

Medicare Call Recording & Disclaimer Requirements

Center for Medicare & Medicaid Services (CMS) issued a new ruling called the [CMS Final Rule 2023](#) which includes two requirements that has a significant impact on independent agents and brokers who sell Medicare Advantage and/or Part D plans.

Effective Date:

October 1, 2022

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. Nexben suggests you add this required disclaimer to your email tagline.
- Prominently displayed on your website
- On all marketing materials, in print (12-point font) and television advertisement

New Call Recording Requirement

Agents and brokers will need to record ALL calls with enrollees in their entirety, including calls outside the scope of the chain of enrollment. The CMS requirement to maintain certain records for ten years applies to all calls that pertain to the sales and enrollment processes. If a recorded call does not apply to either process (e.g., the beneficiary is calling to make a sales appointment or to find out the times and locations of sales meeting events, or an enrollee is calling to update an ID card), the recording does not need to be retained. If, however, such a call becomes a sales call at any point (e.g., if the beneficiary begins asking about products), then the recording of the call would need to be retained.

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.

Virtual meetings such as Zoom, Teams, etc. 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.

When initially speaking with a Medicare prospect or beneficiary, you must request to record call. Sample language is:

“To protect Medicare beneficiaries, the Center for Medicare and Medicaid Services (CMS) has a new rule that all virtual and telephonic calls regarding Medicare Advantage or Medicare Part D plans must be recorded. May I have your permission to record this call?”

If permission is not granted, advise them that you will need to coordinate a time to meet face to face. If you or they cannot meet face to face and they refuse to be recorded, you must politely end the call.

If they agree to proceed with recording, inform them that you will begin recording and then proceed to provide the required disclaimer.

“I am also required to advise that 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 of your options.”