



Provider communication

General information and system updates

October 18, 2023

Provider Marketing Requirements for Mercy Care Advantage (MCA)

Applicable to: Mercy Care Advantage

As a reminder, according to Mercy Care Advantage's Provider Manual, MCA and their contracted providers must adhere to all applicable Medicare laws, rules and regulations relating to marketing. Per Medicare regulations, "marketing materials" include, but are not limited to, promoting MCA, informing Medicare beneficiaries that they may enroll or remain enrolled in MCA, explaining the benefits of enrollment in MCA or rules that apply to enrollees, or explaining how Medicare services are covered under MCA.

Regulations prevent MCA from conducting sales activities in healthcare settings except in common areas. MCA is prohibited from conducting sales presentations and distributing and/or accepting enrollment applications in areas where patients primarily intend to receive health care services. MCA is permitted to schedule appointments with beneficiaries residing in long-term care facilities, only if the beneficiary requests it.

Physicians and other health care professionals may discuss, in response to an individual patient's inquiry, the various benefits of Medicare Advantage plans. Physicians are encouraged to display plan materials for all plans with which they participate. Physicians and health care professionals can also refer their patients to 1-800-MEDICARE, the State Health Insurance Assistance Program; the specific Medicare Advantage Organization's marketing representatives; or the [CMS website](#) for additional information. Physicians and health care professionals cannot accept MCA plan enrollment forms. MCA follows the federal anti-kickback statute and CMS marketing requirements associated with Medicare marketing activities conducted by providers and related to Medicare plans. Payments that MCA makes to providers for covered items and/or services will be fair market value, consistent with an arm's length transaction, for bona fide and necessary services, and otherwise will comply with relevant laws and requirements, including the federal anti-kickback statute.

Non-Permitted Activities

Contracted providers may not:

- Create communication or marketing materials using the Mercy Care and/or Mercy Care Advantage plan names and logos without first obtaining approval from Mercy Care and applicable regulatory approval.
- Distribute plan Medicare marketing materials/enrollment applications in areas where care is being delivered.

- Collect Medicare health plan enrollment applications or completed scope of appointment forms on behalf of a Medicare health plan.
- Offer inducements, direct, urge, or attempt to persuade patients to enroll in a specific plan based on financial or any other interests of the provider.
- Conduct health screenings as a marketing activity.

Permitted Activities

Contracted Providers may:

- Answer questions or discuss the merits of a Medicare Health plan or plans, including cost sharing and benefit information (these discussions may occur in areas where care is delivered).
- Allow participating Medicare health plans to conduct marketing/sales activities, including sales presentations, the distribution of plan marketing materials, and the distribution and collection of enrollment forms in common areas of a healthcare setting. Common areas in a healthcare setting include, but are not limited to common entryways, vestibules, waiting rooms, hospital or nursing home cafeterias, and community, recreational, or conference rooms.
- Provide or make available Medicare Health plan marketing materials and enrollment forms outside of the areas where care is delivered (such as common entryways, vestibules, hospital or nursing home cafeterias, and community, recreational, or conference rooms).

For a complete description of laws, rules, regulations, guidelines and other requirements applicable to Medicare marketing activities conducted by providers, please refer to the Code of Federal Regulations, Requirements for Medicare Communications and Marketing (§§ 422.2260–422.2274; 423.2260– 423.2274) which can be found at <https://www.govinfo.gov/help/cfr>.

As always, don't hesitate to contact your Mercy Care [Network Management Representative](#) with any questions or comments. You can find this [Notice](#) and all other provider notices on our Mercy Care website.

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