



Peek Performance Inc.
4115 East North Street Ste. 202
Greenville SC 29615
864-228-2635 Office
800-539-1021 Fax
clayp@ppisales.info
www.peakperformanceinsurance.com

CMS recently released their 2023 [final rule](#) which includes two requirements that will have a significant impact on independent agents and brokers who sell Medicare Advantage and/or Part D plans.

Effective Date

While the marketing guideline changes are for calendar year 2023, they go into effect October 1, 2022, just before the start of the 2023 Annual Election Period for Medicare Advantage and Medicare Part D plans.

New Disclaimer Requirement

"We do not offer every plan available in your area. Any information we provide is limited to those plans we do offer in your area. Please contact Medicare.gov or 1-800-MEDICARE to get information on all your options."

Agents will need to include this disclaimer in all the following places:

- Verbally conveyed within the first minute of a sales phone call
- Electronically conveyed when communicating with a beneficiary through email, online chat, or other electronic means of communication
- Prominently displayed on your website
- On all marketing materials, in print (12-point font) and television advertisement

For agents who offer all plans in their area, this regulation does not apply. But it is very rare for an agent to actually be able to offer all plans.

New Call Recording Requirement

Agents and brokers will need to record all sales calls with beneficiaries in their entirety including the enrollment process. The recordings must be retained in a HIPAA compliant manner for 10 years. This will apply to new and existing clients.

What is considered a sales call? Anything that falls under the "chain of enrollment" which is defined as the events from the point when a beneficiary becomes aware of an MA/PDP plan to the end of the enrollment process. This means when you are calling leads, scheduling appointments, collecting drug and provider lists and conducting education meetings and phone enrollments. All of these calls would fall under this guidance. Medicare Supplements are not included in the new call recording rules however, if you are selling a Medicare Supplement in tandem with a Prescription Drug Plan, the call would need to be recorded due to the Part D discussion. Zoom meetings will also need to be recorded.

Only in person, face to face marketing and sales appointments are excluded, however any follow up calls to related to sales and completing the enrollment process would need to be recorded. Sales calls conducted on cell phones also fall under the recording guidelines.