

the total number of months not enrolled (including months prior to the effective date of enrollment) must be recovered from the agent or broker.

(2) Example: A beneficiary enrolls upon turning 65 effective April 1 and disenrolls September 30 of the same year. The plan paid full initial enrollment year compensation. Recovery is equal to 6/12ths of the initial enrollment year compensation (for January through March and October through December).

(e) *Payments other than compensation (administrative payments).* (1) For contract years through contract year 2024, payments for services other than enrollment of beneficiaries (for example, training, customer service, agent recruitment, operational overhead, or assistance with completion of health risk assessments) must not exceed the value of those services in the marketplace.

(2) Beginning with contract year 2025, administrative payments are included in the calculation of enrollment-based compensation.

(f) *Payments for referrals.* Payments may be made to individuals for the referral (including a recommendation, provision, or other means of referring beneficiaries), recommendation, provision, or other means of referring beneficiaries to an agent, broker or other entity for potential enrollment into a plan. The payment may not exceed \$100 for a referral into an MA or MA-PD plan and \$25 for a referral into a PDP plan.

(g) *TPMO oversight.* In addition to any applicable FDR requirements under § 423.505(i), when doing business with a TPMO, either directly or indirectly through a downstream entity, Part D sponsor must implement the following as a part of their oversight of TPMOs:

(1) When TPMOs is not otherwise an FDR, the Part D sponsor is responsible for ensuring that the TPMO adheres to any requirements that apply to the Part D sponsor.

(2) Contracts, written arrangements, and agreements between the TPMO and a Part D plan, or between a TPMO and a Part D plan's FDR, must ensure the TPMO:

(i) Discloses to the plan any subcontracted relationships used for mar-

keting, lead generation, and enrollment.

(ii) Record all marketing, sales, and enrollment calls, including the audio portion of calls occurring via web-based technology, in their entirety.

(iii) Report to plans monthly any staff disciplinary actions or violations of any requirements that apply to the Part D sponsor associated with beneficiary interaction to the plan.

(iv) Use the TPMO disclaimer as required under § 423.2267(e)(41).

(3) Ensure that the TPMO, when conducting lead generating activities, either directly or indirectly for a Part D sponsor, must, when applicable:

(i) Disclose to the beneficiary that his or her information will be provided to a licensed agent for future contact. This disclosure must be provided:

(A) Verbally when communicating with a beneficiary through telephone;

(B) In writing when communicating with a beneficiary through mail or other paper; and

(C) Electronically when communicating with a beneficiary through email, online chat, or other electronic messaging platform.

(ii) When applicable, disclose to the beneficiary that he or she is being transferred to a licensed agent who can enroll him or her into a new plan.

(4) Beginning October 1, 2024, personal beneficiary data collected by a TPMO for marketing or enrolling them into a Part D plan may only be shared with another TPMO when prior express written consent is given by the beneficiary. Prior express written consent from the beneficiary to share the information and be contacted for marketing or enrollment purposes must be obtained through a clear and conspicuous disclosure that lists each entity receiving the data and allows the beneficiary to consent or reject to the sharing of their data with each individual TPMO.

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§ 423.2276 Employer group retiree marketing.

Part D sponsors may develop marketing materials designed for members of an employer group who are eligible for employer-sponsored benefits