

Final Contract Year (CY) 2018 Marketing Guidance for Minnesota Senior Health Options (MSHO) Plans

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Introduction

All Medicare Advantage-Prescription Drug (MA-PD) and Special Needs Plan (SNP) plan sponsor requirements in the Contract Year (CY) 2018 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) 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 are different for MSHO plans; therefore, this guidance document should be considered an addendum to the CY 2018 MMG. This MSHO plan guidance is applicable to all marketing done for CY 2018 benefits. The table below summarizes those sections of the CY 2018 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 20 – Materials Not Subject to Marketing Review	Provides one exception to the list of materials not subject to marketing review and submission processes in this section of the MMG.
Section 60.1 – Summary of Benefits (SB)	Replaces current guidance in this section with guidance for MSHO plans.
Section 60.4 – 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. Adds an option for MSHO plans to send a distinct and separate notice alerting enrollees how to access or receive the formulary.
Section 60.6 – 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 90.2.1 – Submission of Non-English and Alternate Format Materials	Clarifies that MSHO plans have state-specific MSHO errata codes.

Medicare Marketing Guidelines (MMG) Section	Change in this Guidance Document
Section 90.3 – HPMS Material Statuses Section 90.5 – Timeframes for Marketing Review	Clarifies the requirements of these sections with respect to the lack of “deeming” for jointly reviewed materials.
Section 100.3 – Electronic Enrollment	Clarifies that the requirements of this section are not applicable to MSHO plans.
Section 100.4 – Online Formulary, Utilization Management (UM), and Notice Requirements	Extends the formulary change notice requirements of this section to non-Part D drug formulary changes.
Appendix 5 - Disclaimers	Modifies and clarifies disclaimer requirements for MSHO plans.

Model Materials

The State uses 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 model 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 and Pharmacy Directory, and integrated enrollment form are updated annually and made available at: <http://cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/InformationandGuidanceforPlans.html>.

MSHO plans must add required disclaimers in Appendix 5 of this guidance and Appendix 5 of the MMG, as appropriate. Adding required MSHO plan disclaimers to Part D models does 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 Minnesota demonstration.

Provider and Pharmacy Directory Requirements

Guidance related to Provider and Pharmacy Directories is no longer included in the MMG and is, instead, available in Chapter 4 of the Medicare Managed Care Manual, the January 17, 2017 HPMS memorandum entitled, “Provider Directory Policy Updates,” Chapter 5 of the Prescription Drug Benefit Manual, and the August 16, 2016 HPMS memorandum entitled “Pharmacy Directories and Disclaimers.” This guidance on general, update, dissemination and timing, online directories, disclaimers, and submission requirements for directories applies to MSHO plans’ directories with the following modifications:

- MSHO plans are required to make available a single, combined Provider and Pharmacy 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. A non-model directory is not permitted.
- The MSHO Provider and Pharmacy Directory is considered a marketing material and must be submitted in the HPMS marketing module. MSHO plans may obtain more information about the specific review parameters and timeframes for the Provider and Pharmacy Directory under the Minnesota demonstration in the Marketing Code Look-up functionality in the HPMS marketing module. In addition, we note that the guidance in section 110.2.6 of Chapter 4 of the Medicare Managed Care Manual regarding submission of updates and/or addenda pages does not apply to MSHO plans. MSHO plans must submit directory updates and/or addenda pages in HPMS, and these documents are reviewed consistent with the parameters for the MSHO Provider and Pharmacy Directory marketing code.

Compliance with Section 1557 of the Affordable Care Act of 2010

MSHO plans are subject to the disclosure requirements under Section 1557 of the Affordable Care Act. For more information, MSHO plans should refer to <https://www.hhs.gov/civil-rights/for-individuals/section-1557/>. We clarify that MSHO plans will continue meeting the requirements related to non-English language taglines required under Section 1557 by using the State-provided document known as the Language Block. The Language Block will include at least the top 15 languages spoken by individuals with LEP in Minnesota, as determined by the State.

Following are the MSHO plan-specific modifications to the MMG for CY 2018.

Section 20 – Materials Not Subject to Marketing Review

The requirements of section 20 of the MMG apply to MSHO plans with the following modification:

- The MSHO plan Provider and Pharmacy Directory is considered a marketing material and must be submitted in the HPMS marketing module. MSHO plans may obtain more information about the specific review parameters and timeframes for the Provider and Pharmacy Directory under the Minnesota demonstration in the Marketing Code Look-up functionality in the HPMS marketing module.

Section 60.1 – Summary of Benefits (SB)

This section is replaced with the following revised guidance. We also note that Appendix 4 of the MMG does not apply to MSHO plans:

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. A non-model SB is not permitted. 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 copays, applicable conditions and limitations, and any other conditions associated with receipt or use of benefits.

Section 60.4 – Formulary and Formulary Change Notice Requirements

The requirements of section 60.4, 60.4.1, 60.4.2, 60.4.3, 60.4.4, 60.4.5, and 60.4.6 of the MMG apply to MSHO plans with the following modifications:

- MSHO plans must make available 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 make available 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 (a non-model formulary (List of Covered Drugs) is not permitted); 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.

We note that the new option available to all Part D sponsors in section 60.4 of the MMG to send either a hard copy formulary (List of Covered Drugs) or a distinct and separate notice (in hard copy) describing where enrollees can find the formulary (List of Covered Drugs) online and how enrollees can request a hard copy formulary also applies to Minnesota MSHO plans starting with CY 2018. MSHO plans should refer to section 60.4 of the MMG for additional detail about these requirements.

Section 60.6 – Annual Notice of Change (ANOC) and Evidence of Coverage (EOC)

In addition to the requirements of section 60.6 of the MMG, we clarify the following:

- MSHO plans must use the ANOC and EOC (Member Handbook) model document provided by CMS and the State.
- To ensure timely mailing of their annual ANOC/Member Handbook, MSHO plans must indicate the actual mail date (AMD) and the number of enrollees who were mailed the documents in HPMS within fifteen (15) calendar days of mailing. This includes mail dates for alternate format materials. We remind MSHO plans that they should enter AMD information in HPMS for mailings to current members only. Plans should not enter AMD information for October 1, November 1, or December 1 effective dates, or for January 1 effective dates for new members. MSHO plans that mail in waves should enter the AMD for each wave. MSHO plans may enter up to ten waves of mailings for the standalone ANOC and the standalone EOC (Member Handbook), respectively. For instructions on meeting this requirement, refer to the *Update AMD/Beneficiary Link/Function* section of the Marketing Review Users Guide in HPMS.
- Note: For a single mailing to multiple recipients, as allowed under section 30.7.1 of the MMG, MSHO plans should enter an AMD that reflects the number of recipients, not the number of ANOC/EOCs (Member Handbooks) mailed.
- MSHO plans must use an errata notice to notify enrollees of certain errors in their original mailings. An ANOC/EOC errata model MSHO plans may use is posted at: <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/InformationandGuidanceforPlans.html>. We clarify that errata notices should only be used to notify enrollees of plan errors in plan materials. Any mid-year changes, including but not limited to mid-year legislative benefit additions or removals and changes in enrollment policies, should be communicated to current enrollees consistent with section 60.7 of the MMG. The HPMS errata submission process should not be used for mid-year changes to materials that are not due to plan error.

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 plan marketing material review.

Section 90.2.1 – Submission of Non-English and Alternate Format Materials

The requirements of this section apply without modification. We note, however, that MSHO plans should use state-specific MSHO errata codes. For more information about errata codes, MSHO plans should consult the Marketing Code Look-up functionality in the HPMS marketing module.

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 – Timeframes 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 100.3 - Electronic Enrollment

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

Section 100.4 – 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. All other guidance in this section applies without modification.

Appendix 5 – Disclaimers

The disclaimers in Appendix 5 of the MMG apply to MSHO plans except as modified or clarified below.

Federal Contracting Disclaimer

This disclaimer is replaced with the following MSHO-specific disclaimer:

Federal and State Contracting Disclaimer

42 CFR 422.2264, 423.2264

All marketing materials must include the statement that MSHO plans contract with both the Federal and the State government. MSHO plans should include the contracting statement either in the text or at the end/bottom of the piece. 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 section 50 of the MMG, radio, television, and internet banner ads do not need to include the Federal and State contracting disclaimer.

Benefits Are Mentioned

These disclaimers are replaced with the following MSHO-specific disclaimers:

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.”

Availability of Non-English Translations

This disclaimer is replaced with the following MSHO-specific disclaimer:

Availability of Non-English Translations

42 CFR 422.2264(e), 423.2264(e)

MSHO plans must place the following non-English language disclaimer on the materials identified as required for translation into non-English languages in section 30.5 of the MMG:

"If you speak <language of the disclaimer>, language assistance services, free of charge, are available to you. Call <Member Services toll-free phone and TTY/TDD numbers, and days and hours of operation>. The call is free."

The non-English language disclaimer must be included in all non-English languages that meet the more stringent of either the Medicare or the Minnesota Medicaid translation standard. If the plan does not meet either the Medicare or state thresholds for translation of written materials, the above disclaimer should not be included.

NOTE: Where applicable in materials identified for translation, Minnesota MSHO plans may replace the second sentence of the non-English disclaimer with "Call <plan name> Member Services at the number listed at the bottom of this page."

Referencing NCQA Approval

MSHO plans may modify the disclaimer in Appendix 5 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."

Mentioning Cost-Sharing Information on D-SNP Materials

This disclaimer is replaced with the following revised MSHO-specific disclaimer:

Mentioning Cost-Sharing Information on D-SNP Materials

42 CFR 422.4(a)(1)(iv), 422.111(b)(2)(iii), 422.2264, 423.2264

The following disclaimer must be on any MSHO plan materials that mention Part D benefits unless the plan charges \$0 copays for all Part D drugs:

"[Copayments/Copays] for prescription drugs may vary based on the level of Extra Help you get. Please contact the plan for more details."

Plans Accepting Online Enrollment Requests

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

Pharmacy/Provider Network and Formulary

This disclaimer is replaced with the following MSHO-specific disclaimer:

Provider and Pharmacy Network 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.”