

(i) Convey that accommodations for persons with special needs are available.

(ii) Provide a telephone number and TTY number.

(iii) Include the model content in disclaimer form or within the body of the material on any advertisement of invitation to all events described under § 422.2264(c).

(36) *Mailing Statements.* This is standardized content. It consists of statements on envelopes that MA organizations must include when mailing information to current members, as follows:

(i) MA organizations must include the following statement when mailing information about the enrollee's current plan: "Important [Insert Plan Name] information."

(ii) MA organizations must include the following statement when mailing health and wellness information: "Health and wellness or prevention information."

(iii) The MA organization must include the plan name; however, if the plan name is elsewhere on the envelope, the plan name does not need to be repeated in the disclaimer.

(iv) Delegated or sub-contracted entities and downstream entities that conduct mailings on behalf of a multiple MA organizations must also comply with this requirement; however, they do not have to include a plan name.

(37) *Promotional Give-Away Disclaimer.* This is model content. The disclaimer consists of a statement that must make clear that there is no obligation to enroll in a plan, and must be included when offering a promotional give-away such as a drawing, prizes, or a free gift.

(38) *Provider Co-branded Material Disclaimer.* This is model content through which MA organizations must:

(i) Convey, as applicable, that other pharmacies, physicians or providers are available in the plan's network.

(ii) Include the model content in disclaimer form or within the material whenever co-branding relationships with network provider are mentioned, unless the co-branding is with a provider network or health system that represents 90 percent or more of the network as a whole.

(39) *Out of Network Non-Contracted Provider Disclaimer.* This is standardized content. The disclaimer consists of the statement: "Out-of-network/non-contracted providers are under no obligation to treat Plan members, except in emergency situations. Please call our customer service number or see your Evidence of Coverage for more information, including the cost-sharing that applies to out-of-network services," and must be included whenever materials reference out-of-network/non-contracted providers.

(40) *NCQA SNP Approval Statement.* This is model content and must be used by SNPs who have received NCQA approval. MA organizations must:

(i) Convey that MA organization has been approved by the National Committee for Quality Assurance (NCQA) to operate as a Special Needs Plan (SNP).

(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.

(42) *Mid-year supplemental benefits notice.* This is a model communications material through which plans must inform each enrollee of the availability of any item or service covered as a supplemental benefit that the enrollee has not begun to use by June 30 of the plan year.

(i) The notice must be sent on an annual basis, no earlier than June 30 of the plan year, and no later than July 31 of the plan year.

(ii) The notice must include the following content:

(A) *Mandatory supplemental benefits.* For each mandatory supplemental benefit an enrollee has not used, the MA organization must include the same information about the benefit that is provided in the Evidence of Coverage.

(B) *Optional supplemental benefits.* For each optional supplemental benefit an enrollee has not used, the MA organization must include the same information about the benefit that is provided in the Evidence of Coverage.

(C) *SSBCI.* For plans that include SSBCI—

(1) The MA organization must include an explanation of SSBCI available under the plan (including eligibility criteria and limitations and scope of the covered items and services) and must include point-of-contact information for eligibility assessments, including providing point-of-contact information (which can be the customer service line or a separate dedicated line), with trained staff that enrollees can contact to inquire about or begin the SSBCI eligibility determination process and to address any other questions the enrollee may have about the availability of SSBCI under their plan;

(2) When an enrollee has been determined eligible for SSBCI but has not

used SSBCI, the MA organization must include a description of the unused SSBCI for which the enrollee is eligible, and must include a description of any limitations on the benefit; and

(3) The disclaimer specified at paragraph (e)(34) of this section.

(D) The information about all supplemental benefits listed in the notice must include all of the following:

(1) Scope of benefit.

(2) Applicable cost-sharing.

(3) Instructions on how to access the benefit.

(4) Any applicable network information.

(E) Supplemental benefits listed consistent with the format of the EOC.

(F) A customer service number, and required TTY number, to call for additional help.

[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; 89 FR 30827, Apr. 23, 2024; 89 FR 63827, Aug. 6, 2024]

§ 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