
Addendum: for use with California Health and Life & Health online ExamFX courses and study guide version 25637en, per updated 2023 Educational Objectives

The following are **content additions** to supplement your existing text unless otherwise indicated.

Medical Expense Insurance

D. Consumer-Driven Health Plans

Individual Coverage HRA (ICHRA)

Employers can offer their employees an **Individual Coverage Health Reimbursement Arrangement (ICHRA)** to reimburse medical expenses (like premiums, deductibles and copayments) instead of offering a traditional job-based health plan. It is available to employers of all sizes, and it requires employees to be covered by an individual health insurance plan or Medicare to be eligible for reimbursements. The primary intent of the ICHRA is to allow for the reimbursement of individual health insurance premiums, but other out-of-pocket expenses can be reimbursed. The employer determines the reimbursement limits, and other rules and restrictions apply.

Senior Health Products

CMS Compliance and Regulations

Centers for Medicare & Medicaid Services (CMS) has established guidelines and regulations that agents and brokers are required to adhere to before assisting consumers with selecting and enrolling in qualified health plans (QHPs) or Medicare products. These guidelines apply in the following areas:

- Third-Party Marketing Organization (TPMO) disclaimer;
- Call recording;
- Permission to contact;
- Scope of appointment;
- Marketing rules;
- Events and appointments;
- Websites; and
- Secret shoppers.



Third-Party Marketing Organization (TPMO) Disclaimer — CMS considers all insurance agents and brokers to be TPMOs. Agents/brokers must add the TPMO disclaimer to their website, email communications, and all marketing materials, including print and TV ads. When conducting lead-generating activities, agents and brokers must disclose to the beneficiary that their information will be provided to a licensed insurance agent for future contact or that the beneficiary is being transferred to a licensed insurance agent who can enroll them into a new plan.

Call Recording — Agents should record calls (including video calls) with Medicare beneficiaries in their entirety. Examples include introductory calls to inform or educate clients about Medicare Advantage and Prescription Drug plans, subsequent calls when the beneficiary makes an enrollment decision, and post-enrollment discussions, including retention-marketing calls that influence a beneficiary to stay enrolled in a current plan. Agents do not need to record conversations when meeting with the beneficiary in person.

Permission to Contact — While agents are permitted to make unsolicited direct contact with potential enrollees via email, the email must have an opt-out option in order to remain compliant. Additionally, the content of any unsolicited email cannot be designed to persuade a recipient to choose or retain a plan. A compliant email would promote the agent's services rather than any specific plans. Agents are **not allowed** to approach potential enrollees in common areas, make unsolicited phone calls, or go door to door.

Scope of Appointment (SOA) is a form outlining exactly what the agent will be presenting to a client during a meeting. The SOA ensures that potential enrollees will not be pitched plans other than those they originally requested.

Every Medicare sales appointment requires an SOA, whether the meeting occurs in person or remotely. Per CMS, agents must keep SOA forms on file for at least **10 years**, even if the appointment didn't end in a sale. The SOA will be **valid for 12 months** or until it is utilized, and the agent will need to obtain a new one if the original expires.

The agent must **wait 48 hours** between obtaining an SOA from a client and an appointment. Exceptions to this rule include when a beneficiary is no more than 4 days from the end of a valid enrollment period (e.g., Annual Enrollment

Period, Open Enrollment Period, Special Enrollment Period, Initial Coverage Election Period) or unscheduled in-person meetings (walk-ins) initiated by the beneficiary.

Marketing Rules – CMS regulates marketing and plan presentations, including when agents and brokers are allowed to do marketing and how to go about it.

Agents must wait until October 1 to begin marketing next year's plans to potential beneficiaries and cannot enroll members until October 15. During presentations, agents should never attempt to mislead clients, willingly or unwillingly. For example, agents should stay away from using absolutes and superlatives to describe plans and benefits, and avoid showing favoritism between carriers or plans.

Events and Appointments – Agents typically host three types of events: educational events, sales events, or individual appointments. Educational events must be advertised as such and be designed to inform Medicare beneficiaries about the parts of Medicare in general. When holding an educational event, an agent **may do** the following:

- Distribute educational materials free of plan-specific information;
- Distribute educational healthcare materials;
- Answer questions posed by attendees;
- Give out business cards and contact information for beneficiaries to use to initiate contact; and
- Hold the event in a public venue (optional, but under no circumstance should events be held in-home or in one-on-one settings).

Agents **MUST NOT**:

- Distribute plan-specific materials or enrollment packets;
- Discuss any carrier-specific plans or benefits or distribute marketing plan materials;
- Display a sign-in sheet;
- Require attendees to sign in (sign-in sheets must be optional);
- Answer questions beyond what attendees ask;
- Schedule future marketing appointments;



- Require attendees to fill out an SOA or enrollment forms;
- Give away cash or other monetary rebates;
- Offer meals;
- Hold a marketing/sales event within 12 hours of an educational event at the same location or adjacent buildings;
- Lead or attempt to lead attendees toward a specific plan or set of plans;
- Use pressure to sign someone up; or
- Cross-sell or promote non-health-related products.

Websites – Consumer-facing websites that promote a specific carrier's Medicare Advantage or Part D products must be submitted to CMS for approval.

Secret Shoppers (enforcement of consumer protections) – CMS secret shoppers measure quality of service and compliance with Medicare regulations as a way to gather specific information about products and services. These secret shoppers are looking to make sure agents are compliant not only during the annual enrollment period, but any time they communicate with the customers.