Spark

# Medicare Compliance

## 2025 CMS Changes and Staying Compliant this AEP



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CONFIDENTIAL AND PROPRIETARY

# 9.12.24 Webinar

Last time, we discussed

- Conducting a Compliant Sales Appointment
- Intro, Needs Analysis, Presentation
- Plan recommendation and Enrollment
- Follow up & Retention

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



# Agenda

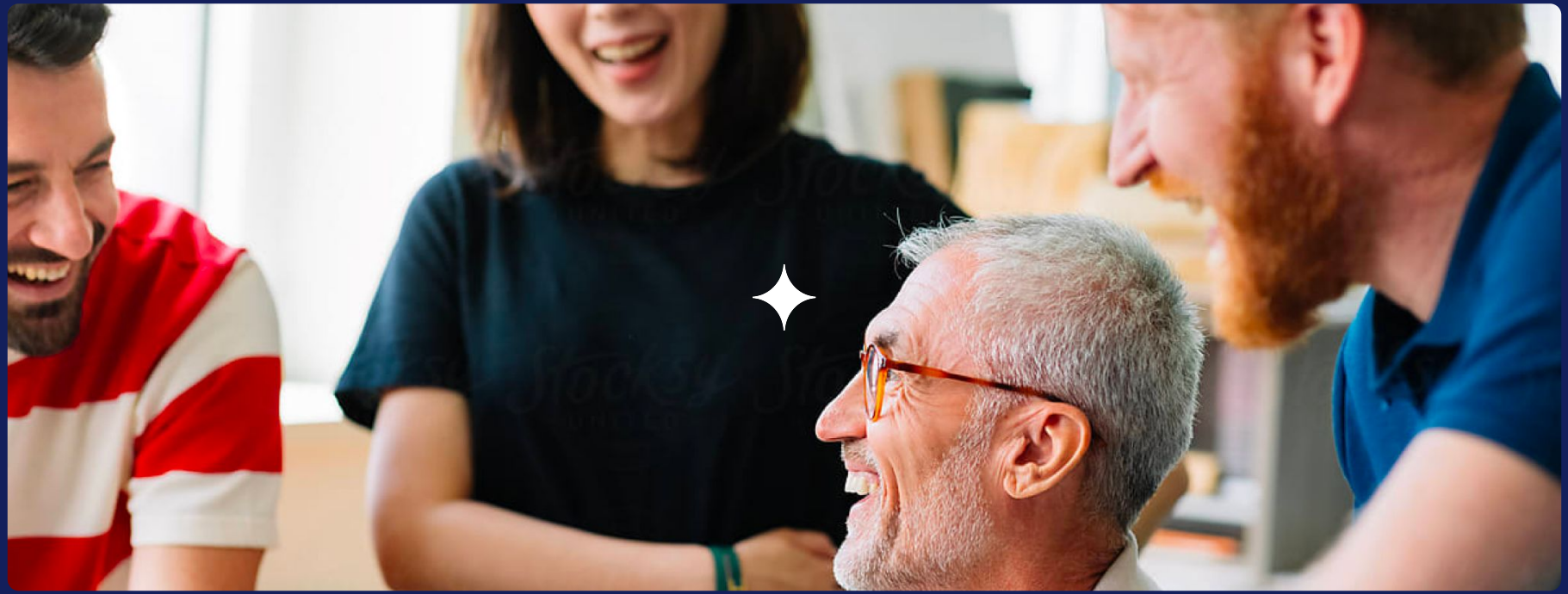
01 CMS 2025 Final Rule

02 One to One Consent and PTC

03 SEP changes for Dual Eligible and LIS

04 Staying Compliant this AEP

05 Questions



# 2025 CMS Final Rule

# 2025 CMS Final Rule

## “One-To-One Consent”

“Beneficiary information collected by a third-party marketing organization (TPMO), including an agent/broker for purposes of marketing or enrolling the beneficiary into a Medicare health plan or Part D plan may only be shared with another TPMO when prior written consent is given by the beneficiary. The consent must list each entity receiving the data.”

# What it means

"One-to-One Consent"
You cannot share beneficiary contact information with another agent/TPMO unless the beneficiary has given written permission. This necessitates a change in verbiage on Lead Generation Forms (BRC/PTC)

*"By providing your name and contact information you are consenting to receive sales and marketing calls, text messages and/or emails from the licensed insurance agent listed on this form about Medicare Plans at the number provided, and you agree such calls and/or text messages may use an automated system for the selection or dialing of telephone numbers, automated voice calls, AI generative voice calls, pre recorded messages played when a connection is made, or pre recorded voicemail messages, even if you are on a government do-not-call registry. These calls are for marketing purposes and cellular charges may apply. This agreement is not a condition of enrollment and you can change your permission preferences at any time by contacting the agent listed on this form. "*

# Dual Eligible and LIS Beneficiary SEP Changes

The quarterly SEP for dual-eligible individuals and those receiving Part D low-income subsidies (LIS) will no longer be available in 2025.

Full dual eligible beneficiaries will have:

- A new monthly SEP, which allows enrollment in a highly or fully integrated Dual Special Needs Plan (HIDE/FIDE SNPs).

LIS or Medicaid beneficiaries will have:

- A monthly SEP th disenroll from their Medicare Advantage plan, return to Original Medicare, and enroll in a Prescription Drug Plan(PDP).

# Better Integrate Medicare & Medicaid services

With upcoming changes, CMS aims to better integrate Medicaid and Medicare services for dual eligible individuals to decrease costs and improve outcomes for enrollees.

- CMS says the ideal situation is for Dual Eligible beneficiaries is to obtain Medicare and Medicaid benefits from:
  - The same plan/organization(fully integrated D-SNP or FIDE)
  - Or 2 plans under the same organization (highly integrated D-SNP or HIDE)

# More details

States differ on what types of D-SNP plans they offer, the levels of coordination with Medicaid, and how often Medicaid switches are allowed.

This means some dual eligible beneficiaries living in states without integrated plans will not be able to utilize this SEP at all and will need to wait until AEP to make changes.

*****Check your state's regulations and the D-SNP carriers you represent in those states to determine whether clients will be able to use the monthly integrated-care SEP.

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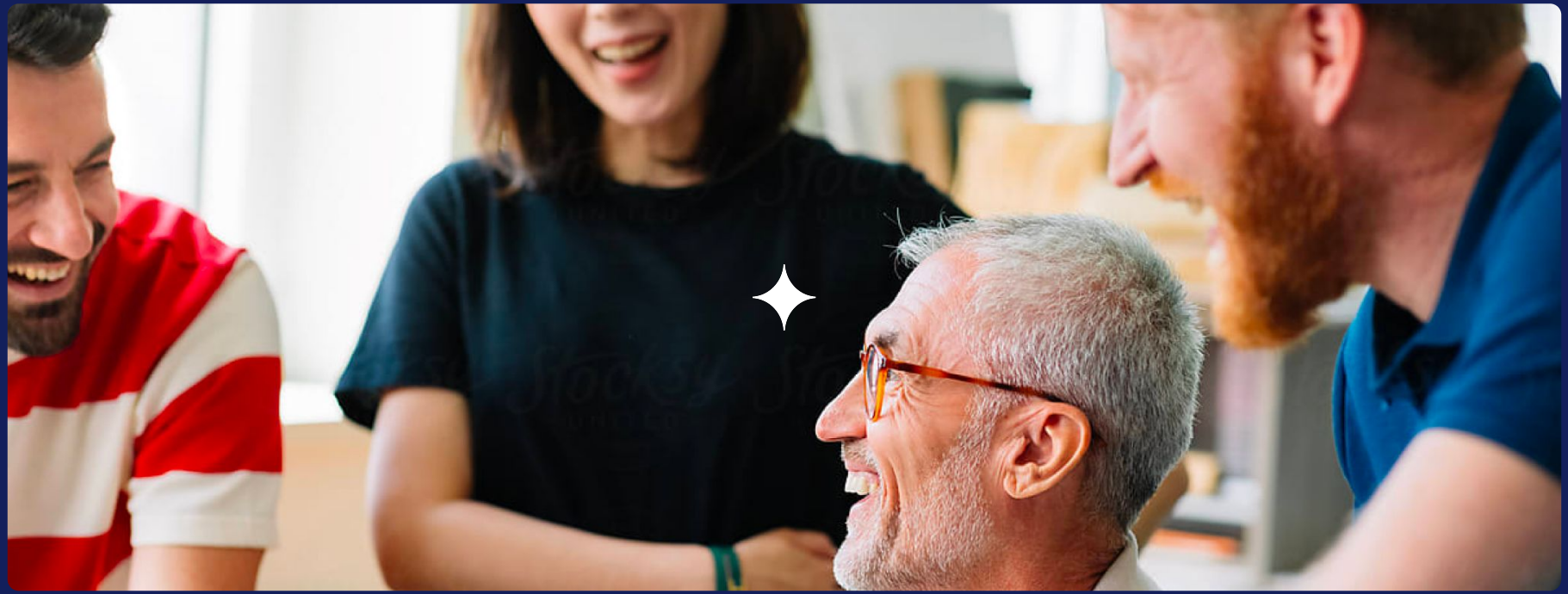
Dual Eligible individual already enrolled in an integrated plan:

- could use the new SEP to make a lateral move to another integrated plan offered by the same carrier or a different one.

To switch to another integrated plan offered by a different carrier:

- Must switch their Medicaid plan first, subject to the state guidelines, before enrolling in the sam/related company's integrated D-SNP.

****Pay attention to which company provides the coordinated Medicaid plan. Enrollment in the D-SNP depends on coordination. You must verify the types of D-SNP's and level of integration with carriers before trying to switch a client. *****



# Staying Compliant this AEP

# Compliant Promotional Materials

- **Communication materials**
    a. Are educational and informational in nature. They provide general information about Medicare and coverage options. This could be explaining the Parts of Medicare, or telling the prospect the services you offer.
    b. Submit to Spark for compliance review.
- **Marketing materials**
    a. Any material that mentions any benefit will be considered marketing. (e.g. dental, vision, cost-savings, and/or hearing services)
    b. All marketing materials must be filed and approved by CMS. Spark will help you through the process.
    c. CMS also considers intent and defines marketing intent as materials designed to influence a beneficiary's decision when selecting a plan, or influence a beneficiary's decision to stay enrolled in a plan.

# TPMO Disclaimer

Required to be:

- Verbally conveyed within the first minute of a sales call
- Prominently displayed on Agent/Agency/TPMO websites
- Included in any Marketing Materials, including print materials, and tv ads
- Electronically conveyed when communicating with a beneficiary through **email,** online chat, or other electronic means of communication.

# TPMO Disclaimer

If a TPMO does not sell for all MA organizations and/or Part D sponsors 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 (SHIP) to get information on all of your options.''*

# Scope of Appointment (SOA)

SOA’s must be completed and signed by the beneficiary at least 48 hours prior to the appointment time. A SOA is valid for 12 months from signature date until a Plan enrollment is completed.

Exceptions:
When the beneficiary is within the last 4 days of a valid election period
When there is an unscheduled, in-person meeting initiated by the beneficiary (Walk-In)

# Virtual & Telephonic Appointments

All calls related to marketing, sales and enrollment must be recorded in their entirety. This includes telephonic, video call meetings, and other virtual telepresence methods. In-Person appointments to discuss plans and complete enrollments do not have to be recorded.

“Marketing” includes

- Retention marketing, aimed at influencing a beneficiary to stay enrolled in a current plan
- The mention of *any* benefits (e.g., dental, vision, hearing, premium reduction, and cost savings)

All telephonic sales and enrollments must follow scripting that is reviewed and approved by CMS.

This applies to call centers and field agents that conduct sales telephonically.

# Avoiding Complaints

- Verify eligibility and election period
- Confirm providers are in network and double check client has given you all their providers
- Verify prescriptions and coverage
- Use SOB and Pre-Enrollment Checklist to explain plan benefits, limitations, rules, cancellation process, etc.
- Verify client understands they are completing an enrollment form and explain the impact on current coverage
- Double check enrollment form prior to submitting
- Follow up, follow up, follow up!

# If you receive a complaint:

- Client makes an allegation - through carrier, Medicare or DOI
- The carrier investigates by requesting information from the agent via an email to the agent and Spark OR emails Spark directly.
- Spark Compliance sends an email to the agent and immediate upline (or compliance person identified at agency)
    - Requesting an agent statement and/or any recordings, SOA, copy of application with a due date.
    - Request that Spark be cc'd in or sent a copy if agent responds directly to the carrier
    - Spark returns agent statement to the carrier, if requested
- Carrier conducts investigation and determines whether the allegation is founded, inconclusive, or unfounded
- Depending on allegation findings, frequency and number of agent allegations, the carrier will take corrective action.
    - Read and/or complete a training module and send completed action via email
    - Sign an attestation that they understand and will comply with rules in the future
    - Coaching may be required - verbal or written
    - A warning may be issued - written or verbal
    - Agent termination - if allegations continue
- The agent must complete any corrective action by the due date given by the carrier.

# Questions?

# Need help?

- Access our Help Center 24/7 through the footer of any page in your Spark platform.
  Or reach out to us at support@sparkadvisors.com.
- Head to our Compliance Page for Compliance Resources and  to turn in materials for review.
- Check out our previously recorded webinars that include in-depth training videos on the Agent Training & Live Trainings pages.
- Stay up to date on upcoming trainings in our Training Calendar.



# Thank You

CONTACT

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