

(ii) Include the last contract year of NCQA approval.

(iii) Convey that the approval is based on a review of [insert Plan Name's] Model of Care.

(iv) Not include numeric SNP approval scores.

(41) *Third-party marketing organization disclaimer.* This is standardized content. If a TPMO does not sell for all MA organizations in the service area the disclaimer consists of the statement: “We do not offer every plan available in your area. Currently we represent [insert number of organizations] organizations which offer [insert number of plans] products in your area. Please contact *Medicare.gov*, 1-800-MEDICARE, or your local State Health Insurance Program to get information on all of your options.” If the TPMO sells for all MA organizations in the service area the disclaimer consists of the statement: “Currently we represent [insert number of organizations] organizations which offer [insert number of plans] products in your area. You can always contact *Medicare.gov*, 1-800-MEDICARE, or your local State Health Insurance Program for help with plan choices.” The MA organization must ensure that the disclaimer is as follows:

(i) Used by any TPMO, as defined under § 422.2260, that sells plans on behalf of more than one MA organization.

(ii) Verbally conveyed within the first minute of a sales call.

(iii) Electronically conveyed when communicating with a beneficiary through email, online chat, or other electronic means of communication.

(iv) Prominently displayed on TPMO websites.

(v) Included in any marketing materials, including print materials and television advertisements, developed, used or distributed by the TPMO.

[86 FR 6108, Jan. 19, 2021, as amended at 87 FR 27898, May 9, 2022; 88 FR 22336, Apr. 12, 2023; 88 FR 34780, May 31, 2023]

§ 422.2272 Licensing of marketing representatives and confirmation of marketing resources.

In its marketing, the MA organization must:

(a) Demonstrate to CMS' satisfaction that marketing resources are allocated

to marketing to the disabled Medicare population as well as beneficiaries age 65 and over.

(b) Establish and maintain a system for confirming that enrolled beneficiaries have, in fact, enrolled in the MA plan, and understand the rules applicable under the plan.

(c) Employ as marketing representatives only individuals who are licensed by the State to conduct marketing activities (as defined in the Medicare Marketing Guidelines) in that State, and whom the organization has informed that State it has appointed, consistent with the appointment process provided for under State law.

(d) Report to the State in which the MAO appoints an agent or broker, the termination of any such agent or broker, including the reasons for such termination if State law requires that the reasons for the termination be reported.

(e) Establish and implement an oversight plan that monitors agent and broker activities, identifies non-compliance with CMS requirements, and reports non-compliance to CMS.

[73 FR 54220, Sept. 18, 2008, as amended at 73 FR 54250, Sept. 18, 2008; 76 FR 21569, Apr. 15, 2011; 83 FR 16735, Apr. 16, 2018; 88 FR 22337, Apr. 12, 2023]

§ 422.2274 Agent, broker, and other third-party requirements.

If an MA organization uses agents and brokers to sell its Medicare plans, the requirements in paragraphs (a) through (e) of this section are applicable. If an MA organization makes payments to third parties, the requirements in paragraph (f) of this section are applicable.

(a) *Definitions.* For purposes of this section, the following definitions are applicable:

Compensation. (i) Includes monetary or non-monetary remuneration of any kind relating to the sale or renewal of a plan or product offered by an MA organization including, but not limited to the following:

(A) Commissions.

(B) Bonuses.

(C) Gifts.

(D) Prizes or Awards.

(ii) Does not include any of the following: