

2011 Draft Medicare Marketing Guidelines- Revised

External Comment/Response Form

Plan/Non-health Plan Entity: National Patient Advocate Foundation/Patient Advocate Foundation**Contact Person Name:** Nancy Davenport-Ennis, President and CEO*On behalf of* Patient Advocate Foundation, 421 Butler Farm Road, Hampton, VA 23666**Email:** nde@npaf.org **Phone:** (202) 347-8009**MMG Comments**

<i>Section #</i>	<i>Page #</i>	<i>Description of Issue or Comment</i>	<i>Suggested Revision or Comment</i>
			<p>We are pleased to submit comments on the Draft Medicare Marketing Guidelines. National Patient Advocate Foundation (NPAF) is a non-profit organization dedicated to improving access to healthcare services through policy reform. The advocacy activities of NPAF are informed and influenced by the experience of patients who receive counseling, case management, and co-payment relief services from our companion organization, the Patient Advocate Foundation (PAF), which specializes in mediation for access to care, job retention, and relief from debt crisis resulting from a diagnosis of a chronic, debilitating or life-threatening disease. In 2009-2010, PAF professional staff provided direct, sustained assistance to more than 64,000 patients. This involved more than 800,000 contacts to relevant stakeholders in order to bring resolution to healthcare access issues. About 27 percent of the individuals helped by PAF were Medicare beneficiaries and about 72 percent were individuals dealing with a diagnosis of cancer.</p>
Definitions	10	Educational Event	<p>NPAF strongly agrees with the language CMS has added to the Educational Event definition requiring events to be held in a public venue. Case managers from our sister organization, Patient Advocate Foundation, indicate that when public venues are used for Medicare Part D educational events, there is increased adherence to policies and guidelines.</p>

MMG Comments			
Definitions	14	Nominal Value	We believe the definition of nominal value is incorrectly stated in these marketing guidelines. The current language reflects gifts of nominal value be individual items worth \$15 or less or aggregate items throughout the year worth \$50 or more. We believe CMS meant to reflect that aggregate gifts of nominal value should be those that are worth in aggregate less than \$50 a year.
30.3	20	Provider Name in Plan's Name or Downstream Entity's Name	NPAF agrees with the requirement that plan sponsors (whose legal or marketing names include the logos and or the name of network providers) prominently display the disclaimer at the bottom of the first page of the material in similar font and style as the message. Essentially, this guideline prohibits “small print” text, which may not be easy for seniors to read, but also prevents plan sponsors from oversimplifying plan information. NPAF also applauds the added language that requires plan sponsors to include a statement that provides information on other plans that may be available in the service area. Beneficiaries need to be made aware of any and all plans available to them in a given area.
30.6	21	Anti-Discrimination	We appreciate CMS' addition of the words “national origin” to the anti-discrimination guideline. Many beneficiaries who are born outside the US and eventually qualify for Medicare are protected by this language. We also believe that the addition of “evidence of insurability” language prohibits plans from inquiring about prior coverage. Some beneficiaries, especially those with a pre-existing disease, believe they are ineligible for coverage if a sponsor asks this question. The added language will ease this confusion.

MMG Comments			
30.7	22	Requirements for Beneficiaries with Special Needs or Non-English Speaking Requirements	<p>NPAF supports the added language which states “basic enrollee information must be made available to individuals with disabilities (for example, those with visual or hearing impairments) upon beneficiary request. Plan sponsors must make sure information about their benefits is accessible and appropriate for beneficiaries who have disabilities.” NPAF requests further explanation regarding specific services available to disabled beneficiaries, as only visual and hearing impairments are cited in this guideline. NPAF believes that all plan materials should be written at a 6th grade reading level. This includes not only mailed literature but also online literature as well. We would also urge that a glossary of terms and words with definitions be part of the effort to clearly educate the beneficiaries. We are happy to share the Patient Advocate Foundation <i>Managed Care Answer Guide</i> , which can be found at: www.patientadvocate.org.</p>
40.13	35	Additional Materials Enclosed with Required Post Enrollment Materials	<p>NPAF supports new language which states, “Unless specifically directed by CMS, plan sponsors should not include additional documents with the ANOC and/or EOC mailings.” It is our belief that the inclusion of superfluous documents only increases the risk that beneficiaries can become confused and overwhelmed.</p>
50.1.2	42	Federal Contracting Statement	<p>NPAF questions whether beneficiaries will understand the following included disclaimer option which states “A Coordinated Care plan with a Medicare Advantage contract with the (state) Medicaid (local Medicaid program name).” This disclaimer would be applied to all SNP materials. Perhaps including a definition of this option would better enable beneficiaries to understand what this disclaimer means.</p>

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70.6	84	Outstanding Enrollment and Verification Calls to All New Enrollees	<p>NPAF applauds the inclusion of language which states “plan sponsors must not delay processing the enrollment request (including, but not limited to, activation of benefits and submission of enrollment request data to CMS) while completing the OEV process... The minimum three attempts to conduct the verification by telephone and, if applicable, the mailing of the enrollment letter, are expected to be completed no later than 15 calendar days of the plan sponsor’s receipt of the enrollment request. Plan sponsors must also document outbound enrollment verification activities.” This guideline outlines enrollment requirements by both plans and beneficiaries. NPAF agrees that both parties need to be responsible when confirming and completing the enrollment process and we agree that 15 days will help achieve this initiative.</p>
70.12.1	103	Plan Activities and Materials in the Health Care Setting	<p>NPAF supports the added language which states “plan sponsors are prohibited from conducting sales presentations, distributing and accepting enrollment applications and soliciting Medicare beneficiaries in areas where patients primarily intend to receive health care services or are waiting to receive health care services.” As more pharmacies contract with one or more plan sponsors, beneficiaries may get the impression that because they get their prescription filled at a certain pharmacy, there may be a requirement or benefit to enroll in a particular plan. We agree that the added language will help assure beneficiaries that this is not the case.</p>
70.12.7	108	Providers/Provider Group Websites	<p>NPAF seeks further explanation regarding “Religious Fraternal Benefit plans.”</p>

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80.1.3	111	Required Scripts for Inbound Informational Calls	<p>NPAF supports the added language that plans must “make information about Best Available Evidence (BAE) policy readily available for those who contact the plan sponsor’s call center as an automated option on incoming customer service calls.” If a beneficiary attempts to fill a prescription and encounters a problem, being able to produce Best Available Evidence to the pharmacy allows the beneficiary to get the prescription filled. This information has not been previously made available to beneficiaries, and we believe it is a good consumer-friendly change</p>
100.5	143	Enrollment via the Internet	<p>Following the acceptance of an online enrollment request, the plan sponsor must provide a statement that the individual will receive a notice in the mail in response to the enrollment request – e.g., acknowledging receipt of the completed enrollment request, requesting additional information, accepting the enrollment or denying enrollment (e.g., not eligible). NPAF believes that the addition of a notice denying enrollment is extremely important. PAF case managers indicate instances where a patient who submitted enrollment information and received confirmation that their enrollment request went through, discovered too late that they were not covered because they did not receive a denial notice from a plan sponsor.</p>