroll Medicare beneficiaries from lower income areas. 

(d) Solicit door-to-door for Medicare beneficiaries or through other unsolicited means of direct contact, including calling a beneficiary without the beneficiary initiating the contact.

(e) Engage in activities that could mislead or confuse Medicare beneficiaries, or misrepresent the MA organization. The MA organization may not claim it is recommended or endorsed by CMS or Medicare or that CMS or Medicare recommends that the beneficiary enroll in the MA plan. It may, however, explain that the organization is approved for participation in Medicare.

(f) Market non-health care related products to prospective enrollees during any MA or Part D sales activity or presentation. This is considered cross-selling and is prohibited.

(g) Market any health care related product during a marketing appointment beyond the scope agreed upon by the beneficiary, and documented by the plan, prior to the appointment (48 hours in advance, when practicable).

(h) Market additional health related lines of plan business not identified prior to an individual appointment without a separate scope of appointment identifying the additional lines of business to be discussed.

(i) Distribute marketing materials for which, before expiration of the 45-day period, the MA organization receives from CMS written notice of disapproval because it is inaccurate or misleading, or misrepresents the MA organization, its marketing representatives, or CMS.

(j) Use providers or provider groups to distribute printed information comparing the benefits of different health plans unless the providers, provider groups, or pharmacies accept and display materials from all health plans with which the providers, provider...