

**Final CY 2016 Marketing Guidance for Minnesota
Senior Health Options (MSHO) Plans
Issued: August 20, 2015**

Introduction

All Medicare Advantage-Prescription Drug (MA-PD) and Special Needs Plan (SNP) plan sponsor requirements in the CY 2016 Medicare Marketing Guidelines (MMG), posted at <http://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/FinalPartCMarketingGuidelines.html>, apply to Minnesota Senior Health Options (MSHO) Dual Eligible Special Needs Plans (SNPs) plans participating in the Minnesota Demonstration to Align Administrative Functions for Improvements in Beneficiary Experience.

This guidance document provides information only about those sections of the MMG that are not applicable or that would be different for MSHO plans; therefore, this guidance document should be considered an addendum to the CY 2016 MMG. This MSHO plan guidance will be applicable to all marketing done for CY 2016 benefits. The table below summarizes those sections of the CY 2016 MMG that are clarified, modified, or replaced for MSHO plans in this guidance.

Table 1: Summary of Clarifications, Modifications, or Replacements of MMG Guidance

Medicare Marketing Guidelines (MMG) Section	Change in this Guidance Document
Section 30.5.1 Multi-Language Insert	Clarifies the requirements of this section for MSHO plans.
Section 50.1 – Federal Contracting Disclaimer	Replaces current disclaimer in this section with a new Federal-State disclaimer for MSHO plans.
Section 50.2 – Disclaimers When Benefits Are Mentioned	Replaces current disclaimers in this section with new disclaimers for MSHO plans.
Section 50.4 – Disclaimer on Availability of Non-English Translations	Replaces current disclaimer in this section with a new disclaimer for MSHO plans.
Section 50.5 – Disclaimer on SNP Materials	Replaces current disclaimer in this section with a new disclaimer for MSHO plans.
Section 50.12 – Disclaimer for Plans Accepting Online Enrollment Requests	Clarifies that the requirements of this section are not applicable to MSHO plans.
Section 50.15 – Pharmacy/Provider Directory and Formulary Disclaimers	Replaces current disclaimer in this section with a new disclaimer for MSHO plans.
Section 60.1 – Summary of Benefits (SB)	Replaces current guidance in this section with new guidance for MSHO plans.

Medicare Marketing Guidelines (MMG) Section	Change in this Guidance Document
Section 60.4 – Directories	Clarifies the requirements of this section for MSHO plans.
Section 60.5 – Formulary and Formulary Change Notice Requirements	Clarifies the requirements of this section for MSHO plans. Extends the requirements for formulary change notifications to Medicaid- or additional plan-covered drugs.
Section 60.7 – Annual Notice of Change (ANOC) and Evidence of Coverage (EOC)	Clarifies the requirements of this section for MSHO plans.
Section 90 – The Marketing Review Process	Clarifies that references in this section (and subsections) to CMS in its role in marketing reviews also apply to the State.
Section 90.3 – HPMS Material Statuses Section 90.5 – Time Frames for Marketing Review	Clarifies the requirements of these sections with respect to the lack of “deeming” for jointly reviewed materials.
Section 100.1 – General Website Requirements	Adds new requirements for MSHO plans to current MMG requirements of this section.
Section 100.3 – Electronic Enrollment	Clarifies that the requirements of this section are not applicable to MSHO plans.
Section 100.5 – Online Formulary, Utilization Management (UM), and Notice Requirements	Extends the formulary change notice requirements of this section to non-Part D drug formulary changes.

The State will use a collaborative MSHO Plan Member Materials Workgroup for development of model materials for MSHO plans under the Demonstration, based on the integrated model materials developed for Medicare-Medicaid Plans participating in the CMS Capitated Financial Alignment Demonstrations. MSHO plan-specific model materials, including a Summary of Benefits (SB), Annual Notice of Change (ANOC), Evidence of Coverage (Member Handbook), LIS Rider, comprehensive integrated formulary (List of Covered Drugs), combined provider/pharmacy directory, and integrated enrollment form tailored to MSHO plans will be updated annually and made available at: <http://cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/InformationandGuidanceforPlans.html>.

MSHO plan-specific model materials will be added to the website above on a flow basis as they are finalized and will also be disseminated via the Health Plan Management System (HPMS).

MSHO plans must add required disclaimers in section 50 of this guidance and the MMG, as appropriate. Adding required MSHO plan disclaimers to Part D models will not render the documents non-model

when submitted for review or accepted as File & Use materials. In addition, CMS and Minnesota have streamlined antidiscrimination language between Medicare and state Medicaid requirements for inclusion in model marketing materials. All other required Part C and Part D model materials are unchanged under the Demonstration.

Following are the MSHO plan-specific modifications to the MMG for CY 2016.

Section 30.5.1 – Multi-Language Insert

We clarify that MSHO plans will be required to include a Multi-Language Insert with their demonstration-specific SB and ANOC/EOC (Member Handbook) documents, as is the case for other plan sponsor types. MSHO plans must use the Multi-Language Insert at <http://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/MarketngModelsStandardDocumentsandEducationalMaterial.html> and add the required language block to the documents as required by the contract with the State.

Section 50.1 – Federal Contracting Disclaimer

This section is replaced with the following revised guidance:

Section 50.1 – Federal and State Contracting Disclaimer

42 CFR 422.2264, 423.2264

All marketing materials must include the statement that the MSHO plans contracts with both the Federal and the State government. The following statement must be used:

“<Plan’s legal or marketing name> is a health plan that contracts with both Medicare and the Minnesota Medical Assistance (Medicaid) program to provide benefits of both programs to enrollees. Enrollment in <plan’s legal or marketing name> depends on contract renewal.”

NOTE: In addition to the exceptions noted in the introduction to section 50 of the MMG, radio and television ads do not need to include the Federal and State contracting disclaimer.

Section 50.2 – Disclaimers When Benefits Are Mentioned

This section is replaced with the following revised guidance:

Section 50.2 – Disclaimers When Benefits Are Mentioned

42 CFR 422.111(a), 422.111(b), 422.111(f), 423.128(b)

The following disclaimers must be used when benefit information is included in marketing materials:

Only for summary documents like the SB: “This is not a complete list. The benefit information is a brief summary, not a complete description of benefits. For more information call Member Services or read the Member Handbook.”

“Limitations [, copayments/copays,] and restrictions may apply. For more information, call Member Services or read the Member Handbook.”

“Benefits [and/or copayments/copays] may change on January 1 of each year.”

Section 50.4 – Disclaimer on Availability of Non-English Translations

This section is replaced with the following revised guidance:

Section 50.4 – Disclaimer on Availability of Non-English Translations

42 CFR 422.2264(e), 423.2264(e)

Plans that meet either: (1) Medicare’s five (5) percent threshold for language translation (refer to section 30.5) or (2) the relevant Medicaid translation standard must place the following alternate language disclaimer on all the required materials identified in section 30.5:

“This information is available for free in other languages. Call Member Services at the number at the bottom of this page.”

The alternate language disclaimer must be provided in both English and all non-English languages that meet the more stringent of either the Medicare or the Medicaid translation standard. The non-English disclaimer must be placed below the English version and in the same font size as the English version.

NOTE: Member ID Cards are excluded from this requirement. Radio ads are only required to include the disclaimer in the same language as the ad.

Section 50.5 – Disclaimer on SNP Materials

The requirements of this section of the MMG apply to MSHO plans, but MSHO plans may modify the disclaimer in the MMG as follows:

“<Plan name> has a Model of Care approved by the National Committee for Quality Assurance (NCQA) and Minnesota until <last contract year of NCQA and State approval of Model of Care> based on a review of <plan name>’s Model of Care.”

Section 50.12 Declaimer for Plans Accepting Online Enrollment Requests

This section does not apply to MSHO plans as the Online Enrollment Center on the Medicare Plan Finder website may not be used by MSHO plans.

Section 50.15 – Pharmacy/Provider Directory and Formulary Disclaimers

This section is replaced with the following revised guidance:

Section 50.15 – Provider and Pharmacy Directory and Formulary (List of Covered Drugs) Disclaimers

42 CFR 422.111(a) and (b), 423.128(a) and (b)

The following disclaimer must be included on materials whenever the formulary (List of Covered Drugs) or provider and pharmacy networks are mentioned:

“The List of Covered Drugs and/or pharmacy and provider networks may change throughout the year. We will send you a notice before we make a change that affects you.”

Section 60.1 – Summary of Benefits (SB)

This section is replaced with the following revised guidance:

Section 60.1 – Summary of Benefits (SB)

42 CFR 422.111(b)(2), 422.111(f), 423.128(b)(2)

MSHO plans must use the Summary of Benefits (SB) model document provided by CMS and the State. The SB must contain a concise description of the important aspects of enrolling in the plan, as well as the benefits offered under the plan, including applicable co-pays, applicable conditions and limitations, and any other conditions associated with receipt or use of benefits.

The Multi-Language Insert must be included with the SB, and the SB must be sent in other languages, if applicable per the requirements of Section 30.5.

Section 60.4 – Directories

We note that section 60.4 of the MMG contains new flexibilities for all plan types regarding the provision of access to the Provider and Pharmacy Directory, or separate notice alerting enrollees how to access or receive the directory, consistent with flexibilities previously afforded only to MMPs in state-specific marketing guidance. Section 60.4 of the MMG contains detailed requirements regarding this separate notice. In addition, the pharmacy and provider directory requirements in sections 60.4, 60.4.1, 60.4.1.1, and 60.4.2 of the MMG apply to MSHO plans with the following modifications:

- MSHO plans are required to make available a single, combined pharmacy/provider directory. Separate pharmacy and provider directories will not be permitted.
- The combined pharmacy/provider directory must include all network providers and pharmacies, regardless of whether they provide Medicare, Medicaid, or additional benefits.
- MSHO plans must use the model Provider and Pharmacy Directory document provided to by CMS and the State.

Section 60.5 – Formulary and Formulary Change Notice Requirements

The requirements of section 60.5, 60.5.1, 60.5.2, 60.5.3, 60.5.4, 60.5.5, and 60.5.6 of the MMG apply to MSHO plans with the following modifications:

- MSHO plans must provide a comprehensive integrated formulary (List of Covered Drugs) that includes Medicare and Medicaid outpatient prescription drugs and pharmacy products provided under the plan;

- MSHO plans are only permitted to provide a comprehensive, not abridged, formulary (List of Covered Drugs);
- MSHO plans must use the model formulary document provided to Minnesota MSHO plans by CMS and the State; and
- Formulary change notices must be sent for any negative formulary change (as described in section 30.3.3, “Midyear Formulary Changes,” and section 30.3.4, “Provision of Notice Regarding Formulary Changes,” of Chapter 6 of the Prescription Drug Benefit Manual), regardless of whether the negative formulary change applies to an item covered under Medicare or Medicaid, or as an additional drug benefit under the plan. Consistent with the guidance in the MMG, this notice must be provided to affected enrollees at least 60 calendar days prior to the change.

Section 60.7 – Annual Notice of Change (ANOC) and Evidence of Coverage (EOC)

We clarify that, in addition to the requirements of section 60.7 of the MMG, MSHO plans must use the Annual Notice of Change and Evidence of Coverage (Member Handbook) model document provided by CMS and the State.

Section 90 – The Marketing Review Process

Any references in this section, and in all subsections thereunder, to CMS in its role in reviewing marketing materials are also references to the State for purposes of MSHO marketing material review.

Section 90.3 – HPMS Material Statuses

We clarify that, for purposes of MSHO plan materials, there is no “deeming” of materials requiring either a dual review by CMS and the State or a one-sided State review, and materials remain in a “pending” status until the State and CMS reviewer dispositions match. Materials that require a CMS-only review deem after the respective 10- or 45-day review period. MSHO plans may obtain more information about the specific review parameters and timeframes for marketing materials under the Minnesota Demonstration in the Marketing Code Look-up functionality in the HPMS marketing module. All other guidance in this section of the MMG and its subsections applies.

Section 90.5 – Time Frames for Marketing Review

We clarify that, for purposes of MSHO plan materials, there is no “deeming” of materials requiring either a dual review by CMS and the State or a one-sided State review, and materials remain in a “pending” status until the State and CMS reviewer dispositions match. Materials that require a CMS-only review deem after the respective 10- or 45-day review period. MSHO plans may obtain more information about the specific review parameters and timeframes for marketing materials under the Minnesota Demonstration in the Marketing Code Look-up functionality in the HPMS marketing module. All other guidance in this section of the MMG and its subsections applies.

Section 100.1 – General Website Requirements

In addition to the requirements of this section, we note that MSHO plans must post the SB for the upcoming contract year to their website by September 30.

Section 100.3 - Electronic Enrollment

We clarify that MSHO plans are not permitted to accept enrollment requests through the Online Enrollment Center (OEC).

Section 100.5 – Online Formulary, Utilization Management (UM), and Notice Requirements

Formulary change notices applicable to all formulary changes (not just Part D drug changes) must be maintained on MSHO plans' websites as required in this section.