



Region 10
2201 Sixth Avenue, MS/RX-47
Seattle, Washington 98121

Dear Facility Director:

The Centers for Medicare & Medicaid Services (CMS) and the Oregon Insurance Division of the Department of Consumer and Business Services wanted to share with you some important information regarding the rights and protections of your Medicare and Medicaid residents, including those who are entitled to both programs (“dual eligibles”).

We are soliciting the assistance of facility directors who serve vulnerable Medicare beneficiaries in alerting us to instances of inappropriate and overly aggressive behavior by insurance agents selling Medicare Advantage and Prescription Drug Plans.

As you are aware, prescription drug coverage through the Medicare Prescription Drug Program began in 2006. This included a change in drug coverage for dual eligibles. All Medicare beneficiaries, including dual eligibles, can choose to enroll in a Medicare Prescription Drug Plan (PDP). PDPs are private insurance plans, offered as Medicare Part D, that have been approved by CMS as meeting all of CMS rules and requirements. Traditional Medicare coverage (Medicare Part A and Medicare Part B) does not change when a beneficiary enrolls in a PDP. Dual eligibles are also eligible to receive extra assistance from the government to help pay for premiums and copayments for their medications.

In addition to PDPs, Medicare beneficiaries also have the choice to obtain Medicare prescription drug coverage through Medicare Advantage plans with prescription drug coverage (MA-PDs), if they decide to enroll in such a plan. MA-PDs are private managed care plan options for beneficiaries that provide health benefits covered by traditional Medicare (Medicare Parts A & B), in addition to providing prescription drug coverage. However, some Medicare beneficiaries may be confused about MA-PDs. If a beneficiary currently has traditional Medicare and decides to enroll in an MA-PD, that beneficiary will no longer receive services through traditional Medicare. In addition, since MA-PDs are a private managed care option, the plan may have certain network restrictions and may limit the health care providers that the beneficiary can utilize.

Both PDPs and MA-PDs can be sold through insurance agents and brokers. While most insurance agents and brokers are honestly providing a valuable service to their clients, there have been troublesome reports of inappropriate and aggressive insurance agent and broker activity regarding enrollment of dual-eligibles into PDPs or MA-PDs. Unlike other Medicare beneficiaries, dual eligible individuals may switch PDPs or MA-PDs at any time during the year and are not limited to the set annual and open-enrollment periods established for the general Medicare-eligible population. This ability to switch plans year-round has caused some insurance agents to target the dual eligible population in order to gain commissions they may generate by switching a dually-eligible individual from one plan to another. Unfortunately, CMS and the Oregon DOI have become aware of incidents where certain agents have taken advantage of this situation, causing problems for vulnerable, dual-eligible individuals.

You and your residents should also be aware of a new federal law and existing state rules designed to protect individuals from inappropriate and illegal marketing practices. The Medicare Improvements for Patients and Providers Act (MIPPA) (Pub. L. 110-275), enacted in the fall of 2008, provides new protections for beneficiaries through increased oversight of such agent behavior. MIPPA provides very specific guidelines for marketing behavior, which include agent and broker activities. Because agents and brokers who sell PDPs and MA-PDs must be licensed by the states in which the agent or broker is doing business, State DOIs have the ability to take enforcement action against an agent or broker who is engaged in inappropriate marketing and sales activity. Together, MIPPA and state laws provide comprehensive rules for overseeing agent behavior.

CMS and the Oregon DOI have been working together to ensure that PDP and MA-PD plans, along with their agents and brokers follow these rules by sharing information concerning the actions of the plans and agents. In addition, CMS instituted a comprehensive surveillance and enforcement strategy of these plans to ensure that they are in compliance with both federal and state rules. However, we know we cannot reach every beneficiary.

We need your help in monitoring for any inappropriate behavior of agents or plans. We also recognize that your residents would benefit from additional information from us. In return, we want to be a resource for you if you have concerns or specific agent complaints you would like to report. The CMS Seattle Regional Office may be contacted at (206) 615-2351. The Oregon Insurance Division of the Department of Consumer and Business Services may be contacted at (503) 947-7219. Please be assured that we take all complaints very seriously and can serve as a resource for your questions. As an additional resource, the Oregon Senior Health Insurance Assistance Program (SHIBA) can provide unbiased information for you and your residents.

Because insurance agents are directly compensated by the plans they represent they generally do not offer eligible Medicare beneficiaries comprehensive benefit comparisons of all products that are available. The Oregon SHIBA can serve as resource in helping Medicare beneficiaries obtain the information needed in order to make an informed decision about their healthcare options. The SHIBA can be reached at 1-800-527-5772.

Enclosed are specifics of prohibited and inappropriate behavior of agents selling PDP or MA-PD products. We hope that you find this helpful. We have also included in this letter a document that we hope you will find helpful for your residents. Please feel free to post in common areas or use at your discretion.

Thank you for this opportunity to partner with you concerning this very important initiative.

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Division of Medicare Health Plans Operations

/s/

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