California Senior Medicare Patrol
and
Center for Medicare Advocacy

Webinar Series
MEDICARE ENROLLMENT DEEP DIVE: A REVIEW OF THE 2023 ANNUAL ENROLLMENT PERIOD

January 17, 2024
The Center for Medicare Advocacy is a national non-profit law organization that works to advance access to comprehensive Medicare, health equity, and quality health care for older people and people with disabilities.

- Founded in 1986
- Headquartered in CT and Washington, DC, additional attorneys in CA, MA, and MD
- Staffed by attorneys, advocates, a nurse consultant, and technical experts
- Provides education, legal analysis, writing and assistance
- Systemic change – Policy & Litigation, based on our experience with the problems of real people
- Inappropriate Medicare denials – and appeals
- Medicare/Medicaid Third Party Liability Projects
Agenda

▪ Overview
  • Including New Marketing Rules

▪ SMP Updates

▪ What Did You See?
  • Marketing
    • Including Marketing Targeting Dual Eligibles – CT Case Example
  • Agent/Broker Conduct
  • Part D Issues
  • Other Issues?
OVERVIEW
Medicare Enrollment Periods – Parts C and D

• **Annual Election Period** (Oct 15 – Dec 7, coverage effective Jan 1)
• **Medicare Advantage – Open Enrollment Period** (MA-OEP)
  • Jan – March of every year
  • Allows individuals enrolled in either an MAPD or an MA only plan, including newly MA-eligible individuals, to make a one-time election to go to another MA plan **or** to traditional Medicare.
  • Individuals using the MA OEP to make a change may make a coordinating change to add or drop Part D.
  • No rights for people in stand-alone Part D plans (PDPs)
• **Special Enrollment Periods (SEPs)** – various triggering circumstances
  • Eg, move, dually eligible, marketing misconduct, etc.
NEW MARKETING PROVISIONS
Effective Oct. 1, 2023
Advertising Limits

- Include:
  - Placed discrete limits around the use of the Medicare name, logo, and Medicare card.
  - Prohibited the use of superlatives (for example, words like “best” or “most”) in marketing unless the material provides documentation to support the statement, and the documentation is based on data from the current or prior year.
  - Prohibited marketing of benefits in a service area where those benefits are not available, unless unavoidable because of use of local or regional media that covers the service area(s).
Education v. Marketing

- **Educational Events** “are meant to provide generic, factual, non-biased information about different coverage options” compared to **Marketing Events** where information designed to persuade beneficiaries to enroll in a particular type of plan (for example, MA–PD or Medigap), or in a plan offered by a specific organization is provided.

  - CMS prohibits a marketing event from occurring within 12 hours of an educational event at the same location.
Agent/Broker Requirements

- Requires 48 hours between a Scope of Appointment (SOA) and an agent meeting with a beneficiary, with exceptions for beneficiary-initiated walk-ins and the end of a valid enrollment period.
- Clarifies that the prohibition on door-to-door contact without a prior appointment still applies after collection of a business reply card (BRC) or scope of appointment (SOA).
- Limits the time that a sales agent can call a potential enrollee to no more than 12 months following the date that the enrollee first asked for information.
Agent and Plan

- Agents must “explain the effect of an enrollee’s enrollment choice on their current coverage whenever the enrollee makes an enrollment decision.”

- **Pre-Enrollment Checklist (PECL)** – provided along with hard-copy enrollment forms, agents must review during telephonic enrollments
  - “Effect on current coverage” added to list of information plans must provide to prospective enrollees
  - Plan discretion re: whether agents/brokers read PECL in entirety or require each item be discussed
Agent/Broker Limitations

- Separate from the PECL, CMS has added a list of required elements agents and brokers must discuss with beneficiaries prior to enrollment in an MA or Part D plan.
  - Including include information regarding primary care providers and specialists (that is, whether or not the beneficiary’s current providers are in the plan’s network), regarding pharmacies (that is, whether or not the beneficiary’s current pharmacy is in the plan’s network), prescription drug coverage and costs (including whether or not the beneficiary’s current prescriptions are covered), costs of health care services, premiums, benefits, and specific health care needs.” See 42 CFR §422.2274(c)(12) (for Part D, see §423.2274(c)(12))
2023 AEP

- Did the new marketing rules make a difference?
  - General feedback – TV ads better, print ads not so much, people still confused

- Did increased oversight make a difference?
  - From *Politico*: CMS reviewed more than 3,000 Medicare Advantage TV ads (between May and December 2023) and rejected more than 1,000 for not meeting agency rules; more than 80% of the ads submitted by TPMOs (third-party marketing organizations) were rejected.
Senior Medicare Patrol - Scam Trends

Tatiana Fassieux
Training and Education Specialist
California Health Advocates

January 17, 2024
Providing quality Medicare and related healthcare coverage information, education and policy advocacy.

Advocacy & Policy
Improving rights and protections for Medicare beneficiaries and their families

Education
Website, fact sheets and educational workshops

Senior Medicare Patrol
Fraud prevention education

California Health Advocates
www.cahealthadvocates.org
<table>
<thead>
<tr>
<th>PREVENT</th>
<th>DETECT</th>
<th>REPORT</th>
</tr>
</thead>
<tbody>
<tr>
<td>PREVENT: SMPs provide focused outreach and messaging designed to protect Medicare beneficiaries from Medicare fraud.</td>
<td>DETECT: As local trusted connections in the community the SMPs are often the first to hear of new issues as they begin to emerge.</td>
<td>REPORT: SMPs provide in-depth one-on-one assistance to Medicare beneficiaries and other complainants.</td>
</tr>
</tbody>
</table>
“Guard the Medicare card”

Scammers do not discriminate between Original Medicare and Medicare Advantage enrolled beneficiaries. Their target is anyone with this Medicare card.
Current Issues & Complaints

- Medicare Advantage Marketing Violations or targeted commercials – e.g. Cold Calls; Television commercials targeting dual-eligibles
- Billing Issues – whistleblowers reporting home health agencies pressuring billers to bill for additional services not given
- Deceptive Hospice Enrollments
- Medicare Card Phone Scam
- Genetic Testing Scams
- COVID test kits

Keep an eye and ear on this!
New Marketing Rules – Some of the “NO NO’s”

• advertisements that (1) do not mention a specific plan or (2) use the Medicare name or logo in a misleading way
• marketing of benefits in a service area where those benefits are not available
• the use of superlatives (e.g., words like “best” and “most”) in marketing unless the material provides documentation to support the statement and the documentation is based on data from the current or prior year
• Cold calls showing “Health Care” in caller ID or spoofing (pretending to be from a government source)

What advertising or media promotion have you seen that looks too good to be true OR does not align with the conditions above?

Call the Senior Medicare Patrol and report it!

• Call 1-855-613-7080 or Nationwide 877-808-2468
• Also we like to see samples of questionable promotion
Humana Medicare Advantage
Broadcast January 7, 2024

Targeted commercial to dual eligibles highlighting extra benefits. Doesn’t violate rules, but highlights extra benefits. Plan may be inappropriate for beneficiary in other ways.
Attractive debit/cash card to use for food, etc. But…. Is this plan the right one for a dual-eligible beneficiary?
Medicare Advantage Open Enrollment Pitfalls and Advantages

- **Heavy television advertising targeting**
  - Dual-eligibles
  - Beneficiaries enrolled in an MA plan encouraging them to change to another MA plan – touting “extra benefits”

- **Medical groups promoting MA plan enrollment**
  - Only accepting new patients if they are enrolled in an MA plan

- **Telephone enrollment during a cold call**
  - Bypasses some restrictions in place if promotion was done in person at an “event”

- **Can disenroll from MA plan**
  - If going back to Original Medicare, may not be eligible for Medigap guarantee issue rights

- **Can change MA plans if missed the previous Open Enrollment**
Examples of Questionable Mailers

May lead reader to think it’s coming from Los Angeles County
Tri-fold mailer
Unemployment Benefits
Guide??
Bait & Switch!
Fine print:
Insurance solicitation!

Looks like an IRS form!

Misleading Marketing
A way to get your Medicare number to enroll you in a plan
Urgently marked postcards notifying beneficiaries of pending eligibility for free Medicare-covered back and/or knee braces.
Does this ad look right?

Does it mention which company it represents?

Published in the Sacramento Bee, Sunday October 8, 2023
Does this ad look right?

Does it mention which company it represents?

Published in the October 2023 AARP Bulletin
The Real Thing!
Medicare.gov
Detect

**Keep track of medical appointments**

- Use journal or calendar

**Medicare Summary Notice (MSN)**

- Sent to FFS Medicare beneficiaries

**Explanation of Benefits (EOB)**

- Sent to MA members and beneficiaries with a Part D plan

**Check statements for accuracy. Look for:**

- Charges for services not rendered
- Charges for services different than those rendered (upcoding)
- Services/items charged twice
- Charges for services not ordered by primary care physician
What to Look Out For:

- Keep track of medical appointments
  - Use journal or calendar

- Medicare Summary Notice (MSN)
  - Sent to FFS Medicare beneficiaries

- Explanation of Benefits (EOB)
  - Sent to MA members and beneficiaries with a prescription drug plan

Check statements for accuracy. Look for:

- Charges for services not rendered
- Charges for services different than those rendered (upcoding)
- Services/items charged twice
- Charges for services not ordered by primary care physician
Report

Nationwide Toll-Free:
877-802-2468
California:
855-613-7080
Cold calls and TV ads that offer:
- attractive benefits
- may misinform the beneficiary about keeping their current providers and specialists

Mail about Medicare that:
- looks official, but has a small disclaimer saying they are not affiliated with CMS
- indicates a response is needed, urgent request

Call the local Health Insurance Counseling and Advocacy Program (HICAP) for free, unbiased Medicare info: 1-800-434-0222
Available in English, Spanish, Chinese, & Tagalog
IN THE BACK

Available in many languages

SPANISH
ON THE BACK
cahealthadvocates.org

Scroll to the bottom of the page:

Sign up for our newsletter

First Name
First Name

Last Name
Last Name

Email address:
Your email address

Choose the news you’d like to receive

- Medicare Updates and More
- Fraud Alerts
- Upcoming Webinar Announcements

Sign up
Additional Resources for Advocates

State Departments of Insurance
- License insurance agents
- Can submit/report cases of agent or plan misbehavior
- File complaint against insurance agent

State Health Insurance Assistance Program (SHIP)
- Provide local Medicare counseling and help
- [https://www.shiphelp.org/](https://www.shiphelp.org/)
- In California, call 800-434-0222
THANK YOU!

• To report Medicare fraud:
  • in California: call 855-613-7080
  • Nationwide: call 877-808-2468
  • To find your state SMP:
    https://smpresource.org/contact-us/
• Marketing rules: https://www.medicare.gov/health-drug-plans/health-plans/your-coverage-options/plan-marketing-rules

• California Health Advocates: 916-465-8104
  • https://cahealthadvocates.org/
What Did You Experience During the Last AEP?

Comments, Concerns, Observations, and Recommendations
How to Choose During AEP!?  
Searching for Reliable Information…

- Process is increasingly complex and difficult to navigate, more scams, more distrust
- Hard to compare many MA plans, no full picture of what’s included, misinformation
- *Plan Finder tool and 1-800 MEDICARE not always correct
- Stressful, due to drastic changes in numerous MA plans
- No problems, rolled over into the same plan; it was easy because no changes
What to Choose!?
Observations on Coverage and Cost

▪ *Higher interest in choosing plans because of flex cards, over the counter coverage and other extras
▪ *Many people stuck in MA because Medigap supplements are too expensive or not available, more considering dropping Medigap plans but staying in traditional Medicare without a supplement
▪ Costs are too high, many not able to pay
▪ MA plans have more co-insurance and less co-pays
▪ Cost options in Plan Finder tool aren’t always accurate
Getting Help Choosing

- Public doesn’t know about SHIP counselors, counselors are not readily available
- Volunteers very busy, high volume of calls
- SHIP didn’t respond to calls, instead called a broker (who didn’t charge for services)
- The more complex Medicare becomes, the more time needed to spend with clients
- Need to help people who don’t have computer access
- People shouldn’t wait until the last minute to seek help
Medications:
Access, Coverage, and Cost

- Fewer benchmark plans for LIS, some areas only have one plan, forcing more people to choose MAPDs
- Fewer PDP plans overall
- *Plan Finder tool frustrating, not all drugs or pricing was available
- Calls to PDPs resulted in frustratingly long waits
- Some premium increases were significant, but $0 plans were popular
- More formularies were narrowed, creating hardships
- Brand name drugs are more costly
- Lack of available information about what happens to medications when individuals enter long term care
Medicare Advantage
Advertising & Marketing

- Marketing is not good for mature folks, it’s confusing
- *Entire process of the AEP is frustrating and frightening
- *People already covered by group retiree plans, FEHB, Tricare for Life are confused by ads, want to sign up for $0 premium plans
- *Excessive unsolicited noncompliant calls, CMS marketing changes didn’t work, continue to be bombarded, bolder and more aggressive
- It’s a nightmare, why are Medicare dollars allowed to be spent on advertising?
- Not as many misleading claims of benefits, better than last few years
- Commercials were better, mailings were worse and more misleading
When it Comes to Actually Getting Health Care...

- Primary care practitioner participation info is increasingly difficult to locate
- Many new MA plans in rural areas, but access to local care is limited
- Networks are not adequate (and some practitioners are covered, but not facilities where they practice)
Recommendations Offered

- Better understand what Part C doesn’t cover, in practice
- Medicare should operate more like the ACA Marketplace Exchanges
- Extend PDP AEP through Q1 (March) to coincide with MAOEP (not enough time to process PDP requests in AEP)
- CMS should create and promote a centralized contact place for complaints and concerns
- Further encourage beneficiaries to plan ahead, don’t wait until the end of AEP to explore and confirm choices
Words/Sentiments Most Frequently Conveyed About Medicare AEP

- Confusing
- Complicated
- Misleading
- Stressful
Marketing to Duals – CT Example

- CT example – UnitedHealth print ad targeting duals
- On Dec. 7th the Center for Medicare Advocacy, along with the National Health Law Program, the National Disability Rights Network and Disability Rights CT, sent a letter to the Centers for Medicare & Medicaid Services (CMS) as well as the Federal Trade Commission (FTC)
- Urging the agencies to address the ongoing misleading advertising in Connecticut by United Healthcare’s Medicare Advantage plan directed at dually eligible beneficiaries
Marketing to Duals – CT Example

Eligible for Medicare and Medicaid? You could get more with UnitedHealthcare.

If you’re eligible for Medicare and Medicaid, take advantage of your chance to get more benefits than Original Medicare, all for a $0 monthly premium.

- $130 credit every month to pay for healthy food, OTC products and utility bills
- $2,500 allowance for covered preventive and comprehensive dental services
- $0 copay for 24 one-way rides to or from doctor visits or the pharmacy
- $0 copay for a routine eye exam and lenses, plus $300 allowance for eyewear
Additional Comments re: Duals

- From California: “Dual Eligible clients being actively solicited, and sometimes enrolled, in MA plans that are unsuitable and limit their options.”

- From California: “…because of a phone conversation with a broker/salesperson, recently enrolled in a Humana MAPD. . . the MA plan offered her nothing more, cost her a (reduced) monthly premium and restricted her choices. . . she was very confused, and just didn’t trust that she could, or should, disenroll from the MA plan and still have all the health coverage she needed. . . She’d made decisions based on partial information, at best, from someone who either didn’t bother to learn her situation or ignored it.”

- From Wisconsin: When losing LIS, “In order to get correct cost estimates, one must run a general Plan Finder and enter all the medications again . . .time consuming for SHIP counselors . . . of concern for those that are not assisted by SHIP if they would be able to figure that out and get correct cost estimates by using Plan Finder or calling 1800Medicare.”
Questions & Discussion
Do You Have More You’d Like to Share?

communications@medicareadvocacy.org
ADDITIONAL RESOURCES
More Detailed Info re: AEP, Marketing Rules

- CMA webinars: https://medicareadvocacy.org/webinars/
- “Medicare Enrollment Matters” webinar, 10/13/22 – more in-depth discussion of open enrollment: https://attendee.gotowebinar.com/register/1886611744264195342
- See CMA Special Report for summary of new marketing rules (May 2023)
Resources: Choosing Between MA & Traditional Medicare

- See CMA “Choosing Between Traditional Medicare and Medicare Advantage” at: https://medicareadvocacy.org/choosing-between-traditional-medicare-and-a-medicare-advantage-plan/
For further information, to receive the Center’s free weekly electronic newsletter, *CMA Alert*, update emails and webinar announcements, contact:

Communications@MedicareAdvocacy.org
Or visit
MedicareAdvocacy.org

Follow us on Facebook and Twitter!