

MEDICARE DRUG & HEALTH PLAN CONTRACT ADMINISTRATION GROUP

DATE: July 18, 2024

TO: Medicare Advantage Organizations, Prescription Drug Plan Sponsors, Section 1876 Cost Plans, and Medicare-Medicaid Plans

FROM: Kathryn A. Coleman
Director

SUBJECT: UPDATED: Contract Year 2025 Agent and Broker Compensation Rates, Submissions, and Training and Testing Requirements

On July 3, 2024, the U.S. District Court for the Northern District of Texas issued preliminary injunctions in *Americans for Beneficiary Choice v. HHS*, No. 4:24-cv-00439, and *Council for Medicare Choice v. HHS*, No. 4:24-cv-00446, which stay for the duration of the litigation the effective date of certain provisions of the “Medicare Program; Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Program for Contract Year 2024-Remaining Provisions and Contract Year 2025 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly (PACE)”, 89 FR 30448 (herein after referred to as the Contract Year 2025 Final Rule), specifically, those amending 42 C.F.R. § 422.2274 (a), (c), (d), (e) and § 423.2274(a), (c), (d), (e). Therefore, the regulatory language within 42 C.F.R. § 422.2274(a), (c), (d), (e) and § 423.2274(a), (c), (d), (e) that was effective prior to the issuance of the Contract Year 2025 Final Rule will be in effect for Contract Year 2025 while the stay is ordered. This memorandum supersedes the June 28, 2024, memorandum, “Contract Year 2025 Agent and Broker Compensation Rates, Referral/Finder’s Fees, and Training and Testing Requirements.”

Updated Compensation Rates and Referral/Finder’s Fees for CY 2025

As provided in federal regulation, 42 C.F.R. §§ 422.2274(d)(2) and 423.2274(d)(2), the compensation amount an organization pays to an independent agent or broker for an initial enrollment must be at or below the fair market value (FMV). 42 C.F.R. §§ 422.2274(d)(3) and 423.2274(d)(3) limit renewal compensation to a maximum of 50% of the FMV. 42 C.F.R. §§422.2274(f) and 423.2274(f) limit the amount an organization may pay for referrals.

CMS has updated the CY 2025 FMV amounts previously published in its June 28, 2024, memorandum in light of the court’s preliminary injunction. Specifically, the updated CY 2025 FMV amounts listed below reflect the annual adjustment to these values but no longer include the administrative payment adjustment that was based on the provisions of the Contract Year 2025 Final Rule that are subject to the court’s preliminary injunction. The updated CY25 FMV amounts are as follows:

MA and Section 1876 Cost Plans

Compensation Type	National	Connecticut, Pennsylvania, District of Columbia	California New Jersey	Puerto Rico, U.S. Virgin Islands
Initial Year	\$626	\$705	\$780	\$428
Renewal Years	\$313	\$353	\$390	\$214

PDPs

Compensation Type	National
Initial Year	\$109
Renewal Years	\$55

Referral Fees

MA Plans	\$100
PDP Plans	\$25

Compensation Rate Submission for CY 2025

Federal regulations 42 CFR §§ 422.2274(c)(5) and 423.2274(c)(5), require organizations to report to CMS whether the organization intends to use employed, captive, or independent agents or brokers in the upcoming plan year and the specific rates or range of rates the plan will pay independent agents and brokers. The regulations state that organizations must provide this data to CMS by the last Friday in July which would be July 26, 2024, for the 2025 plan year. Based on the changes to 42 CFR §§ 422.2274(c)(5) and 423.2274(c)(5) made by the Contract Year 2025 Final Rule, we had previously removed that function from HPMS. We will reinstate plans' ability to submit this data no later than July 19, 2024.

In light of the uncertainty presented by the pending litigation, plans' previous inability to submit this data through HPMS, the shifting regulatory requirements, and the related practical impossibility of compliance with the regulatory deadline of July 26, CMS will not pursue compliance actions against plans for failing to submit data by July 26, as long as plans make a good faith effort to submit the requisite data to CMS in HPMS in a timely manner.

Curricula for Training and Testing Agents and Brokers for CY 2025

CMS has also updated portions of the Agent/Broker Training & Testing guidelines in light of the court's preliminary injunction. The only modifications CMS made are to remove language connected to the provisions the court enjoined. Updated CY 2025 CMS training and testing guidelines are available at: <https://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/MarketngModelsStandardDocumentsandEducationalMaterial>.

If you have any questions, please contact your CMS Account Manager. If your organization requires technical assistance, please contact the HPMS Help Desk at hpms@cms.hhs.gov, or 1-800-220-2028.