

CMS Call Recording, TPMO Disclaimer & Scope of Appointment FAQ

1. What is a TPMO?

TPMO stands for “Third Party Marketing Organization”. A TPMO is anyone who is compensated directly or indirectly by the plan to perform a specific function (i.e. lead generation, marketing, sales, and enrollment related activities) and impacts all agencies and brokers selling Medicare Advantage and/or Part D Plans.

2. I’m an independent Agent or Agency who is contracted with a carrier. Am I considered a TPMO?

Yes

3. What is the current TPMO Disclaimer?

There are actually 2 different disclaimers, depending on your specific situation:

If you DON’T sell all MA and/or Part D plans within a service area:

We do not offer every plan available in your area. Currently we represent [insert number of organizations] organizations which offer [insert number of plans] products in your area. Please contact Medicare.gov, 1-800-MEDICARE, or your local State Health Insurance Program (SHIP) to get information on all of your options.

If you DO sell all MA and/or Part D plans within a service area:

Currently we represent [insert number of organizations] organizations which offer [insert number of plans] products in your area. You can always contact Medicare.gov, 1-800-MEDICARE, or your local State Health Insurance Program (SHIP) for help with plan choices.

The disclaimer must be specific to the beneficiary’s service area.

4. When do I have to start using this new disclaimer?

This became effective on October 1, 2023, starting with the 2024 contract year and going forward.

5. How do I use the disclaimer?

The disclaimer must be verbally conveyed within the first 60 seconds of the SALES CALL and electronically conveyed when communicating with a beneficiary through email, online chat, or other electronic means of communication and must be included on TPMO consumer-facing websites that discuss or market Medicare Advantage and/or PDP plans. It must also be placed on all marketing materials including flyers, websites and television commercials that contain marketing content.

While it may feel negative to use this disclaimer, you can make it positive by focusing on the quality of the carriers that you do represent and offering the beneficiary the freedom of choice with those carriers who you ARE contracted with.

6. Do generic marketing materials need to be approved by CMS?

If they mention any plan benefits (dental, vision, hearing, premium, Part B rebate amount, etc), then yes they do. The process starts at the carrier level by submitting to them first and can take up to 6 – 8 weeks for the process.

7. Does Advocate Health Advisors have a tool for me to use for call recordings?

Yes, we do have tool for call recordings and storage for our agents! This includes options for landline, iPhone and Android. You can find our call recording tool on your agent portal at www.advocateforagents.com.

8. What phone calls need to be recorded?

Any phone call that is within the chain of enrollment with potential Medicare beneficiaries (prospects) and Medicare beneficiaries (current clients) need to be recorded in their entirety. That includes calling a lead or prospect from a business reply card or someone who gave permission to contact with the intent to set up a marketing appointment. Also includes retention-based marketing, like calling your existing clients to set up AEP appointments. Call recording is applicable to both inbound and outbound calls.

You no longer have to record non-enrollment-related calls, questions about current plan, service inquiries, and member checkups.

9. Do I need to record face-to-face or in-person meetings?

No, only telephonic and virtual conversations.

10. What about Zoom, WebEx, GotoMeeting type of calls?

Yes, regardless of whether the camera feature is being used. Recording applies to all virtual interactions that are part of the chain of enrollment.

11. Do I have to get the member or prospect's consent to record the phone call?

CMS states that all calls that are part of the “chain of enrollment” must be recorded. Since this is a federal rule, state laws are preempted. According to a major carrier, there is no “opt-out” option for the beneficiary. If the beneficiary does not want to be recorded, you can attempt to overcome the

objection, schedule a face-to-face meeting, or discontinue the call. CMS was clear that all telephonic enrollments must have a recording.

12. How long do the call recordings need to be retained?

Call recordings must be retained in a HIPAA-compliant manner for 10 years. You must be able to provide call recordings related to specific beneficiary interactions upon request.

SCOPE OF APPOINTMENT (SOA) RULES

1. When do you need a Scope of Appointment (SOA)?

- Prior to any personal/individual marketing appointment when MA, MAPD or PDP plans are to be presented, including:
 - Scheduled or Walk-in, one on one or in-person appointments regardless of location
 - Scheduled telephonic/virtual presentations
- A Scope of Appointment must be collected for each beneficiary being presented, for example, if presenting to a couple living in the same residence, a SOA must be collected for both.
- A Scope of Appointment must be collected prior to future appointments set after an educational event, formal or informal sales event.
- A Scope of Appointment is not required when conducting educational events, since marketing and plan presentations are not allowed at these event types.

EFFECTIVE SEPTEMBER 30, 2023 –

CMS requires 48 hours between the execution of a SOA and an agent conducting a marketing appointment with a beneficiary.

48 Hour Exceptions:

- 4 days prior to the end of an election period (AEP, IEP, OEP, and SEP) or a beneficiary-initiated walk in.
 - Walk-ins include agent's office, a store kiosk, a plan's office or any other walk-in.
- Inbound telephone calls

2. How long is a SOA valid?

Effective September 30, 2023, a signed SOA is valid for 12 months.