

# SECTION 1: LEAD GENERATION

Before the sale, before actual contact with the consumer is even made, you need to make sure your Lead Generation practices are compliant. In this section, we'll cover the rules and regulations that govern this process including **Permissible Contact** rules, **BRC** guidelines, and Compliant use of **Generic Marketing Materials** (which includes your **Website** and **Social Media**).

# LEAD GENERATION

## CONTACT RULES:

### **Marketing Through Unsolicited Contact is Prohibited**

#### **Examples of Unsolicited Contact:**

- Door-to-Door Solicitation (Door Knocking)
- Leaving Flyer, Leaflets, etc. at residences or on cars
- Approaching potential enrollees in common areas such as parking lots, lobbies, sidewalks, retail stores, etc.
- Telephonic or electronic (email, texting, etc.)
- Calling attendees of a Sales Event (unless express permission is given for a follow-up call)
- Calling a “referral” from a current client

### **What you CAN to do:**

- Call individuals when valid “permission to call/contact” is given
- Give your contact info to current clients who want to refer a friend/relative (the referred individual needs to contact you directly)
- Call your current MA enrollees to promote other Medicare plan types or to discuss plan benefits (ex. contact your PDP enrollees to promote MA-PD products)
- Call current enrollees to discuss/inform them about general plan information, such as: Annual Enrollment Period (AEP) dates, plan changes, educational events, etc.
- Return phone calls/messages or leave information at a residence if your prescheduled appointment becomes a No-Show

### **Other Important Information**

- Permission to Call/Contact is event specific and not open ended permission for future contact
- Bait-and-Switch strategies are also prohibited (ex. making unsolicited contact about other business as a means of generating leads for Medicare plans)
- Remember, referrals from current clients do not give you “permission to contact”

# Generic Marketing Materials

- All marketing materials created by an agency or a broker with the intent of creating Medicare Advantage leads, need to be reviewed. This includes, but is not limited to, direct mail, advertising, posters, brochures, scripts, radio and television ads, letters, postcards, billboards and other outdoor advertising, banners, signs, yellow pages ads, church bulletin ads, web sites, etc.
- It is expected that anyone involved in the development and submission of marketing materials familiarize themselves with the CMS Medicare Marketing Guidelines.
- Contact Specific Carriers to inquire about pre approved customizable generic pieces.
- Send materials for review/approval to your applicable Carriers. Can also send them to [compliance@premiersmi.com](mailto:compliance@premiersmi.com) for review (this is not for formal Approval).

# LEAD GENERATION

## BRC GUIDELINES:

A BRC (Business Reply Card) is designed and intended to be used as a direct marketing material for the purpose of gathering permission to call a potential lead. They Do Not have to be mailed; however, they can be displayed/distributed at a sales event or be located on a Website or Social Media (electronic BRC).

### Things to Remember:

- MUST **document the products** the agent intends to market
- MUST include a statement informing the consumer **who will contact them and by what method** the contact will be made
- MAY NOT ask for a consumer's "**Date of Birth**"
- MAY ask for Age or Date of Medicare Eligibility
- MUST be retained and available upon request for the **remainder of the selling year plus 10 additional years**

Recommended Statement to document the **products** being marketed and to inform the consumer **who will contact them and by what method:**

*"Please have a sales agent call me to discuss Medicare Advantage, Prescription Drug Plans, and/or Medicare Supplement Plans."*

**- or -**

*"By providing the information above, I grant permission for a licensed sales agent to contact me by phone, mail, or email to discuss Medicare Advantage, Prescription Drug, and Medicare Supplement Insurance Plans."*

# LEAD GENERATION

## GENERIC MARKETING MATERIALS:

We understand that marketing materials play a critical role in your daily business activities, but it is vital that you ensure your generic marketing materials are compliant with CMS guidelines. Follow the guidance below when creating your own marketing materials. Also, keep in mind **Lead Vendors' materials aren't always compliant** so it's a good idea to review those, as well, to ensure they are complaint. We've also included a **"Generic Marketing Material Checklist"** that should help you remain compliant.

### General Guidance:

- To be considered **"Generic"**, materials can't include Company Names or Logos, Plan Specific Names, Product Specific Names, Specific Benefit Info, STAR Ratings, etc.
- **"This is an Advertisement" MUST be prominently displayed** on the front of all envelopes and mailers.
- All text on materials, including footnotes and disclaimers, must be printed with a **font size equivalent to or larger than Times New Roman 12pt font.**
- **DO NOT** use the word **"Entitled"** when referring to Medicare Benefits. **Use "Eligible"** instead.
  - Can only use "Entitled" in relation to Part A for Federal Medicare Products.
- Use caution when using the word **"Senior"**.
  - Can't limit your audience to those over 65, some Medicare beneficiaries are under 65.
- **DO NOT** use **absolute superlatives** like "the best", or "highly rated", or "the most doctors," unless it can be substantiated.
- Agency / Broker name and address must appear on the mailing envelope or postcard – **Must identify who the sender is.**
- **DO NOT** use the word **"free"** in relation to a Benefit.
- **Websites** and **Social Media** are governed by the **same regulations** as normal printed material.

# LEAD GENERATION

## GENERIC MARKETING MATERIALS:

### Required Disclaimers:

Situations that Require a Disclaimer	Recommended Disclaimer
When Materials Ask for Beneficiary Information to be Provided (a BRC Included in the Marketing piece)	"By providing the information above, I grant permission for a licensed sales agent to contact me by phone, email, or mail to discuss Medicare Advantage, Part D Prescription Drug plans, and Medicare Supplement Insurance Plans."
When Plan Premiums are mentioned, even if it is \$0	"You must continue to pay your Medicare Part B premium."
When Plan Benefits are mentioned in a general fashion	"The benefit information provided is a brief summary, not a complete description of benefits. Limitations, co-payments, and restrictions apply. Benefits, formulary, pharmacy network, premium and/or copayments/co-insurance may change on January 1 of each year."
When Asking the Consumer to Call You	"Calling the number above will direct you to a licensed sales agent."
Advertisements or Invitations to a Sales/Marketing Event	"A sales person will be present with information and applications. For accommodations of persons with special needs at sales meetings, call <toll-free number>, <days and hours of operation>."
When Cost-Sharing is Mentioned or When Specifically Targeting Dual-Eligibles	"Premiums, co-pays, co-insurance, and deductibles may vary based on the level of Extra Help you receive. Please contact the plan for further details."
When Promoting Drawings, Prizes, or any Promise of a Free Gift	"Eligible for a free drawing and prizes with no obligation."
All printed marketing/lead pieces - must prominently display this disclaimer on the envelope or front of the mailer	"This is an Advertisement."

### Personal Business Cards:

- **MAY NOT be attached** to marketing pieces, but can be included with them.
- Do **NOT** use the word "**Medicare**" in your title (ex. Medicare Specialist).
- Do **NOT list Benefits** on business cards.
- Use caution using images of Flags or the colors Red, White, & Blue that could be misinterpreted as being affiliated with a state or United States government agency.

# LEAD GENERATION

## GENERIC MARKETING MATERIALS:

General Guidance	Choosing the right words...
<b>1. Font size of all text (even disclaimers) must be equivalent to or larger than Times New Roman 12-point.</b>	1. If you are talking specifically about the Medicare program in your piece, use "Original Medicare"
<b>2. Agency / Broker name and address must appear on the mailing envelope or postcard – Must identify who the sender is.</b>	2. Any time you mention a Medicare PDP, you must first use the phrase "Part D Prescription Drug Plan."
<b>3. May NOT ask for Date of Birth on a BRC (includes electronic BRC's) - can ask for Age or Date of Medicare eligibility.</b>	3. Use caution when using the word "Senior". Can't limit your audience to those over 65, some Medicare beneficiaries are under 65.
<b>4. Do NOT claim that you are endorsed by or affiliated with Medicare or CMS.</b>	4. Do NOT use the word "Entitled", use Eligible or some other word instead.
<b>5. If a BRC is included, the piece must document the products the agent intends to market.</b>	5. Recommended disclaimer when asking for client info: "By providing the information above, I grant permission for a licensed sales agent to contact me by phone, email, or mail to discuss Medicare Advantage, Part D Prescription Drug plans, and Medicare Supplement Insurance Plans."
<b>6. Do NOT use absolute superlatives</b>	6. Do not use "the best," or "highly rated," or "the most doctors," unless it can be substantiated.
<b>7. The disclaimer to the right must be prominently displayed on the front of all envelopes and mailers.</b>	7. "This is an Advertisement."
<b>8. If a BRC is included, there must be a statement informing the consumer who will contact them and by what method.</b>	8. Recommended statement: 'By providing the information above, I grant permission for a licensed sales agent to contact me by phone, email, or mail to discuss Medicare Advantage, Prescription Drug plans, and Medicare Supplement Insurance Plans.'
<b>9. If Plan Premiums are mentioned, even if it is \$0, you must use the following disclaimer: "You must continue to pay your Medicare Part B premium."</b>	9. If you mention premiums, make sure you list it as "monthly plan premiums," as in "monthly plan premiums as low as \$0."
<b>10. If Plan Benefits are mentioned you must include this disclaimer:</b>	10. "The benefit information provided is a brief summary, not a complete description of benefits. For more information contact the plan. Limitations, copayments, and restrictions apply. Benefits, formulary, pharmacy network, premium and/or copayments/co-insurance may change on January 1 of each year."
<b>11. Any advertisement or invitation to a sales/marketing event inviting beneficiaries to a group session to possibly enroll must include the following disclaimer:</b>	11. A sales person will be present with information and applications. For accommodations of persons with special needs at sales meetings, call <toll-free number> (TTY 711), <days and hours of operation>.

# LEAD GENERATION

## CHECKLIST

### GENERIC MARKETING MATERIAL

<b>Regulations</b>	
Material(s) cannot market for the upcoming plan year prior to October 1.	
In order for material to be considered <i>generic</i> , they must not contain: <ul style="list-style-type: none"> <li>• Carrier Logos or Brands</li> <li>• Plan Specific Names (Example: Plan A)</li> <li>• Product Specific (Example: Medicare Complete)</li> <li>• Benefit Information</li> </ul>	
<b>Star Ratings</b>	
Does the material refer to a plan(s) 'Star Ratings'? If yes, the material is not generic as Star Ratings are specific to plans, benefits and service.	
<b>Lead Cards / Business Reply Cards (BRC)</b>	
The BRC must document <u>the products</u> the agent intends to market. Recommended statement: 'Please have a sales agent call me to discuss Medicare Advantage and Prescription Drug plans, and Medicare Supplement Insurance Plans.'	
The BRC must include a statement informing the consumer <b>who will contact them and by what method(s)</b> . Recommended statement: "Please have a sales agent call me..." or "By returning this card a sales agent may contact you by phone, mail or email."	
The marketing piece cannot "require" the consumer(s) to provide contact information.	
The marketing piece cannot ask for the consumer's 'date of birth'. May request date of Medicare eligibility and/or age.	
<b>Content / Style</b>	
The marketing piece must clearly identify who the sender is.	
The content of the marketing piece when printed, must have text with a font size equivalent to or larger than Times New Roman twelve (12)-point. Including headers, footnote, and/or disclaimers.	
The content cannot be inaccurate, misleading, or otherwise make misrepresentations. (e.g. incorrect enrollment period title).	
The content cannot include the use of absolute superlatives. (e.g. the best; the biggest; the highest ranked).	
The content cannot include the terms Medicare; CMS or the Department of Health & Human Services (DHHS). It is forbidden for any person to use words or symbols, including "Medicare," "Centers for Medicare & Medicaid Services," "Department of Health and Human Services," or "Health & Human Services" in a manner that would convey the false impression that the business or product mentioned is approved, endorsed, or authorized by Medicare or any other government agency.	
If the intent is to include benefits in a general fashion, it is recommended that the benefits are cited individually, bulleted out with no branding, logos and/or titles included. Recommended example below. Some Medicare Advantage/Part C plans may offer benefits like: <ul style="list-style-type: none"> <li>• Preventive Care</li> <li>• Optical</li> <li>• Fitness Membership</li> </ul>	

Checklist continued on next page...



# LEAD GENERATION

## CHECKLIST

### GENERIC MARKETING MATERIAL

Checklist continued ...

<b>Events</b>	
Is the material an invitation for an event?	
<b>If yes: Sales Marketing Events</b>	
The invitation must include these two disclaimers verbatim: <ul style="list-style-type: none"> <li>• "A sales person will be present with information and applications."</li> <li>• "For accommodation of persons with special needs at sales meetings call &lt;insert phone and TTY number&gt;."</li> </ul>	
<b>If yes: Educational Events</b>	
The invitation must explicitly advertise the event as "educational"	
Is a drawing or prize advertised with the event?	
If yes: The invitation must include one of the following disclaimers. <ul style="list-style-type: none"> <li>• "Eligible for a free drawing and prizes with no obligation" or</li> <li>• "Free drawing without obligation." (note – the retail nominal gift amounts may not exceed \$15.00)</li> </ul>	
<b>This section is based on feedback from CMS</b>	
Is there an agent title on the document?	
If yes: Agent titles must reflect the intent of the contact with the consumer. The term 'sales' and 'agent' is recommended to be included in the title. Titles that include the term 'Medicare' or mislead the consumer on the agent's intent are prohibited. Examples of titles required to be corrected: <ul style="list-style-type: none"> <li>• Medicare Sales Agent</li> <li>• Senior Advisor</li> <li>• Medicare Specialist</li> </ul>	
<b>Prohibited Terms</b>	
<b>'Free'</b> - Is the term 'free' used in relation to a benefit? (example: Free Exam; Free Gym Membership)	
<b>'Senior'</b> - Is the term 'senior' used in reference to your audience in a way that may imply plans, or an agents Medicare related services are only available to "seniors"? (example: Sales Meeting for Seniors)	
<b>'Entitled'</b> - Is the term 'entitled' used? CMS reserves this term to be used only in relation to Part A for Federal Medicare products. <b>You may use 'eligible'.</b>	
<b>Product Names</b>	
<b>Required</b> - <b>Does the material use full product names when first disclosed?</b> CMS has requested use of full product specific titles when referring to Medicare Advantage Plans and/Part D Prescription Drug Plans. Simply using "Medicare plans" is only appropriate when speaking to multiple product types (MA/PDP).	
<b>Required</b> - <b>Does the material initially use full product names when first disclosed?</b> Citing the 2014 Medicare and You guide, CMS has requested that when referring to a Medigap policy, you identify it as "Medicare Supplement Insurance" plans first. Medigap may be used thereafter.	

# LEAD GENERATION

## WEBSITE CHECKLIST

Detail	Yes	No	N/A	Comments
<b>Registration Information</b>				
• Is your URL Registered (if necessary)?				For certain Carriers, websites of contracted agents/agencies must be registered. Regardless if it carries logos, branding, materials, or is meant for agents or consumers.
• Does the URL Open/work?				
<b>Logo Usage</b>				
• Appropriate Logo usage? Approved by Appropriate Carrier?				
<b>Agent Title</b>				
• Appropriate use of Agent Title?				Cannot mislead consumers into thinking an agent is affiliated with Medicare in any way. <b>Prohibited Titles:</b> Medicare Sales Agent or Senior Advisor. <b>Approved Titles:</b> Sales Agent, Sales Representative, Licensed Sales Agent, Independent Sales Agent, etc.
<b>Contact Page - BRC</b>				
• Appropriate Scope of Product included?				You may post a generic electronic Business Reply Card (eBRC) on your website; however, the following disclaimer must appear, "A sales agent may mail, call, or e-mail as a result of completing the information to discuss Medicare Advantage, Prescription Drug Plans, or Medicare Supplement Insurance". The same content regulations apply to an electronic BRC as to a paper BRC.
• Appropriate Method of Contact included?				
• Free from REQUIRING Prohibited Consumer Contact information: I.E. phone/email?				
• Free from Date of Birth? (Cannot ask for D.O.B - age or date of Medicare eligibility is ok)				
• Free from Medical or RX History?				
<b>Disclaimers</b>				
• Are appropriate Event Disclaimers in place (when applicable)?				If advertising a marketing/sales event where there's a possibility of enrolling members include the following disclaimers on all marketing materials: "A sales person will be present with information and applications." and "For accommodation of persons with special needs at sales meetings call <insert phone and TTY number>."
• Are appropriate Nominal Gift Disclaimers in place?				When promoting drawings, prizes, or promise of free gifts include a Nominal Gift disclaimer on all marketing materials stating there's no obligation. For example: "Eligible for a free drawing and prizes with no obligation" or "Free drawing without obligation".
<b>Content</b>				
• Appropriate use of "Free"?				May not refer to any benefit, item or service as "free", as the costs are built into the plan. May not use the term "free" unless something truly is free, meaning there is no cost to the plan, Medicare/CMS, or the beneficiary in any way. ACTION: Use "at no additional cost" instead.
• Appropriate use of "Senior"?				CMS considers the term "senior" (when used to describe enrollment eligibility) to be discriminatory toward those beneficiaries eligible for Medicare based on disability. ACTION: Revise "senior" to "Medicare beneficiaries" or "seniors and other Medicare beneficiaries"
• Appropriate use of "Entitled"?				Beneficiaries are not entitled to any Medicare benefits, except Part A (if certain requirements are meant) therefore using the term entitled implies that the beneficiary is not receiving something they should be. This is a misleading/inaccurate statement. ACTION: Change to "eligible"
• Appropriate and complete product Terms - Medicare Advantage not MA.				Full titles should be used when first introduced. i.e. Medicare Advantage; Prescription Drug Plan; Medicare Supplement Insurance Plans.
• Free from Benefit/Premiums/Copays info?				Agent web pages may not contain material, including product descriptions and benefits, unless express permission is given by the appropriate Carrier.
• Free from inappropriate use of CMS/DHHS/ Medicare Symbols or name in URL?				Cannot use names, domain names, logos, symbols, colors, etc. that would mislead a consumer into thinking you are affiliated in any way with Medicare or the government in any way.
• Free from inappropriate Private/Proprietary Materials embedded?				Disclosing Proprietary Information, Media Requests, and Public Relations Materials is not to be disclosed to anyone outside of the company, including the media, under any circumstances without prior approval from the appropriate Carrier's Compliance/Legal department.
• Free from Inaccurate/Misleading/Misrepresentation?				Website content must not: • Speak disparagingly of Medicare, CMS, or a Carrier. • Include contracts or appointment forms. • Include plan materials, enrollment kits, or benefit guides.
• Free from inappropriate posting of events for next AEP Prior to October 1?				Marketing for an upcoming plan year may not occur prior to October 1. Plans/Part D Sponsors must cease current year marketing activities once they begin marketing benefits for the new contract year.