

Dear Valued Partner,

CMS recently issued compliance changes for Third Party Marketing Organizations (TPMOs) which impact this coming AEP. This compliance update explains these important changes.

AREAS OF GREATEST IMPACT FOR 2023 AEP (effective October 1, 2022)

1

Recording Calls

You must record **all** calls with beneficiaries. This applies to all field agents and all components of the sale and enrollment – including the needs assessment, any benefit explanation, administrative calls and post-enrollment calls.

- As we understand it today, there are no exceptions for administrative calls or any other type of call. The regulation states, “Record all calls with beneficiaries in their entirety, including the enrollment process.”
- **This requirement applies to telephonic contact ONLY – NOT face-to-face appointments.**
- You must disclose **"this call is being recorded"**.
- You must also store and make the recorded calls available for a minimum of **10 years**.

Potential Solution Through CareCompare

We are actively working with the vendor who provides our CareCompare multicarrier plan quote, compare and enrollment system. They're developing a solution to incorporate a telephonic recording component into the CareCompare experience.

The proposed solution will add a call recording feature to the enrollment section of the CareCompare tool. Thus keeping everything related to the sale stored together and keeping you compliant.

Please note: this is in the exploratory phase and not yet functional. We're receiving frequent updates from our CareCompare vendor about this exciting potential solution. We'll keep you updated in the weeks ahead.

If you are not currently using CareCompare, we strongly suggest you begin to do so now in advance of AEP. [Complete the online training here to gain access](#). Or contact your [CareFree Broker Manager](#) for more information.

2

New Disclaimers

All true “marketing materials” as defined by CMS (marketing materials must include benefit information) and beneficiary-facing websites must insert this disclaimer: **“We do not offer**

every plan available in your area. Any information we provide is limited to those plans we do offer in your area. Please contact Medicare.gov or 1-800-MEDICARE (TTY: 1-877-486-2048) to get information on all of your options.”

- **Verbally:** the above disclaimer must be read within the first minute of a sales/enrollment call with a prospect when contact is by telephone. We expect CMS will audit for compliance.
- Multiplan marketing materials should be submitted to our Compliance Team. The team will do a full, quick review, generally within two (2) business days. Submit via: CarefreeCompliance@carefreeinsurance.net.

Also, when conducting lead generating activities, you must inform the beneficiary their information will be provided to a licensed insurance agent for future contact. Or the call will be transferred to a licensed insurance agent who can conduct an enrollment.



New Reporting Requirements for Medicare Carriers

(ex: Aetna, Humana, UHC, etc.) All carriers should be updating their Producer Agreements and guides to capture these new requirements. And have the tools and mechanisms for requesting, receiving and storing this information. None of this information will be collected by CareFree.

CMS will require TPMOs (and their agents) in their contracts, written arrangements, or agreements to report to carriers:

1. any subcontracted relationships used for marketing, lead generation, and enrollment; and,
2. any staff disciplinary actions associated with Medicare beneficiary interaction on a monthly basis.

For further clarification and to participate in a Q&A session, please register for an upcoming webinar on these topics.

Monday August 22 10:30 – 11:30 AM ET (9:30 - 10:30 AM CT)	Wednesday August 24 1:00 – 2:00 PM ET (12:00 - 1:00 PM CT)	Tuesday August 30 2:30 – 3:30 PM ET (1:30 - 2:30 PM CT)
RSVP NOW	RSVP NOW	RSVP NOW

If you're unable to attend and wish to request a compliance meeting, please email us at CarefreeCompliance@carefreeinsurance.net.

Thank you,

CareFree Compliance Team

Important Notes

We want to be clear:

1. This information comes from the CMS Final Rule – this is **NOT** a draft or subject to further changes.
2. This is a high-level overview of the changes/topics. If you have more specific questions, you'll need consult the interpretations/guidance from the Medicare carriers (Aetna, Humana, UHC, etc.) once released. Carrier guidance we have received can be found at <https://www.pages02.net/carefreeinsurance/TPMO>.
3. These are new CMS changes. Clarification and operational guidance continue to be released. We are committed to do our best to gather, compile, digest and share this information in a clear, concise and actionable way to limit any confusion.
4. Third-party marketing organization (TPMO) means organizations and individuals, including independent agents and brokers, who are compensated to perform lead generation, marketing, sales, and enrollment related functions as a part of the chain of enrollment (the steps taken by a beneficiary from becoming aware of an MA plan or plans to making an enrollment decision). TPMOs may be a first tier, downstream or related entity (FDRs), but may also be entities that are not FDRs but provide services to an MA plan or an MA plan's FDR.

Example questions of new required disclaimer usage:

1. **Question:** I have a website that isn't considered "marketing" since it doesn't discuss any plans by name or benefit information – do I have to add this new disclaimer to it?
Answer: Yes, CMS is requiring this disclaimer for ALL websites regardless of whether the website is deemed a marketing or communication website. The requirement is for websites with no exceptions.
2. **Question:** Are you asking us to submit everything to you for review?
Answer: Yes, that is our general request – that you use our decades of compliance knowledge to help you review and ensure the compliance of your materials – be they postcards, newspaper ads, business reply cards (BRCs), digital ads (social media and websites). We can help you determine whether the piece is a marketing piece and MUST have the new CMS disclaimer or other general disclaimers as required by specific carriers.

The full CMS Final Rule can be found below. To jump to the parts impacting Medicare producers, use the Find function (Ctrl F) on the page and search for "TPMO."

[Federal Register :: Medicare Program; Contract Year 2023 Policy and Technical Changes to the Medicare Advantage and Medicare Prescription Drug Benefit Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency; Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency](#)

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