CMS Final Rule 2027 Quick Reference Guide

THE BROKERAGE INC.
LINKING PRODUCER TO MARKETS

TPMO DISCLAIMER UPDATE

NEW STANDARDIZED WORDING

IF THE TPMO DOES NOT REPRESENTS ALL PLANS IN THE 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 or 1-800-MEDICARE to get information on all of your options."

IF THE TPMO REPRESENTS ALL PLANS IN THE 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 or 1-800-MEDICARE for help with plan choices."

It must be stated or written as provided. No changes are permitted except where brackets indicate allowable customization.

Disclaimer is no longer required in the first minute of the call; however it is required prior to any plan benefit discussion.

Updated TPMO disclaimer is required on:

- email
- online chat
- website
- marketing materials

Compliance Tip: Increased oversight is expected, including website compliance reviews and call recording requests. Only enrollment calls require recording, with six-year retention (transcripts allowed after year three). Enrollment records remain subject to a 10-year retention requirement.

SCOPE OF APPOINTMENT

- 48 hour waiting period is no longer required
- SOA is required prior to product discussions
- SOA may be collected at educational events (sales presentations or enrollments are not permitted at educational events)
- SOA and PTC may be combined into a single form, provided all required elements for both are included.
- Using the same SOA for multiple appointments is permitted (with limitations).
- SOA must include member's signature during in-person interactions.
- SOAs are valid for 12 months.

Compliance Tip: Increased oversight is expected, including website compliance reviews and call recording requests. Only enrollment calls require recording, with six-year retention (transcripts allowed after year three). Enrollment records remain subject to a 10-year retention requirement.

EVENTS

- A sales event may take place immediately after an educational event, provided the change in event type is clearly announced to attendees.
- Attendees must be given adequate time to leave the event if they do not wish to participate in the sales portion (a minimum of 30 minutes is recommended).
- Plan-specific marketing is not permitted during the educational event and may only occur once the sales event has formally begun.
- Meals (e.g. sandwiches, chips, salads) may only be served at educational events and must be cleared prior to sales events, while light snacks (e.g., coffee and cookies) are permitted during sales events.

Compliance Tip: Agents should expect "secret shoppers" at events. Always ensure materials, presentations, and conversations are fully compliant.

LEAD SOURCES

- Agents, brokers, and TPMOs are responsible for the compliance of all lead sources used on their behalf, including third-party vendors.
- Documented permission to contact is required before contacting a beneficiary, regardless of how the lead was obtained.
- PTC must be explicit and must clearly name the specific agent or agency authorized to contact the beneficiary.
- PTC documentation must be:
  - Clear and specific
  - Affirmatively provided by the beneficiary
  - Retained and available upon request during audits or investigations
- Lead materials must not:
  - Misrepresent Medicare, CMS, or plan benefits
  - Imply government endorsement
  - Use deceptive language, false urgency, or misleading promises
- CMS flexibility does not override TCPA requirements, lead sources must comply with consent rules, opt-out requirements, and restrictions on auto-dialing and messaging.

Compliance Tip: If it cannot be clearly demonstrated who was authorized to contact the beneficiary, how consent was obtained, and what the beneficiary reviewed, the lead presents a compliance risk.

SPECIAL ENROLLMENT PERIOD

- Certain SEPs require CMS approval and must be completed through CMS channels such as 1-800-MEDICARE or CMS online tools.
- Agents may assist with plan education and selection, but CMS effectuates these enrollments.

Compliance Tip: Never guarantee an SEP when CMS approval is required, refer the beneficiary to CMS and document your guidance.

These changes codify existing guardrails to protect program integrity, and agents should document guidance carefully and avoid promising SEP eligibility.