

DEPARTMENT OF HEALTH & HUMAN SERVICES
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MEDICARE-MEDICAID COORDINATION OFFICE

DATE: July 6, 2017

TO: Medicare-Medicaid Plans

FROM: Lindsay P. Barnette
Director, Models, Demonstrations & Analysis Group

SUBJECT: Texas MMPs: Update to Agent/Broker Compensation Policy for Contract Year 2018

The purpose of this memorandum is to announce a marketing policy change applicable to Texas Medicare-Medicare Plans (MMPs) starting for Contract Year (CY) 2018 enrollments. Currently, Texas MMPs are not permitted to use or compensate independent agents/brokers for MMP enrollments, as specified most recently in the CY 2017 Marketing Guidance for Texas Medicare-Medicaid Plans issued August 29, 2016 and posted at <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/InformationandGuidanceforPlans.html>.

All MMP enrollments will continue to be processed by the State's administrative services contractor. However, we clarify that starting for CY 2018 enrollments, Texas MMPs will be permitted to compensate independent agent/brokers in two scenarios, further detailed in the table below, in which individuals opt in to MMPs that are offered by the same parent organization as their previous coverage (for example, a Dual Eligible Special Needs Plan, or D-SNP), and that enrollment into the previous coverage was facilitated by an independent agent/broker. This situation can occur in the middle of the initial compensation year or in a subsequent year in which the agent/broker is receiving a renewal compensation for retention in that Medicare Advantage (MA) plan.

Essentially, this policy allows the MMP to compensate an independent agent/broker based on the circumstances in which the same independent agent/broker would have received compensation had the member stayed in the parent organization's MA product instead of opting into the MMP. This prevents independent agent/brokers from experiencing a financial penalty if a member stays with the same parent organization but eventually elects to join the parent organization's MMP.

Permissible Options for Compensating Independent Agents/Brokers when a Member Transitions from a Compensation-eligible MA Product by Opting into a Texas MMP

Original Enrollment	New Enrollment	Relationship between New and Old Enrollments	Method of Enrollment into the New Plan	Current Compensation Situation	Compensation Situation after MMP Enrollment
MA plan	MMP	Same parent organization	Member-initiated opt-in enrollment through the state's administrative services contractor	MA plan is currently paying initial compensation for MA plan enrollment	MMP may elect to pay agent/broker a pro-rated initial compensation payment, as applicable depending on the timing of the enrollment, and may make renewal compensation payments for subsequent compensation cycle years
MA plan	MMP	Same parent organization	Member-initiated opt-in enrollment through the state's administrative services contractor	MA plan is currently paying renewal compensation for MA plan enrollment	MMP may elect to pay agent/broker a pro-rated share of the renewal compensation payment, depending on the timing of the enrollment, and may make renewal compensation payments for subsequent compensation cycle years

Consistent with the guidance in section 120.4 et. seq. of the Medicare Marketing Guidelines (MMG), in the initial compensation scenario in the table above, the MA plan would be required to pro-rate the compensation paid to the agent for the months the enrollee was no longer enrolled in the MA plan.

In addition, we clarify that all other requirements applicable to independent agents/brokers throughout the MMG, including section 120 of the MMG, will be applicable to Texas MMPs with this policy change for CY 2018. We remind plans that all MMP enrollments will continue to be processed by the State's administrative services contractor.

MMPs interested in paying agent/broker compensation in these two specific scenarios must report their use of independent agents/brokers and compensation amounts in the Health Plan Management System (HPMS) by July 28, 2017, subject to the guidance in the May 30, 2017 HPMS memorandum, "Contract Year 2018 Agent and Broker Compensation Rate Adjustments, Submissions, and Training and Testing Requirements" and the applicable MMG requirements. Texas MMPs that have already submitted their attestation in HPMS and wish to change it based on this policy update must contact Stacey Simmons (Stacey.Simmons@cms.hhs.gov) as soon as possible to request a resubmission of their information. Please note that the July 28, 2017 compensation submission deadline will not be extended.

This guidance will be incorporated into the forthcoming final CY 2018 Marketing Guidance for Texas Medicare-Medicaid Plans, which will be issued to Texas MMPs and posted at <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/InformationandGuidanceforPlans.html> later this year, following the release of the CY 2018 MMG.

If you have any questions about the contents of this memorandum, please contact the Medicare-Medicaid Coordination Office at MMCOCapsModel@cms.hhs.gov.