The purpose of this document is to provide guidelines on CMS regulations for materials that meet the definition of marketing materials.

In May of 2023 CMS updated its definition of marketing material to include any material **that mentions any benefit** will be considered marketing. (e.g. dental, vision, cost-savings, and/or hearing services) as well as any mention of star ratings.

All marketing materials have to be filed with a carrier and then CMS prior to use. Spark is here to assist you in filing with a Carrier and then CMS on your behalf.

There is verbiage that CMS does not allow in communication or marketing materials and there are specific requirements that must be on all marketing materials.

The guidelines are outlined below. This is not meant to be inclusive of all applicable TPMO laws and regulations; but are intended to help TPMO's meet compliance standards. The Spark Compliance Team is here to help you with any marketing and communication materials you use to promote your Medicare business.

1. The TPMO disclaimer is required on all marketing materials. Spark has a tool HERE if needed to help calculate the number of organizations and plans. This disclaimer must be used verbatim on all marketing materials.

If a TPMO/Agency/Agent does not sell all MA organizations and/or Part D sponsors in the service area the disclaimer 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."*

If the TPMO sells all MA organizations and/or Part D sponsors in the service area, use this disclaimer: *"Currently we represent [insert number of organizations] organizations which offer [insert number of plans] products in your area. You can always contact Medicare.gov, 1–800–MEDICARE, or your local State Health Insurance Program (SHIP) for help with plan choices."*

2. All marketing materials must have a SMID(*Standardized material identification)* on the marketing material. The format to use is: MULTIPLAN_[Name of Creative]*M. Example: MULTIPLAN*_HPMSM_AEP2024_M

3. To help avoid misleading or confusing beneficiaries, TPMOs must include a non-governmental tagline and other information as follows:
    a. A prominently placed disclaimer/tagline that clearly explains that an entity or website is not affiliated with, endorsed by, or otherwise somehow related to the federal government, CMS, HHS, or Medicare.

    b. The TPMO's name (who the solicitation is coming from) and whom the beneficiary will reach if they respond (i.e., "a licensed sales/insurance agent") must be clearly and prominently visible and legible to consumers.

4. You may not advertise benefits that are not available to beneficiaries in the service area(s) where the marketing appears. So make sure that wherever the material is being distributed the plan benefits are available.

5. All marketing materials must include the name of the Carrier(s) offering the products or plans, benefits, or costs identified in the materials. The name(s) must be included in the following format and each name should be bracketed individually as a variable:
    a. MA/Part D organization names must be in 12-point font and may not be in the form of a disclaimer or fine print.
    b. For television, online, or social media, the MA organization or marketing name(s) must be either read at the same pace as the phone number or must be displayed throughout the entire advertisement in a font size equivalent to the advertised phone number, contact information, or benefits.

6. "Customized" or "personalized" should not be used when describing Medicare plans or benefits.

7. "Entitled" can only be used when discussing Original Medicare.

8. Avoid statements like "get the money they deserve" and "see what benefits are available to you."

9. Avoid tactics that are likely misleading and/or confusing to beneficiaries.

10. Avoid language that creates undue fear/anxiety, such as "beware of plans whose copays could bust your budget", etc.

11. Avoid words that may cause a false sense of urgency, such as "Act now, or you may lose your benefits!" etc.

12. Avoid words that may incite fear or mislead beneficiaries to respond for fear of losing benefits, plan, etc.

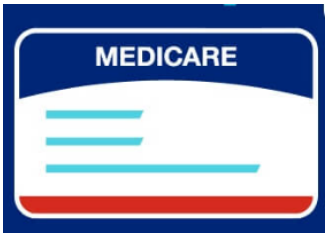
13. Avoid repetitive phrases, certain font/colors, and/or punctuation that may communicate a false sense of urgency. For example, avoid using "URGENT!" on a material with font that is in all caps, oversized and red.

14. You cannot use the word "Senior" since the ad must be inclusive of people under the age of 65 who are on Medicare. Use "people with Medicare" or "Medicare

beneficiaries" instead.

15. Use of the word "Free".
    a. It is only permissible to use the term "free" with respect to plan benefits when describing mandatory, supplemental, and preventive benefits provided at a zero-dollar cost sharing for all members.
    b. Do not use the term "free" to describe a zero-dollar premium, reduction in premiums (including Part B buy-down), reduction in deductibles or cost-sharing, low-income subsidy (LIS), or cost sharing for individuals with dual eligibility. "No additional cost" may be an alternative when appropriate.
    c. Phrases such as, "Free Medicare Plan Comparison", materials need to include "no obligation to enroll" in the same sentence or in close proximity to the FREE reference. If there are space issues, an asterisk may be used to reference language in a legible footnote.

16. Avoid use of American flag imagery, patriotic themed colors (red, white, and blue), symbols, logos or images that are made to resemble official government logos, and other terminology.
    a. You cannot use an image of an actual Medicare Card on any material. It must be a generic card that looks similar to this.



17. New Multiplan Federal Contracting Statement required on Marketing Materials: *[Partner/Agency] represents Medicare Advantage [HMO, PPO and PFFS] organizations [and stand-alone PDP prescription drug plans] that have a Medicare contract. Enrollment depends on the plan's contract renewal*

18. If a material references Star ratings, the material must also include references to the overall Star Rating for that plan. Do not use an individual underlying category, domain, or measure rating to imply overall higher Star Ratings for a plan or MA organization or the plans that a Sales Partner offers.
    a. Materials must be clear that the rating is out of 5 stars and clearly identify the Star Ratings contract year. Ex: *Every year, Medicare evaluates plans based on a 5-star rating system.*
    b. Star Ratings must only be marketed in the service area(s) for which the Star Rating is applicable, unless using Star Ratings to convey overall MA

organization performance (for example, ‘‘Plan X has achieved 4.5 stars in Montgomery, Chester, and Delaware Counties), in which case the TPMO must do so in a way that is not confusing or misleading. TPMOs must not market the 5-star special enrollment period after November 30 of each year if the contract did not receive an overall 5 star for the next contract year.

PTC/BRC/Lead Generation Forms: With the new “one-to-one” consent rule going into effect 10/1/24, the disclaimer on any Lead Generation form/BRC/PTC needs to be updated. Spark is using the one below. Feel free to use this one as well. You’ll have to specify the agency name on the form.

“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. “

I will also need the following information prior to submitting the marketing material to a carrier for review:

-Time period this will be used (AEP, OEP, Rest of Year, Year Round)
-Distribution area(s) - state(s) and counties
-How will be distributed
-Start/end dates
-SMID(see above)
-The screen shots need to be in an editable Word document format

Once the Spark Compliance team reviews your marketing materials, and you have made any changes necessary, we will submit the materials to a carrier for review. If they have revisions needed, we will send those to you. Once the carrier approves, we will then file with CMS for approval. You must have CMS approval prior to use. Please allow plenty of time for the marketing materials review and approval process.

Reach out to Compliance@SparkAdvisors.com with any questions.