

## Important Compliance Communication Regarding Third Party Marketing Organizations (TPMOs)

*NOTE: This communication does not constitute and must not be construed as legal advice. Humana does not represent that compliance with this communication will ensure that any activity will comply with any applicable laws, rules or regulations. TPMOs are required to review and adhere to all applicable state and federal laws, rules, regulations, and policies.*

CMS defines Third Party Marketing Organizations (TPMOs) as:

1. Organizations and individuals, including independent agent and brokers, who are compensated to perform lead generation, marketing, sales and enrollment-related functions as part of the 'chain of enrollment' (the steps taken by a beneficiary from becoming aware of a Medicare plan or plans to make an enrollment decision). TPMOs may be First tier, downstream, or related entity (FDRs), but may also be entities that are not FDRs but provide services to a MA/Part D plan or an MA/Part D plan's FDR.

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### Agent Impacts

The Final Rule includes additional compliance requirements for agents who fall under the TPMO definition:

1. Disclose to Humana any subcontracted relationships used for marketing, lead generation, and enrollment.
2. Record all calls with beneficiaries in their entirety, including the enrollment process. Humana understands that this recording requirement includes but is not limited to all calls that relate to the sale and/or are within the chain of enrollment, that is the steps taken by a beneficiary from becoming aware of a Medicare plan or plans to making

an enrollment decision. Examples of this include, but are not limited to: calling leads, scheduling appointments, collecting Scope of Appointments, educational calls/presentations, collecting drugs and pharmacy information, and phone enrollments, calls to validate understanding and intent to enroll, re-enrollments, or post-enrollment sales efforts. Although the regulation does not specify which calls would not require recording, Humana believes that post-enrollment calls that are not part of the chain of enrollment may not require recording, unless they involve a potential plan change. Humana believes that calls such as 3-30-60-90-day calls or a call to conduct the Member Care Assessment would generally not be part of the chain of enrollment, unless such a call turns into a sales or chain of enrollment call, such as a potential plan change... **Please note, Face-to-Face beneficiary engagements are not required to be recorded.**

3. Provide Humana with monthly reports of staff disciplinary actions and violations of any requirements that apply to Humana associated with beneficiary interaction.
4. Use the following disclaimer (referred to as the TPMO 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](https://www.medicare.gov) or **1-800-MEDICARE** to get information on all of your options.”*

1. This disclaimer is required as follows:
  1. Include on any marketing materials including, print and television, and prominently displayed on websites.
  2. Electronically conveyed when communicating with a beneficiary through email, online chat or electronic means of communication
  3. If the TPMO is providing information to the customer verbally, the disclaimer must be stated within the first minute of the sales call.
2. When conducting lead generating activities, make the following disclosures to the beneficiary:
  1. Disclose to the beneficiary that their information will be provided to a licensed agent for future contact.
  2. Disclose to the beneficiary that they are being transferred to a licensed agent who can enroll them into a new plan.
    1. The disclosures are required as follows:
      1. Verbally when communicating with a beneficiary through telephone.

2. In writing when communicating with a beneficiary through mail or other paper.
  3. Electronically when communicating with a beneficiary through email, online chat, or other electronic messaging platform.
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### **Operationalizing These New Requirements**

Humana understands that this recording requirement includes, but is not limited to, all calls that relate to the sale and/or are within the chain of enrollment, that is the steps taken by a beneficiary from becoming aware of a Medicare plan or plans to making an enrollment decision. Examples of this include, but are not limited to: calling leads, scheduling appointments, collecting Scope of Appointments, educational calls/presentations, collecting drugs and pharmacy information, and phone enrollments, calls to validate understanding and intent to enroll, re-enrollments, or post-enrollment sales efforts. Although the regulation does not specify which calls would not require recording, Humana believes that post-enrollment calls that, are not part of the chain of enrollment may not require recording, unless they involve a potential plan change. Humana believes that calls such as 3-30-60-90-day calls or a call to conduct the Member Care Assessment would generally not be part of the chain of enrollment, unless such a call turns into a sales or chain of enrollment call, such as a potential plan change.

Humana will utilize a vendor to provide recording capabilities. Internal agents will be required to use the vendor process for call recording. Partner agents will have the flexibility to utilize their preferred recording technology.

### **Training Information**

Instructional content is available via MPU – click the links below to access the information. You will need to sign in prior to accessing the content.

**[Read the Call Recording FAQs →](#)**

**[Read the TMPO Agent Requirements →](#)**

We **strongly recommend** you review the content to assist with questions and scenarios that may arise.



## Top of Mind Questions

1. **Do face to face appointments have to be recorded?** No
2. **If asked why I must state the disclosures, how should I reply?** Inform the caller that this is a new CMS requirement of all plan carriers
3. **What types of products must be recorded?** CMS regulated products: MA, MAPD, PDP, OSB.
4. **What calls must be recorded?** Humana believes that the following calls, would require recording, including but not limited to: calling leads, scheduling appointments, collecting SOAs, educational calls/presentations, sales/calls/presentations, collecting medication and pharmacy information, provider discussions, telephonic enrollments, and verification calls (calls made post enrollment to confirm understanding and intent to enroll). This is not an all-inclusive list.
5. **How long are calls retained?** 10 years

NOTE: This is not a full listing. See MPU content for more details.



Need support?

**Find your team** to get in touch.



**Agents must be properly licensed in the state(s)  
where the prospective member resides. Any  
sale made by an agent who is not properly  
licensed will result in termination.**



**Humana**

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