



Call Recording and Retention Requirements for Telephonic Sales

This compliance bulletin provides information regarding CMS and carrier requirements for recording and retaining ***all calls involved in the chain of enrollment*** for a Medicare product. The requirement to record and retain calls applies to all agents who conduct any portion of the selling and/or enrollment process of MA/PDP products. This is not just a requirement for call centers. If you conduct even one (1) sales or enrollment call with a consumer, you must retain the call for 10 years.

CMS Regulations Require Call Recording

CMS regulations require that Medicare Advantage Organizations and their agents, brokers, and other third-party marketing organizations (TPMOs) record ***all*** inbound and outbound telephone and virtual (e.g., Zoom, FaceTime) calls related to marketing, sales, and enrollment activities.

<https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-B/part-422/subpart-V>

CMS Regulations Require Call Recordings to be Retained

CMS regulations also require that all calls considered part of the “chain of enrollment” be maintained for 10 years.

<https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-B/part-422/subpart-K/section-422.504>

What Types of Calls Does this Apply to?

These rules apply to all telephonic, video conferencing (e.g., Zoom, Skype, FaceTime), or other virtual, web-based platforms used for marketing or enrollment. Virtual meetings must have the audio recorded in their entirety, although the video portion is not required to be recorded.

Which Types of Medicare Products Does this Apply to?

This applies to MA, MAPD, PDP, and OSB products.

What Types of Calls are Considered Part of the “Chain of Enrollment”?

“Chain of enrollment” is defined as the steps taken by a beneficiary from becoming aware of an MA plan or plans to making an enrollment decision. Some examples include:

- Lead Call
- Scheduling an appointment
- Collecting an SOA
- Educational call/presentation
- Sales call/presentation/needs assessment
- Call to collect medication and pharmacy information
- Provider discussion

- Telephonic enrollment
- Call pertaining to additional help on medication(s), providers, ID cards, and the like, if such conversation occurs during the pre-enrollment process
- Any transfer between an agent and a non-licensed representative

(Note this list is not all-inclusive and there may be other calls within the “chain of enrollment” that require recording and storage.)

What Calls Must be Recorded?

- Pre-enrollment Calls: Yes
 - Calls in the “chain of enrollment” are to be recorded, if such conversations occur during the pre-enrollment process.
 - Note that multiple calls with the same client before a decision and completing an enrollment would need to be recorded as part of the “chain of enrollment”.
- Post-enrollment Calls: No
 - If a conversation occurs during a post-enrollment period (i.e., 3/30/60/90) and does not result in a potential plan change, it does not need to be recorded.

Do Calls Discussing LIS/Dual Process Need to be Recorded?

- Pre-enrollment Calls: Yes
 - Calls in the “chain of enrollment” are to be recorded.
- Post-enrollment Calls: No

- If a conversation occurs during a post-enrollment period (i.e., 3/30/60/90) and does not result in a potential plan change, it does not need to be recorded.

What if I Forget to Record a Call in the Chain of Enrollment?

As CMS requires all chain of enrollment calls to be recorded, **you must notify your agency leadership and/or the carrier as soon as possible**. Be sure to perform a root cause analysis on why the call failed to record and determine how many other calls were impacted. Include a detailed explanation as to why calls were not recorded along with steps to prevent future loss of data.

You should regularly conduct self-audits to ensure you have 100% of required calls on file and are able to readily retrieve them upon request. If any calls are missing, you are required to report this data loss to your carrier partners no later than 48 hours after discovery.

What if My Client Does Not Want to be Recorded?

Inform your client that the call recording is a CMS/government agency requirement. If your client still does not want to be recorded, **you must end the call** and schedule a face-to-face meeting to conduct the pre-enrollment and enrollment sales process.

Are the Calls Required to be Stored in a Certain Format?

No. However, it is recommended that calls be in a commonly accessible format such as .WAV or .MP3.

Can Carriers, CMS, and Uplines Request Copies of Call Recordings?

Yes. Carriers, CMS, and your uplines have oversight obligations and may request you to provide them with copies of all calls in a chain of enrollment. You should be able to retrieve and provide these calls in a timely manner, generally within 24 to 48 hours.

Be sure to refer to any job aids, training, or carrier guidelines for specific carrier requirements.

It is your responsibility to ensure that all agents in your hierarchy are aware of these requirements and are required to comply with all marketing and communications requirements when conducting telephonic sales for Medicare products.

Please be sure to distribute this compliance bulletin to all agents in your hierarchy.

IMPORTANT NOTICE: This Compliance Bulletin is intended strictly for licensed agent use only. Do not distribute to clients, prospects, or any unauthorized individuals.

