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COMPLIANCE CORNER Special Edition

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WELCOME TO COMPLIANCE CORNER

The Compliance Corner Newsletter is distributed to all agents both internal and external. The Compliance Corner Newsletter is part of the overall Compliance Educational Initiative for agents and will cover a wide range of topics associated with UnitedHealthcare business practices, marketing guidelines, legal issues and ethics and integrity issues.

Please use this as a supplemental source of information to the weekly newsletter you receive from UnitedHealthcare Medicare Solutions.

Special Edition

The Centers of Medicare and Medicaid Services (CMS) Medicare Marketing Guidelines (MMG) Chapter 3 focuses on marketing activities and outlines guidelines the Plan and the Plan's representatives, including agents; must adhere to.

In the next few editions of the Compliance Corner Newsletter, you will be re-introduced to the guidelines, the changes made and how the guidelines are applied today.

Additionally, these Special Edition newsletters will share a focus on specific activities agents must adhere to and in most cases, a field experience which will outline the acceptable marketing practice.

Unsolicited Contact 2010

CMS has specific guidelines for agents regarding marketing activities and the contact agents have with consumers.

The Chapter 3 Medicare Marketing Guidelines have a dedicated section focused on the subject of Unsolicited Contact. CMS has a general

prohibition on marketing through unsolicited contacts. This prohibition includes the following and may extend to other instances of unsolicited contact that may occur outside of advertised sales or educational events. Examples include:

- Door to Door Solicitation;
- Telephonic or Electronic Mail Solicitation;

The prohibition of marketing through unsolicited contacts does not include mailing of approved materials. **Leads may still be generated through mailings, websites, advertising and public sales events.**

Door to Door

The term 'door to door' is a term that is often mis-interpreted or understood. Door to door, not to be confused with cold calling, in its simplest form, is the act of going to a consumer's home with the intent to solicit a product without permission from the consumer (**a lead card does not constitute permission**).

However, CMS also recognizes the actions below as door to door and these actions are also prohibited as well;

- Leaving information such as a leaflet, flyer, or door hanger, or leaving information such as above on a consumer's car. *NOTE: Agents/brokers who have a pre-scheduled appointment which becomes a "no-show" may leave information at the no-show consumer's residence*
- Approaching consumers in common areas (e.g., parking lots, hallways, lobbies, etc.)

Agents who approach a consumer must have a prescheduled appointment. A business reply card or permission to call documentation does not permit contact at a consumer's residence –including consumers who reside within a facility.

Door to Door Scenarios

A UnitedHealthcare agent, Jack, has just met with consumer, Elmer who resides in a home located within a Senior Living community. After a very successful appointment, Jack is walking towards his car and see's Elmer's neighbor Gayle working in her flowerbed. Jack goes over to introduce himself to Gayle. Jack shares his name, the company he represents and the products available in the area that may benefit Gayle.

Has Jack complied with CMS guidelines?

No; approaching a consumer unsolicited is prohibited.

What could Jack have done?

In this situation, Jack could leave Elmer additional business cards to share with neighbors and friends.

Cold Calling

CMS has expanded the definition of what is considered marketing through unsolicited contact to include telephone contact, electronic mail (email) and cellular telephone text messages.

Email Contact Guidance:

- Agents **may not** send e-mails to consumers, unless the consumer agrees to receive e-mails from the agent and the consumer has provided his/her e-mail address to the agent;
- Plan sponsors are prohibited from renting and purchasing e-mail lists to distribute information about products.
- Agents **may not** e-mail consumers whose address was obtained through friends or referrals;

Telephonic Contact Guidance:

Prohibited telephonic activities include, but are not limited to, the following:

- Conducting or allowing outbound telephone calls, to consumers to offer a non-MA or non-PDP product or service with the intent to discuss MA or PDP products or services. (Examples of non-MA or non-PDP products include, but are not limited to: a discount prescription drug card, a Medicare Supplement policy, a needs assessment, an educational event, a review of Medicare coverage options, or any other service or product that is not an MA plan or PDP.)
- Telephone calls to a consumer who was referred would be considered unsolicited contact; a referred consumer must contact the plan and/or agent directly. The purpose of this guidance is to avoid unsolicited contacts based on a claim by an agent/broker that they have a "referral" from a friend or other third-party. *Note: Plan sponsors or agents/brokers are permitted to leave contact information such as business cards with consumers for them to give to friends that they are referring to the agent or plan sponsor.* Agents may not directly receive a referral from a consumer.
- Outbound marketing calls, unless the consumer requested the call.
- Telephone calls to former members who have disenrolled, or to current members who are in

the process of voluntarily disenrolling, to market plans or products;

- Telephone calls or visits to consumers who attend a sales event, unless the consumer gave express permission at the event for a follow-up call or visit (including a completed scope of appointment form);
- Telephone calls to consumers to confirm receipt of mailed information;

Cold Calling Scenarios

Following a one-on-one meeting, UnitedHealthcare agent, Curt, is asked by the consumer, Chuck, to telephone his brother Larry to assist him with his Medicare questions, his high medical care cost due to his brother's diabetic condition and coverage issues. Chuck gives Curt the telephone number, email and address of Larry and asks him to please telephone or contact Larry as soon as possible. Curt goes to his car and telephones Larry from his cellular telephone. He shares with Larry that he had explicit permission to call from Chuck to contact him. Additionally, Curt discloses how much he was able to help Chuck and his diabetes and the cost to maintain his care.

Has Curt complied with Guidelines?

No; Curt has not been compliant. Contacting Larry or a consumer by telephone or email without documented permission to call is prohibited, regardless of who granted permission. Furthermore, sharing personal identifiable information with a consumer who is not the consumer violates HIPAA privacy regulations;

What could Curt have done?

In this scenario, Curt may mail information to Larry or he can advise Chuck, to have Larry contact him. Curt should leave his contact information with additional copies of his business card for Chuck to share with family and friends;

Questions?

To ask a question regarding marketing, the Medicare marketing guidelines, privacy issues, fraud and abuse issues, security questions or any question related to ethics, please send them to:

Compliance_Questions@uhc.com

Where to Report Conduct Violations?

To report violations of illegal or unethical conduct, including violations of law, contractual obligations and company policies (including the Principles of Ethics & Integrity), privacy issues, or suspected fraud and abuse **that impact our company**, employees should call 1-800-455-4521.

For non-employees please send any issues regarding illegal or unethical conduct, including violations of law, contractual obligations and company policies (including the Principles of Ethics & Integrity), privacy issues, or suspected fraud and abuse **that impacts UnitedHealthcare** to **Compliance_Questions@uhc.com**.

NOTE: All reports of the above activities are strictly confidential and subject to the Company's non-retaliation policy.

Reference

CMS Medicare Marketing Guidelines;
Chapter 3, Sections: 70.5 and 70.8