

## **CMS Call Recording & Required TPMO Disclaimer FAQ**

### **1. What is a TPMO?**

TPMO stands for “Third Party Marketing Organization”. A TPMO is anyone who is compensated directly or indirectly by the plan to perform a specific function (i.e. lead generation, marketing, sales, and enrollment related activities) and impacts all agencies and brokers selling Medicare Advantage and/or Part D Plans.

### **2. I’m an independent Agent or Agency who is contracted with a carrier. Am I considered a TPMO?**

Yes

### **3. What is the new TPMO Disclaimer?**

“We do not offer every plan available in your area. Any information we provide is limited to those plans we do offer in your area. Please contact Medicare.gov or 1-800-Medicare to get information on all of your options.”

### **4. When do I have to start using this new disclaimer?**

Officially on October 1, 2022

### **5. How do I use the disclaimer?**

The disclaimer must be verbally conveyed within the first 60 seconds of the SALES CALL and electronically conveyed when communicating with a beneficiary through email, online chat, or other electronic means of communication and must be included on TPMO consumer-facing websites that discuss or market Medicare Advantage and/or PDP plans. It must also be placed on all marketing materials including flyers and television commercials.

While it may feel negative to use this disclaimer, you can make it positive by focusing on the quality of the carriers that you do represent and offering the beneficiary the freedom of choice with those carriers who you ARE contracted with.

### **6. What if I DO offer every plan available in my area?**

It is still our recommendation that the disclaimer be used on your marketing pieces and phone calls, since it is rare that an agent would be contracted with every carrier in their market and in the chance it falls into a market outside of your normal area.

### **7. Do generic marketing materials need to be approved by CMS?**

If they mention specific plan benefits (premium, Part B rebate amount, etc), then yes they do. Advocate Health can submit materials to CMS on your behalf.

**8. When do I have to start recording phone calls with prospects and members?**

Officially on October 1, 2022

**9. Will Advocate Health Advisors have a tool for me to use for call recordings?**

Yes. We do have tool for call recordings and storage for our agents, which will be rolling out in September. This will include options for landline, iPhone and Android.

**10. What phone calls need to be recorded?**

ALL phone calls with potential Medicare beneficiaries (prospects) and Medicare beneficiaries (current clients) need to be recorded in their entirety. This includes calls that are part of the chain of enrollment into a Medicare Advantage and/or PDP plan (the steps taken by a beneficiary from becoming aware of a Medicare plan or plans to making an enrollment decision), as well as post-enrollment telephonic discussions.

This includes both pre and post enrollment calls, inbound and outbound calls, educational and casual phone conversations with Medicare beneficiaries in addition to marketing/sales calls.

**11. Do I need to record face to face or in-person meetings?**

No, only telephonic conversations.

**12. What about Zoom, WebEx, GotoMeeting type of calls?**

As we expected, carrier interpretations of the CMS rules and guidelines can differ – some are stricter than others. We have seen one carrier say yes to this question, while others have said no.

Advocate Health believes that face to face virtual interactions on platforms like Zoom do not need to be recorded. However, if that type of platform is used as a phone service only, without face-to-face interaction, the call must be recorded. We encourage agents to err on the side of caution and when in doubt, check with the carrier they will be doing the enrollment for.

**13. Do I have to get the member or prospect's consent to record the phone call?**

Yes. A disclaimer stating that the call is being recorded must be read at the beginning of the Interaction and include beneficiary acknowledgement.

We suggest saying “This call is being recorded to remain compliant with Medicare guidelines. Do I have your permission to record this call?”

If the beneficiary does not want to be recorded, the broker is allowed to continue the call without the recording. **\*MAKE NOTE OF THIS IN YOUR RECORDS**

**14. How long do the call recordings need to be retained?**

Call recordings must be retained in a HIPAA-compliant manner for 10 years. You must be able to provide call recordings related to specific beneficiary interactions upon request.



Other questions? Call our Agent Care Team at 1-800-709-5513 or email [compliance@advocatehealthllc.com](mailto:compliance@advocatehealthllc.com)