Important 2027 CMS Final Rule Updates

CMS has finalized several important updates for Contract Year 2027 that affect how Medicare Advantage and Part D plans may be marketed, discussed, documented, and supported. The rule is formally cited as the Contract Year 2027 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, and Medicare Cost Plan Program, CMS-4208-F3/CMS-4212-F, 91 Fed. Reg. 17384, published April 6, 2026. The rule is effective June 1, 2026, generally applies to coverage beginning January 1, 2027, and CMS notes that CY 2027 marketing and communications policies apply beginning October 1, 2026.

FutureCare is providing this summary to help affiliated agents understand the practical impact of these changes while continuing to follow all CMS, carrier, TCPA, and FutureCare compliance requirements.

The Final Rule Goes into Effect on June 1, 2026

1. Scope of Appointment: The 48-Hour Waiting Period Has Been Removed

Agents are no longer required to wait 48 hours after completing a Scope of Appointment before conducting a personal marketing appointment. A beneficiary may complete an SOA and then proceed to a plan-specific discussion during the same call, meeting, or day, provided the SOA is completed before the personal marketing appointment begins.

The SOA requirement itself has not been eliminated. Agents must still agree on and document the scope of the appointment before discussing plan-specific Medicare Advantage or Part D options. For in-person personal marketing appointments, the SOA must be in writing.

CMS rule citation: 42 C.F.R. §§ 422.2264(c)(3)(i), 423.2264(c)(3)(i); CY 2027 Final Rule, 91 Fed. Reg. 17455-17459, 17583, 17592.

2. SOAs May Be Collected at Educational Events

CMS now permits plans and agents or brokers participating in educational events to make available and receive Scope of Appointment forms at those events. CMS clarified that collecting an SOA is not, by itself, a sales or marketing activity. However, the educational event itself must remain educational.

Do not discuss specific plan benefits, premiums, provider networks, formularies, enrollment recommendations, or applications during the educational portion of the event. The SOA simply documents which products may be discussed later during a personal marketing appointment.

CMS rule citation: 42 C.F.R. §§ 422.2264(c)(1)(ii)(D), 423.2264(c)(1)(ii)(D); CY 2027 Final Rule, 91 Fed. Reg. 17459-17460, 17583, 17592.

3. Educational Events May Transition Into Marketing Events

CMS removed the prior 12-hour separation requirement between an educational event and a marketing or sales event held in the same location. This means an educational event may now transition into a marketing event on the same day and in the same location, but only if the transition is handled clearly and compliantly.

Agents must clearly tell attendees when the educational event is ending and that a marketing event is about to begin. Attendees must be given a genuine opportunity to leave before the marketing event starts. A brief break, such as a restroom or refreshment break, may satisfy this requirement if it gives beneficiaries a clear chance to exit without pressure.

CMS rule citation: 42 C.F.R. §§ 422.2264(c)(2)(i), 423.2264(c)(2)(i); CY 2027 Final Rule, 91 Fed. Reg. 17451-17454, 17583, 17592.

4. TPMO Disclaimer Timing Has Been Updated

The TPMO disclaimer remains required, but CMS revised the timing for sales calls. Instead of requiring the verbal disclaimer within the first minute of the call, the disclaimer must now be verbally conveyed before any discussion of benefits.

This allows agents to begin the conversation naturally, confirm the reason for the call, gather basic information, and determine whether a benefit discussion is appropriate. However, once the conversation turns to plan-specific benefits, premiums, cost sharing, provider access, drug coverage, or other benefit details intended to influence plan selection, the TPMO disclaimer must be provided first.

CMS rule citation: 42 C.F.R. §§ 422.2267(e)(41), 423.2267(e)(41); CY 2027 Final Rule, 91 Fed. Reg. 17448-17450, 17583, 17592.

5. Call Recording and Retention Requirements Have Changed, But Recording Still Applies

FutureCare agents should approach this update carefully. CMS did not eliminate the requirement to record marketing and sales calls. The final rule states that all marketing and sales calls, including the audio portion of calls conducted through web-based technology, must be recorded and retained in their entirety for a minimum of 6 years.

For the first 3 years, the record must be maintained in audio format. For years 4, 5, and 6, the record may be maintained either as audio or as a complete and accurate transcript. Enrollment records remain subject to separate 10-year retention requirements.

CMS rule citation: 42 C.F.R. §§ 422.2274(g)(2)(ii), 423.2274(g)(2)(ii); CY 2027 Final Rule, 91 Fed. Reg. 17464-17468, 17583, 17592. Enrollment record retention remains tied to 42 C.F.R. §§ 422.60(c)(2), 422.504(e)(1)(iv), and 423.505(e)(1)(iv).

6. Superlatives in Marketing Materials: More Flexibility, But Claims Must Still Be Accurate

CMS also relaxed the prior restrictions on using superlative language in Medicare marketing and communications materials. Terms such as **"best," "most," "highest rated," "top-rated," "largest,"** or similar wording may now be used, provided the statement is truthful, factually supportable when applicable, and not misleading, confusing, or materially inaccurate.

This does **not** mean agents may make exaggerated or unsupported claims. If a superlative can be measured or verified, such as "largest provider network," "highest rated plan," or "most comprehensive dental benefit," the statement must be supportable through reliable data, reports, studies, surveys, or other appropriate documentation. CMS may still request supporting documentation during material review or as part of a complaint investigation.

CMS removed the prior requirement that supporting documentation or data be referenced directly in the marketing material itself. However, agents and organizations should still be prepared to substantiate any claim if asked by CMS, a carrier, or FutureCare Compliance.

Important agent reminder: Do not use superlatives in a way that could mislead a beneficiary. For example, saying a plan has the "best benefits" may be problematic if the statement is subjective and depends on the beneficiary's individual health needs, provider preferences, prescriptions, or financial situation. When in doubt, use clear, specific, and supportable language.

CMS Rule Citation: 42 C.F.R. §§ 422.2262(a)(1)(i), 422.2262(a)(1)(ii), 423.2262(a)(1)(i), and 423.2262(a)(1)(ii); CY 2027 Final Rule, 91 Fed. Reg. 17461–17463. CMS finalized removal of the specific superlative restriction and the requirement to reference supporting

documentation directly in the material, while retaining the broader prohibition against misleading, confusing, or materially inaccurate marketing and communications.

7. What Has Not Changed

The CY 2027 rule provides more flexibility, but it does not remove core compliance obligations. Agents must continue to:

- Maintain a valid SOA before discussing plan-specific options.
- Avoid misleading, confusing, or materially inaccurate statements.
- Avoid pressure tactics or steering.
- Follow approved scripts, carrier rules, and FutureCare compliance guidance.
- Respect beneficiary requests to stop contact.
- Follow TCPA and Do-Not-Call requirements.

CMS rule citation: 42 C.F.R. §§ 422.2262, 423.2262, 422.2274(g)(1), 423.2274(g)(1); CY 2027 Final Rule, 91 Fed. Reg. 17461-17463.

TCPA reminder: CMS flexibility does not override the Telephone Consumer Protection Act or FCC telemarketing rules. Agents must continue to follow applicable consent, calling, texting, and opt-out requirements under 47 U.S.C. § 227 and 47 C.F.R. § 64.1200.

8. Special Enrollment Periods Requiring CMS Approval

CMS also codified that certain Special Election Periods require prior CMS approval before they may be used. For MA elections, this includes SEPs related to contract violations, CMS sanctions, and loss of creditable prescription drug coverage. For Part D, this includes certain SEPs related to loss of creditable prescription drug coverage, contract violations, CMS sanctions, and other exceptional circumstances.

Agents may still support and educate beneficiaries, but where CMS approval is required, the election must follow the CMS-approved process, such as a CMS-operated election mechanism or a CMS notice explaining eligibility and election instructions.

CMS rule citation: 42 C.F.R. §§ 422.66(g), 422.62(b)(3), 422.62(b)(5), 422.62(b)(20), 423.32(k), 423.36(g), 423.38(c)(2), 423.38(c)(8), 423.38(c)(12), 423.38(c)(36); CY 2027 Final Rule, 91 Fed. Reg. 17581, 17584.

Best Practices for FutureCare Agents

- Use the SOA as a client education tool, not just a form. Explain which product types will be discussed and make sure the beneficiary understands the scope before moving into plan-specific information.
- When transitioning from education to sales, be clear and deliberate. Announce that the educational portion has ended, identify the next portion as a marketing or sales event, and allow attendees to leave without pressure.
- Provide the TPMO disclaimer before plan benefits are discussed. Do not wait until after benefits, premiums, drug coverage, provider networks, or cost sharing are reviewed.
- Continue recording all required marketing and sales calls. Do not assume a call is exempt simply because no enrollment occurs.
- Maintain TCPA discipline. CMS changed certain Medicare marketing rules, but it did not create permission to call or text consumers without proper consent.

Summary of changes

The CY 2027 Final Rule gives agents more flexibility to serve Medicare beneficiaries in a practical, timely, and consumer-friendly way. The removal of the 48-hour SOA delay and the 12-hour event separation rule should make it easier to respond when beneficiaries are ready for assistance.

At the same time, CMS did not remove the core safeguards that protect beneficiaries. SOAs still matter. Clear disclosures still matter. Accurate information still matters. Call recording still matters. TCPA compliance still matters.

FutureCare expects all affiliated agents to use this added flexibility responsibly and compliantly. Our goal remains the same: helping beneficiaries understand their options, make informed decisions, and enroll only in coverage that fits their needs.

Sources

Federal Register: Medicare Program; Contract Year 2027 and Certain Contract Year 2026 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, and Medicare Cost Plan Program, 91 Fed. Reg. 17384 (Apr. 6, 2026).

Electronic Code of Federal Regulations: 47 C.F.R. § 64.1200, Restrictions on Telemarketing, Telephone Solicitation, and Facsimile Advertising.