NAIFA | Advocacy

Medicare Advantage (Part C) Program, Medicare Prescription Drug Benefit (Part D) Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly

CMS Proposed Rule - Contract Year 2025

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Michael Hedge, Senior Director, Government Relations

Roger Moore, Policy Director, Government Relations

Agenda

1. Contract Terms
2. Compensation Rates
3. Administrative Payments
4. Part D Compensation
5. Impact on FMOs

Contract Term Limitations

Beginning in CY2025, “MA organizations must ensure that no provision of a contract with an agent, broker, or TPMO has the direct or indirect effect of creating an incentive that would reasonably be expected to inhibit an agent’s or broker’s ability to objectively assess and recommend which plan meets the health care needs of a beneficiary.”

Contract Term Limitations

Prohibited contract terms would include those that:

1. Tie compensation to volume-based enrollment or meeting specific enrollment quotas.

2. Allow for bonuses or additional payments from an MA organization to an FMO with the understanding that the money passed on to agents or brokers is based on enrollment volume.

3. Allow an FMO to provide agents or brokers with leads or other incentives based on previously enrolling beneficiaries into specific plans for any reason other than what best meets the beneficiaries' healthcare needs.

Compensation Rates

Current regulations stipulate that compensation for agents and brokers may not exceed caps that CMS calculates each year, based on a fair market value (FMV).

CY2024 national agent and broker FMV compensation caps are as follows:

- **$611** for each MA initial enrollment
- **$306** for each MA renewal enrollment
- **$100** for each Pard D initial enrollment
- **$50** for a Part D renewal enrollment

Currently, MA plans have the flexibility to pay agents varying rates depending on the plan in which the beneficiary enrolls.

Compensation Rates

Under the proposed rule, beginning in CY 2025, agents and brokers would be paid the same amount, either from the MA plan directly or by an FMO, regardless of the plan in which a beneficiary enrolls.

All payments to agents and brokers for initial enrollment, renewal, or services related to a plan product would be included under the revised compensation structure.

Rates for referrals are excluded and would remain unchanged.

Administrative Payments

Currently, agents and brokers can receive payments for administrative services that are separate from the FMV compensation caps established by CMS each year.

Under the proposed rule, the regulatory authority for “administrative payments” would be removed, effectively prohibiting agents and brokers from receiving these separate payments for a multitude of critical services they perform for beneficiaries.

Starting in CY 2025, administrative payments would be included in the FMV calculation of enrollment-based compensation, subject to the annual caps established by CMS.

Administrative Payments

To offset compensation lost by brokers and agents from the removal of administrative payments, the proposed rule would increase base compensation rates by $31 beginning in CY 2025.

CMS estimates the additional $31 in base pay will account for training, testing, call recording, and other services that currently fall under administrative services.

Compensation for Part D Plans

The proposed rule would apply each of the rules regarding compensation for MA plans to Part D plans as well, including increasing the FMV compensation rate by $31.

Impact on FMOs

Currently, MA plans pay FMOs between $200-$300 per beneficiary, an amount that varies based on geographic conditions and by carrier. The administrative fee paid by carriers to FMOs is entirely separate from the FMV compensation payment made to the agents and brokers.

The new proposed amount, $31, to cover all existing administrative payments is insufficient for FMOs to continue functioning at their current capacity.

Impact on FMOs

FMOs work closely with hundreds of insurance companies and a large network of agents and brokers across the U.S., giving consumers access to a wide variety of choices for their healthcare needs.

The services FMOs provide, both to the MA plans and agents/brokers, would be in jeopardy, potentially affecting millions of current MA beneficiaries.

Rather than increasing market competition and choice, the proposed rule could reduce options for consumers and make it more difficult for agents and brokers to have all the information they need to help consumers shopping for plans.

NAIFA's Advocacy Efforts

On January 5, 2024, NAIFA submitted a comment letter to CMS expressing disapproval with the rule as proposed.

NAIFA requested that CMS reconsider the proposal in its entirety and adopt a more collaborative approach with NAIFA and other industry partners.

More relevant data is needed to better assess the current state of the market and determine potential regulatory changes for future release.

What's Next?

CMS is expected to finalize the ruling in the coming days, possibly this week.

NAIFA will continue working with CMS and industry partners to ensure current and future rulings are in our members' best interests, thus giving consumers access to competitive and affordable products that best meet their healthcare needs.

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