

§ 422.2262

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(iii) Presentation materials such as slides and charts.

(iv) Promotional materials such as brochures or leaflets, including materials for circulation by third parties (for example, physicians or other providers).

(v) Membership communication materials such as membership rules, subscriber agreements, member handbooks and wallet card instructions to enrollees.

(vi) Letters to members about contractual changes; changes in providers, premiums, benefits, plan procedures etc.

(vii) Membership or claims processing activities (for example, materials on rules involving non-payment of premiums, confirmation of enrollment or disenrollment, or annual notification information).

§ 422.2262 Review and distribution of marketing materials.

(a) *CMS review of marketing materials.*

(1) Except as provided in paragraph (b) of this section, an MA organization may not distribute any marketing materials (as defined in § 422.2260 of this part), or election forms, or make such materials or forms available to individuals eligible to elect an MA organization unless—

(i) At least 45 days (or 10 days if using marketing materials that use, without modification, proposed model language as specified by CMS) before the date of distribution the MA organization has submitted the material or form to CMS for review under the guidelines in § 422.2264 of this part; and

(ii) CMS does not disapprove the distribution of new material or form.

(2) [Reserved]

(b) *File and use.* The MA organization may distribute certain types of marketing materials, designated by CMS, 5 days following their submission to CMS if the MA organization certifies that in the case of these designated marketing materials, it followed all applicable marketing guidelines and, when applicable, used model language specified by CMS without modification.

§ 422.2264 Guidelines for CMS review.

In reviewing marketing material or election forms under § 422.2262 of this

part, CMS determines that the marketing materials—

(a) Provide, in a format (and, where appropriate, print size), and using standard terminology that may be specified by CMS, the following information to Medicare beneficiaries interested in enrolling:

(1) Adequate written description of rules (including any limitations on the providers from whom services can be obtained), procedures, basic benefits and services, and fees and other charges;

(2) Adequate written description of any supplemental benefits and services;

(3) Adequate written explanation of the grievance and appeals process, including differences between the two, and when it is appropriate to use each; and

(4) Any other information necessary to enable beneficiaries to make an informed decision about enrollment.

(b) Notify the general public of its enrollment period in an appropriate manner, through appropriate media, throughout its service area and if applicable, continuation areas.

(c) Include in written materials notice that the MA organization is authorized by law to refuse to renew its contract with CMS, that CMS also may refuse to renew the contract, and that termination or non-renewal may result in termination of the beneficiary's enrollment in the plan.

(d) Ensure that materials are not materially inaccurate or misleading or otherwise make material misrepresentations.

(e) For markets with a significant non-English speaking population, provide materials in the language of these individuals.

§ 422.2266 Deemed approval.

If CMS has not disapproved the distribution of marketing materials or forms submitted by an MA organization with respect to an MA plan in an area, CMS is deemed not to have disapproved the distribution in all other areas covered by the MA plan and organization except with regard to any portion of the material or form that is specific to the particular area.