



March 7, 2022

Health and Human Services Department
Centers for Medicare & Medicaid Services
Washington, DC

Dear Mr. Secretary and Madam Administrator,

The American Association of Ancillary Benefits (AAAB) is grateful for this opportunity to respond to the proposed rule dated 01/12/2022 entitled, "Medicare Program; Contract Year 2023 Policy and Technical Changes to the Medicare Advantage and Medicare Prescription Drug Benefit Programs."

The AAAB is a nonprofit trade association that services the ancillary benefits industry. The mission of AAAB is to advocate for the ancillary benefits industry on behalf of carriers, vendors, third parties, and distributors, as well as to advocate for specialty carriers, prepaid legal services, and other niche products. AAAB will also coordinate ACA and Medicare issues for its members and other associations involved in this market, which includes agents and brokers. In addition to advocating for these matters, AAAB will also focus on thoughtful educational opportunities.

The AAAB has reviewed the aforementioned proposed rule and is supportive of its intent. The AAAB does believe an edit is required in Section F.4 where it defines TPMO. The verbiage is "the proposed definition includes that TPMOs may be first tier, downstream or related entity (FDRs), as defined under §§ 422.504(i) and 423.505(i), but TPMOs may also be other businesses which are customers of an MA or Part D plan or customers of an MA or Part D plan's FDRs." We recommend the insertion of the words "or vendors" after the words "customers" to ensure the full value chain is included in oversight.

The AAAB understands and supports the efforts to protect Medicare beneficiaries especially in the area of lead generation. As such the association would like to take this opportunity to announce that it is putting together a coalition of health insurance industry organizations for the promulgation of ethical lead generation. Former Arkansas Insurance Commissioner Allen Kerr has agreed to lead this effort. This effort started last year when members of the AAAB communicated a need for figuring out who are the good lead generating organizations so a code of conduct (see enclosure 1) was created and vetted by numerous insurance industry experts at the December 2021 NAIC Conference. The next step is convening an organizational meeting in the coming months to formally establish this coalition to promote ethical lead generation. The AAAB would like to request a meeting with the key people in your organization to obtain guidance for this effort.

Thank you for your time and consideration of our association's response and request for a meeting.

Regards,

Mike Camilleri

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CEO

Enclosure 1: Lead Generation Code of Conduct

Enclosure 1

Lead Generation Code of Conduct:

1. Understand and Obey the Law

- a. TCPA—no exceptions – Training, hours, DNC scrub, mobile handling, opt-outs, disclosures, auto-dialers, recordings, processes, etc.
- b. CAN-SPAM – avoidance of Email Lists, no False Identities, truthfulness in advertising, providing contact info, full opt-in/out, responsible email use
- c. HIPAA – Privacy and Security. Encryption within transfer and at-rest. Business Associate agreements, etc.
- d. Industry-specific regulations (CMS’ Medicare Marketing Guidelines, et al)
- e. UDAP state statutes – “Unfair And Deceptive Acts And Practices” compliance

2. Be Truthful and Ethical - Never use deception (URL, identity representation, product representation, content, partners, false claims or testimonials, etc) or employ any language or practice which could potentially mislead a consumer

3. Fully Document the lead origin and journey of EVERY Lead; make this information easily available to all partners and lead buyers. If phone calls are involved, record and quality screen the calls.

4. Verify and Monitor the full chain of all who touch the lead:

- a. Partners: Have them agree to this code. Know who you are working with (conduct background checks if necessary) – monitor their use of the lead, ensure contractually that leads are only re-sold with full disclosure that provides an accurate count of times shared.
- b. Consumers: Respect consumer privacy. Flag all possible issues and take proper and timely action when called for.

5. Be Accountable:

- a. Regulators: Provide a single point of contact in the event a regulator has an issue. Respond within 24 business hours to regulator inquiries. Ensure all Partners agree to do the same and report any such inquiries to you.
- b. Consumers: Provide a single point of contact for any consumer who has a question or issue. Respond within 48 business hours to all consumer inquiries.