DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850


**CENTER FOR DRUG AND HEALTH PLAN CHOICE**

**DATE:** October 3, 2008

**TO:** Medicare Advantage Organizations
Medicare Advantage-Prescription Drug Organizations
Cost-Based Contractors
Prescription Drug Plan Sponsors
Employer/Union Sponsored Group Health Plans

**FROM:** Abby L. Block **/s/**
Director, Center for Drug and Health Plan Choice (CPC)

**SUBJECT:** Enhancement to Complaints Tracking Module (CTM) to Review and Investigate Marketing Misrepresentation Complaints

By way of this memorandum, the Centers for Medicare & Medicaid Services (CMS) is releasing a new enhancement to the Health Plan Management System (HPMS) Complaints Tracking Module (CTM) that will provide organizations with additional information for use in managing agent and broker complaints. Currently, organizations have the ability to view and work on complaints in the subcategory "Marketing Misrepresentation - No RO Action Needed." Effective with the release of this memorandum, organizations will now also have access to a report to view complaints in the subcategory "Marketing Misrepresentation - RO Action Needed." This sub-category of complaints was previously hidden from organizations. This new report can be located on the CTM homepage under "Marketing Misrepresentation Reports."

CMS is releasing this information so that organizations can take corrective measures to protect beneficiaries from deceptive or high pressure marketing tactics. As indicated in the September 15, 2008, HPMS memorandum "Guidance for regulations in CMS 4131-F and CMS 4138-IFC," plans may conduct outbound calls to former members to conduct a disenrollment survey for quality improvement purposes. In that regard, CMS will allow plans to call former members to investigate the complaints contained in the marketing misrepresentation reports.

However, CMS is providing the following guidelines related to these outbound calls.

- The calls must be solely for complaint investigation and should not be used in any way for marketing purposes.
- All outbound calls to former members must be recorded.

- The outbound calls must not be made by any employee in the marketing area, or any agent or brokers on behalf of the plan.
- Plans may contact beneficiaries as needed in their complaint investigations; however, as stipulated in the Complaints Tracking Module (CTM) Standard Operating Procedure housed in the Health Plan Management System (HPMS), Section F, a plan should attempt contact of a beneficiary three times at different times and dates. A fourth attempt may be made in writing (i.e., beneficiary may be asked by letter to call the plan to discuss the complaint).
- Beneficiaries should not be guided or prompted for information and should be allowed to state the facts surrounding the incident they reported.
- CMS has provided required elements of an outbound call script (Exhibit A). Organizations must assure these elements are followed. The outbound call scripts are not required to be submitted to the Regional Office for review.
- For complaints in the "Marketing Misrepresentation" report, plans may not contact the beneficiary until the complaint is indicated as closed in the report.

CMS will be conducting surveillance activities to ensure that organizations are following the guidelines described above. CMS will also continue to track agent and broker complaint information contained in the CTM. Organizations that are not compliant with the outbound call guidelines or that are found to be outliers for marketing misrepresentation complaints may be subject to further reporting requirements or compliance actions.

For technical assistance with the HPMS CTM, please contact the HPMS Help Desk at either 1-800-220-2028 or hpms@cms.hhs.gov or Kristin Finch at either 410-786-2873 or kristin.finch@cms.hhs.gov. For all other questions regarding this memorandum, please contact Betty Burrier at either 410-786-4649 or betty.burrier@cms.hhs.gov.

## Exhibit A

### Standardized script for contacting beneficiaries regarding marketing misrepresentation complaints

Introduction:

Required statement prior to investigative questions:

> We are looking into a complaint you made to 1-800 Medicare about **[insert plan name and/or marketing representative's name]**. I will not ask you for any personal identifying information and in no way will your responses to me today affect your Medicare coverage. May I ask you a few questions about your recent experience with **[insert plan name and/or marketing representative's name]**?

Conclude call:

Required statement before ending the call:

> We appreciate your assistance. This information will help [plan name] serve our customers better and help the Centers for Medicare & Medicaid Services, which oversees Medicare, to better understand how people with Medicare are experiencing the program.
>
> Thank you **[Mr./Mrs.] [last name]**. Have a good day.