

CMS Call Recording and Disclaimer Requirements for TPMOs FAQ

The Wellcare logo consists of the word "wellcare" in a white, lowercase, sans-serif font, positioned inside a teal-colored circle. The circle is partially cut off by the right edge of the page.

Call Recordings

Q: Who is considered a Third-Party Marketing Organization?

A: TPMO includes all third-party marketing/lead generation vendors, agencies, 1099 agents, and brokers (captive, independent street brokers, tele-digital agents, etc.).

Q: Does the new requirement to record calls apply to both prospect (new) clients and existing clients?

A: The regulations will require recordings for all calls with all beneficiaries. A distinction is not made between new and existing clients.

Q: Are call recordings required on both inbound and outbound calls with beneficiaries/members?

A: Both inbound and outbound calls facilitated with beneficiaries/members are required to be recorded in their entirety. Calls include but are not limited to, administrative, cross-selling, sales, and enrollment.

Q: Are recordings required for in-person activities?

A: Recordings are not currently required for in-person activities.

Q: Are beneficiaries/members allowed to opt out of the phone call recording?

A: No. Allowing a beneficiary/member to decline or opt-out of call recording does not comply with the current CMS regulations ([42 CFR 422.2274\(g\)\(2\)\(ii\)](#)). If the beneficiary/member does not want to be recorded, agents are instructed to provide other options to the beneficiary. These can include:

- In-person appointment
- Online plan finder and enrollment form link
- PURL
- Email/direct mail

- Call back at a later time (if appropriate)

Q: Do virtual face-to-face interactions on video platforms (e.g., Zoom) need to be recorded?

A: Face-to-face virtual interactions on video platforms (e.g., Zoom) do not need to be recorded. However, if that type of platform is used as a phone service only, without face-to-face interaction, the call must be recorded.

TPMO Disclaimer

Q: Is the TPMO disclaimer required during in-person sales activities?

A: The TPMO disclaimer is not required to be verbally conveyed during in-person sales activities at this time. However, it must be included on any materials created and utilized by the TPMO during the in-person sales activities.

Q: Do previously submitted 2022 materials need to be refiled to include the new required disclaimer?

A: The new disclaimer must be placed on ALL TPMO materials going forward. Previously submitted 2022 materials that are intended to be used for 2023 must be re-submitted to CMS with the new TPMO disclaimer and opted-in by the Plan prior to distribution. Previous versions are to be marked “no longer in use” in the Health Plan Management System (HPMS).

Q: Do previously submitted 2023 materials need to be refiled to include the new required disclaimer?

A: Materials intended for selling 2023 products that are already submitted in HPMS without the disclaimer must be re-submitted with the new TPMO disclaimer and opted-in by the Plan prior to distribution. Previous versions are to be marked “no longer in use” in the Health Plan Management System (HPMS).

Lead Generation Activities

Q: Do the new requirements related to lead generating activities apply to Captive agents?

A: Yes. Captive agents are required to comply with the new lead generation requirements.