

MEDICARE DRUG AND HEALTH PLAN CONTRACT ADMINISTRATION GROUP (MCAG)

DATE: March 4, 2010

TO: Medicare Advantage Organizations
Medicare Advantage-Prescription Drug Organizations
Prescription Drug Plans
Cost-Based Contractors
Employer/Union-Sponsored Group Health Plans

FROM: Danielle R. Moon, J.D., M.P.A.
Director, Medicare Drug & Health Plan Contract Administration Group

SUBJECT: Addendum to Revised Draft 2011 Medicare Marketing Guidelines on Allowable Usage of Social Networking Sites

This memorandum contains draft guidance on allowable usage of social networking sites by Medicare Advantage Organizations, Prescription Drug Plans and Section 1876 cost contractors (hereinafter referred to as plan sponsors). This draft guidance is an addendum to the revised draft 2011 Medicare Marketing Guidelines and will be issued in the final Guidelines later this spring.

We are providing this draft guidance to ensure that there is a level playing field among plan sponsors and, more importantly, to ensure that plan sponsors are not using these social networking sites in ways that may put beneficiary information at risk or that violate the Medicare Marketing Guidelines. We propose approving plan sponsors' use of social networking sites to market their products subject to the following conditions:

- Social networking sites devoted to marketing of plan sponsors' products comply with all CMS regulations and guidance.
- The public interactive features of social networking sites must be disabled. For example, interactive features such as chat, messaging, blogging, or wall discussions will not be permitted, given that these features encourage ongoing interaction with beneficiaries which, by their nature, are not reviewed by the plan sponsor in advance and could not receive CMS prior approval.
- Plan sponsors cannot use social networking sites as a means to initiate unsolicited contact. Even when beneficiaries voluntarily peruse the sites, they are not necessarily giving their permission to be contacted. Plan sponsors must follow all current guidance regarding unsolicited contacts, as provided in section 70.4 of the Medicare Marketing Guidelines. Plan

sponsors may only contact a beneficiary after he/she has given permission to be contacted. For example, an option to link to a plan sponsor enrollment site from the social networking site would only be permissible if proper disclaimers are included clearly indicating a beneficiary has voluntarily taken this step.

- Plan sponsors may only display previously approved documents/materials on the site (e.g., advertisements, approved videos). Plans sponsors may provide information on benefits and cost sharing, provided the material has been prospectively approved or accepted through the file and use process consistent with section 90 of the Medicare Marketing Guidelines.
- All social networking sites must be reviewed and approved by the appropriate RO marketing reviewer prior to going live. Plan sponsors will need to indicate on their approved sites that they are approved by CMS.
- When uploading the site in HPMS, plan sponsors should submit screenshots of the proposed site, unless the plan sponsor can provide a link to the production site.
- Plan sponsors must upload proposed networking sites under the material code 4000/4006 (the same HPMS code used for Internet Web Pages).
- Sites should clearly distinguish Medicare products from any commercial products.
- Sites will be subject to all plan sponsor website requirements per section 100.1 of the Medicare Marketing Guidelines.
- Social networking sites must meet section 508 compliance standards.

We appreciate your feedback and comments on this proposed policy guidance and will consider comments as we finalize the 2011 Medicare Marketing Guidelines. Comments must be received by CMS no later than 5 PM (EST) March 12, 2010. Please submit your comments on our proposed social networking site policy only using the attached Excel spreadsheet via e-mail to Marketingpolicy@cms.hhs.gov with “Comments on the Addendum to the Marketing Guidelines” in the subject line of the e-mail. We thank you in advance for your continued careful review and comments on this draft proposal.