

Discouraged Use of AI & Virtual Assistants for Telesales

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The use of artificial intelligence (AI), including automated voice systems, virtual assistants, robocalling technologies, or AI-driven conversational tools to contact consumers by phone presents significant compliance and regulatory risks. Agents, agencies, and vendors are strongly discouraged from using AI to initiate or conduct telesales.

Regulatory Considerations

AI-driven phone outreach may conflict with multiple regulatory requirements, including but not limited to:

- **CMS Marketing Guidelines** require clear communication with beneficiaries, including adherence to Scope of Appointment (SOA) and consent-to-contact rules. AI systems cannot reliably meet these requirements and address consumer questions in real time.
- **TCPA (Telephone Consumer Protection Act)/FCC Rules** restrict the use of automated dialing systems and artificial/pre-recorded voice messages without prior express written consent. AI-generated calls that fall within these restrictions can create significant liability.
- **FTC Regulations** prohibit deceptive or misleading practices. AI-generated interactions may create confusion regarding whether the caller is a licensed agent, which could potentially mislead consumers.

Compliance Risks

- **Lack of Valid Consent**: AI tools may initiate outreach without properly documented consent, violating CMS and TCPA requirements.
- **Misrepresentation**: Consumers may not clearly understand they are interacting with AI rather than a licensed agent, increasing the risk of a deceptive communication.
- **Inability to Ensure SOA Compliance**: AI cannot accurately capture, document, and validate Scope of Appointment (SOA) requirements prior to discussing plan details.
- **Call Recording & Documentation Gaps**: AI systems may not meet carrier and CMS requirements for full call recording, retention, and audit readiness.
- **Data Privacy Concerns**: AI platforms may introduce risks related to the handling and protection of non-public personal information, including protected health information (PHI).

Tip for Success:

Ensure all consumer phone communications are human-led, transparent, and fully documented. The use of AI for phone outreach presents significant risk and is strongly discouraged.

