

Contract Year 2025 Medicare Advantage and Part D Final Rule (CMS-4205-F)

Apr 04, 2024

2025 Medicare Advantage Rule Calls For Major Changes To Agent and Broker Pay.

CMS said in an [announcement](#) that the new policies will promote competition, increase access to care, and protect individuals from inappropriate marketing and prior authorization. “In my travels around the country, I always hear from Medicare enrollees that Medicare can be confusing and access to accurate, unbiased, actionable information is vital—whether it’s about enrollment or how to access services,” said Dr. Meena Seshamani, deputy administrator and director of the Center for Medicare, CMS, in a statement. “This final rule builds on the bold actions we took last year to improve access to care and address predatory marketing, strengthening the Medicare program and improving the lives of the people we serve.”

Here is an overview of some of the major changes announced on Thursday:

AGENT AND BROKER COMPENSATION

CMS aims to crack down on commissions, bonuses, gifts, and prizes that some insurers offer to brokers or agents to steer consumers to their MA or Part D plans even if they may not meet the prospective enrollee’s health care needs.

To level the playing field, the final rule sets clear, fixed amounts that insurers pay agents and brokers regardless of the plan the individual enrolls in, beginning with the upcoming Annual Enrollment Period. CMS will eliminate separate administrative payments and base compensation on fair market value, but for 2025, the base rate per enrollee will increase by \$100 per enrollee for new enrollments. MA organizations will be allowed to compensate brokers for enrollments in a renewal year at 50 percent of the fair market value.

Agents and brokers are currently paid \$611 for each MA initial enrollment and \$306 for a MA renewal enrollment. If the fair market value increases in 2025 to 2.5 percent, then the flat payment (including the \$100 one-time increase) would be \$726 for initial enrollment and \$313 for renewals. In 2026, under the same percentage increase, broker/agent payment would be \$744 for initial enrollment and \$372 for renewals.

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New Guardrails for Plan Compensation to Agents and Brokers to Stop Anti-Competitive Steering

Many individuals with Medicare rely on agents and brokers to help navigate complex Medicare choices as they comparison shop for coverage options. The Medicare statute requires that CMS must establish guidelines to ensure that the use of compensation creates incentives for agents and brokers to enroll individuals in the Medicare Advantage or Part D plan intended to best meet the prospective enrollee's health care needs. However, excessive compensation, and other bonus arrangements, offered by plans to agents and brokers can result in individuals being steered to some Medicare Advantage and Part D plans over others based on the agent or broker's financial interests, rather than the prospective enrollee's health care needs.

CMS is cracking down on that. Specifically, CMS is finalizing requirements that redefine "compensation" to set a clear, fixed amount that agents and brokers can be paid regardless of the plan the individual enrolls in, addressing loopholes that result in commissions above this amount that create anti-competitive and anti-consumer steering incentives. The provisions of this final rule, which are applicable beginning with the upcoming Annual Enrollment Period, ensure that agent and broker compensation reflect only the legitimate activities required of agents and brokers, by broadening the scope of the regulatory definition of "compensation," so that it is inclusive of all activities associated with the sales to/enrollment of an individual into a Medicare Advantage or Part D plan. In response to feedback from stakeholders, **CMS is increasing the final national agent / broker fixed compensation amount for initial enrollments into a Medicare Advantage or Part D plan by \$100, which is an amount higher than what was proposed (\$31).** CMS believes this increase will provide agents and brokers with sufficient funds to serve individuals with Medicare. This increase will eliminate variability in payments and improve the predictability of compensation for agents and brokers. This increase will be added to agent and broker compensation payments for the Annual Election Period in Fall 2024 and applied to all enrollments effective in CY2025 and future contract years.

Additionally, the final rule generally prohibits contract terms between Medicare Advantage organizations/Part D sponsors and middleman Third Party Marketing Organizations (TPMOs), such as field marketing organizations, which may directly or indirectly create an incentive to inhibit an agent or broker's ability to objectively assess and recommend the plan that is best suited to a potential enrollee's needs. In the final rule, CMS provides several examples of contract terms that will be impermissible under this prohibition, including provisions offering volume-based bonuses for enrollment into certain plans.

These final policies advance the goals of President Biden's historic Competition Council and Executive Order signed in July 2021, by helping to ensure a robust and competitive Medicare Advantage marketplace.