Spark

Medicare Compliance









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CONFIDENTIAL AND PROPRIETARY

8.15.24 Webinar

Last time, we discussed

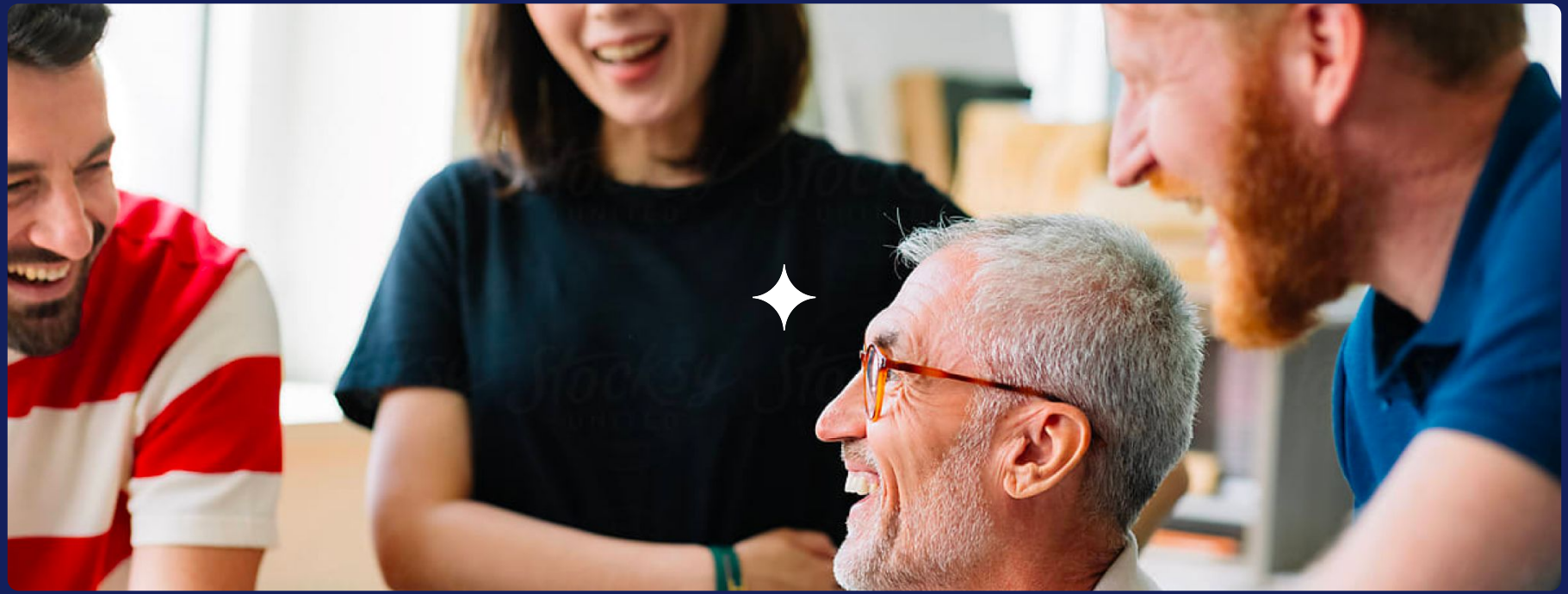
- Communication vs. Marketing - what's the difference?
- Insurance Agents as TPMO's
- TPMO Disclaimer
- CMS Final Rule - "One-to-One Consent" and new BRC disclaimer
- Unsolicited Contact
- SOA's
- Events

If you missed it, you can watch the recording located on the Spark Help Center Compliance Page.



Agenda

01	Introduction
02	Marketing & Communication Materials
03	Gifts & Promotional Items
04	Marketing in a Healthcare Setting
05	Questions



Marketing & Communication Materials

Marketing & Communications

Agents may not:

- Use the Medicare name, CMS logo, and products or information issued by the Federal Government, including the Medicare card in a misleading way. (Use of the Medicare card image is permitted only with authorization from CMS).
- Advertise benefits that are not available to beneficiaries in the service area where the marketing appears, unless the advertisement is in local media that serves the service area(s) where the benefits are available and reaching beneficiaries who reside in other service areas is unavoidable.

Marketing & Communications

Agents may not:

- Use the term “free” to describe zero premium, in conjunction with any reduction in premiums, deductibles, cost-share (including Part B reduction), low income subsidy or dual eligibility.
- Use the term “senior” in marketing or communications. Use “People with Medicare” or “Medicare beneficiaries” instead.

Marketing & Communications

Correct Terminology for reference to Sales Agents

- CMS approved Titles for agents: Licensed Insurance Agent or Licensed Sales Agent
- If an agent’s phone number is included in a material, it must clearly indicate before the number that it will direct callers to a licensed sales agent or licensed insurance agent.

Use of the Term “Senior”

CMS requires that marketing resources are inclusive of the disabled Medicare population as well as Medicare beneficiaries aged 65 and over

- *CMS prohibits stating or implying that plans are only available to seniors rather than all Medicare beneficiaries.*
- *Agents should refrain from utilizing the term “senior” as it may imply that MA/PDP plans are only available to those who are eligible for Medicare due to age (65+)*
- *CMS views the use of the term “senior” in some contexts as potentially discriminatory or a form of cherry picking against those who have Medicare due to a qualifying disability.*

The phrases “people with Medicare” or “Medicare beneficiaries” should be used instead of “Senior”

Use of the word “Free”

Agents may NOT:

- Use the term “free” to describe a zero-dollar premium, any reduction in premiums, deductibles, or cost-share, including Part B premium buy-down, low-income subsidy, or dual eligibility.
- If you use the word “free” to describe your services (ex: Free Medicare Plan Comparison), you must include “no obligation to enroll” in the same sentence or in close proximity to Free.
- Use “No-cost” or “No additional cost” instead

Gifts and Promotional Items

“Agents are prohibited from offering or giving anything of value to a Medicare or Medicaid beneficiary that is likely to influence the beneficiary to order or receive from a particular provider, practitioner, or supplier any item or service covered under Medicare or Medicaid.”

There is a nominal value ($15) exception to this rule.

Gifts and Promotional Items

- Agents may provide gifts, prizes, or promotional items to beneficiaries as part of an event or for marketing purposes as long as the nominal value exception is met and the gift is provided regardless of enrollment and without discrimination.
- Gifts are of nominal value if an individual item is worth $15 or less based on the retail purchase price of the item. (does not matter if agent/plan pays less for the item)
- When more than one gift is offered on one occasion, the combined value of all items must not exceed $15 per person
- Multiple gifts given to a beneficiary on different occasions may not exceed $75 aggregate, per person, per year.

Gifts and Promotional Items

Gifts or prized must not be in the form of cash or cash equivalents or other monetary rewards or rebates even if their worth is less than $15.

Cash equivalents include:

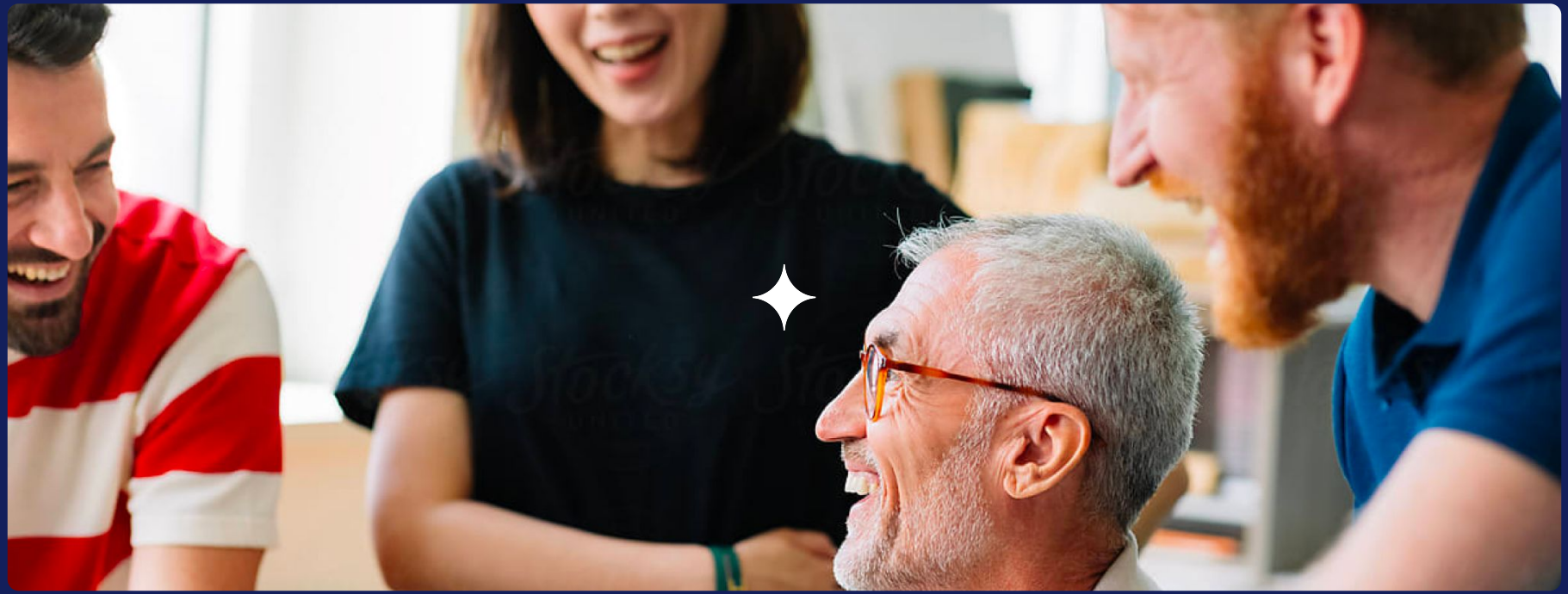
- Gifts certificates or cards that can readily be converted into cash.
- Debit cards
- General gift card that are not restricted to specific retail chains or to specific items and categories - ex. VISA gift cards
- Gift cards for retailers or online vendors that sell a wide variety of consumer products (ex: Walmart, Target, Amazon)
- Gifts or prizes may not be charitable contributions.

Gifts and Promotional Items

- A gift card that can be used for a more limited selection of items or food, WOULD NOT BE CONSIDERED A CASH EQUIVALENT (ex: Starbucks gift card, Shell Gas gift card)
- Rebates are not allowed (ex: a discount on the first month's premium or copayment)
- You must include a disclaimer on all promotional materials promoting a prize, drawing or raffle that there is no obligation to enroll in the plan.

Drawings, Prizes, Giveaways

- Must include a disclaimer on all materials promoting a prize, drawing, or any promise of a gift that there is no obligation to enroll in a plan.



Marketing Activities

Marketing Activities

Examples of Marketing Activities include:

a. Talking to a Medicare beneficiary about plan coverages

b. Handing out plan brochures/flyers/materials and summary of benefits at an event.

c. Calling current clients who are Medicare beneficiaries to discuss upcoming premium and benefit changes to their plans an encourage them to remain enrolled in those plans. (MUST BE RECORDED)

d. Accepting enrollment forms and performing enrollment at marketing/sales events.

Marketing in a Healthcare Setting

Agents are not allowed to:

- Engage in marketing activities or provide marketing materials in areas where patients receive healthcare services, for example:
    - Exam rooms, dialysis center treatment areas, hospital patient rooms, pharmacy counter areas, and other treatment areas where patients interact with a provider and their clinical team and receive treatment.



Marketing in a Healthcare Setting

Agents are allowed to:

- Engage in marketing activities (i.e., conduct sales presentations and distribute and accept enrollment applications) in common areas of healthcare settings, for example:
  - In a cafeteria, community or recreational room, waiting room, common entryway, vestibule, or conference room
  - At a retail pharmacy, in areas away from the pharmacy counter
- provide communication materials to be distributed and displayed in the healthcare setting.



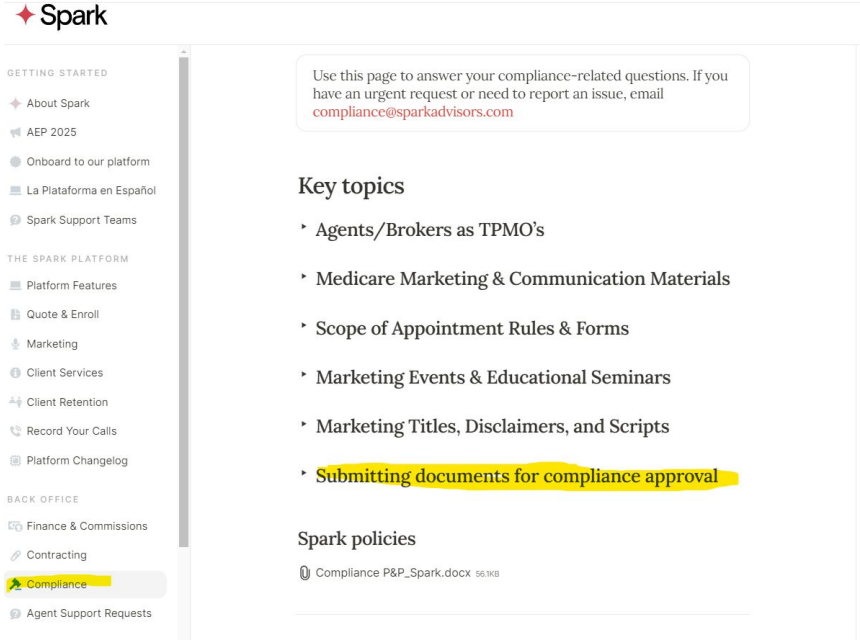
Marketing in a Long-term Care Facility

Long-term care facilities include, for example, nursing homes, assisted living facilities, and board and care homes.

- Agents may schedule an appointment with a beneficiary in a long-term care facility ONLY upon request of the beneficiary (or authorized representative).
- Agents may not visit individuals in a long-term care facility without an appointment.
- MA institutional special needs plans (I-SNPs) may use staff operating in a social worker capacity to provide information, including marketing materials concerning I-SNPs, to residents. Such information must not include an enrollment form and the social worker may not accept or collect a scope of appointment or enrollment form on behalf of the plan sponsor.
- Marketing representatives may set up in common areas of a long-term care facility and allow residents to approach them.

Compliance Questions?

Resources



The Compliance Page on Spark Help Center has a lot of information!

If you have any questions, reach out to Compliance@SparkAdvisors.com

You can turn in any materials for compliance review using the link under Submitting documents heading on the Compliance Page.

Thank You

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