



Statement for the Senate Finance Committee

October 18, 2023

Medicare Advantage Annual Enrollment: Cracking Down
on Deceptive Practices and Improving Senior Experiences

Submitted by
National Association of Benefits and Insurance
Professionals



I am writing on behalf of the National Association of Benefits and Insurance Professionals (NABIP), a professional association representing over 100,000 licensed health insurance agents, brokers, general agents, consultants and employee benefits specialists. The members of NABIP help millions of individuals and employers of all sizes purchase, administer and utilize health plans of all types.

The health insurance agents and brokers that NABIP represents are a vital piece of the health insurance market and play an instrumental role in assisting employers and individual consumers with choosing the health plan or plans that are best for them. Eighty-two percent of all firms use a broker or consultant to assist in choosing a health plan for their employees¹ and eighty-four percent of people shopping for individual exchange plans found brokers helpful -- the highest rating for any group assisting consumers.² During the 2023 open enrollment period, agents and brokers assisted 71 percent of those who enrolled through HealthCare.gov or a private direct enrollment partner's website. Additionally, premiums are 13 percent lower in counties with the greatest concentration of brokers.³

Independent, licensed and certified agents and brokers also assist seniors with their plan options in the Medicare market. Many agents working with seniors are the most experienced agents in the business and are sometimes close in age to the Medicare beneficiaries they serve. Providing outstanding consumer service that is tailored to each individual beneficiary is in the best interest of every agent and every Medicare beneficiary. Individuals qualifying for Medicare at age 65 typically have three months before their 65th birthday, their birthday month, and three months following their birthday month to explore their options and make choices. Thereafter, they can change their choice annually during the Annual Enrollment Period (AEP), which is underway now. Because of the complexity of the plan-selection process, many beneficiaries rely on licensed and certified insurance agents to help them identify the coverage and benefits options that best meets their needs. Independent agents assist Medicare beneficiaries with all of the options available to them, including Medicare supplements, Medicare Part D and Medicare Part C, known as Medicare Advantage.

As of August 2023, over 60 million individuals were enrolled in one or more parts of the Medicare program. Among that population, over 30.8 million Medicare beneficiaries were covered by Medicare Advantage (MA) coverage.⁴ The broad availability of MA plan options means seniors have an array of plan choices for their health insurance coverage. MA plans also offer supplemental benefits that are often not covered by traditional fee-for-service Medicare. Most enrollees are in plans that provide access to eye exams or glasses, telehealth services, dental care, a fitness benefit and hearing aids. MA products provide other affordable, high-quality services as well, including care coordination, disease-management programs, access to community-based programs and out-of-pocket spending limits.

¹ Kaiser Family Foundation. [Employee Health Benefits Annual Survey](#). October 2013.

² Blavin, Fredric, et al. [Obtaining Information on Marketplace Health Plans: Websites Dominate but Key Groups Also Use Other Sources](#). Urban Institute. June 2014.

³ Karaca-Mandic, Pinar, et al. [The Role of Agents and Brokers in the Market for Health Insurance](#). National Bureau of Economic Research. August 2013.

⁴ Ochieng, Nancy. [Medicare Advantage in 2023: Enrollment Update and Key Trends](#). Kaiser Family Foundation. 9 August 2023.

Medicare Advantage products also provide necessary coverage to some of the most underserved populations. Compared to beneficiaries enrolled in both Part A and Part B, beneficiaries enrolled in MA are more likely to report incomes below 100 percent of the Federal Poverty Level, with 52 percent of enrollees earning less than 200 percent of the FPL.⁵ Nearly two-thirds of MA beneficiaries (60 percent) pay no premium for their plan other than the Medicare Part B premium.⁶ MA beneficiaries are more likely to be 75 years of age or older and have educational attainment less than high school. Additionally, MA enrollees were more likely than fee-for-service Medicare enrollees to be dually enrolled and to have multiple health conditions.⁷ Medicare Advantage beneficiaries also include a higher percent of Black and Latino beneficiaries than in fee-for-service Parts A and B; fifty-three percent of Latino Medicare beneficiaries and 49 percent of Black Medicare beneficiaries are enrolled in MA. While approval of MA coverage is high across all populations, non-white beneficiaries report an even higher level of satisfaction, with 99 percent reporting that they were satisfied with their coverage.⁸

The share of the Medicare population enrolled in MA plans grew from 24 percent in 2013 to 51 percent in 2023 – a 112 percent increase in enrollment over 10 years. Today, 96 percent of Medicare Advantage beneficiaries are satisfied with their quality of care.⁹

When consumers are considering their Medicare plan options or are looking for specific drugs and services to be covered, there is no greater resource than a licensed agent or broker. Brokers educate clients on how Medicare works (both broadly and in conjunction with other coverage options), research physician networks and prescription formularies for the plans to ensure a suitable health and drug plan is recommended, and review plan comparison and enrollment changes annually. The assistance that agents provide does not end with the AEP; agents provide ongoing support throughout the plan year (such as with billing problems or claims issues).

By taking the time to understand the unique requirements and preferences of each beneficiary, agents offer tailored solutions and answer any questions a beneficiary may have. This personalized interaction not only simplifies the decision-making process but also addresses individual concerns, making beneficiaries feel valued and understood. Independent agents are also almost always members of the same communities that their clients live in. Above all else, Medicare agents offer a human connection and empathetic understanding of a beneficiary's position, thus providing comfort during a time many seniors find stressful.

Medicare agents often obtain clients through referrals, which is a type of lead that can only be achieved by providing great service to a beneficiary. Personal referrals are the primary source of lead generation by independent agents. The beneficiary who is referred usually contacts the agent, who then follows up

⁵ Better Medicare Alliance. [Medicare Advantage Outperforms Fee-for-Service Medicare on Cost Protections for Low-Income and Diverse Populations](#). April 2022.

⁶ Freed, Meredith, et al. [A Dozen Facts About Medicare Advantage in 2020](#). Kaiser Family Foundation. 13 January 2021.

⁷ HHS Assistant Secretary for Planning and Evaluation Office of Health Policy. [Medicare Beneficiary Enrollment Trends and Demographic Characteristics](#). 2 March 2022.

⁸ Better Medicare Alliance. [Medicare Advantage Satisfaction Hits New High Amid COVID-19 Crisis](#). 21 January 2021.

⁹ Jacobson, Gretchen, et al. [Medicare Advantage vs. Traditional Medicare: How Do Beneficiaries' Characteristics and Experiences Differ?](#) Commonwealth Fund. 14 October 2021.



to provide detailed information about Medicare choices and guide them through the enrollment process. Many independent agents represent multiple carriers while others are considered “captive agents” and work for just one carrier. Agents are paid commissions from the carriers, with rates set by federal regulators.

Independent Medicare agents must be licensed, undergo several hours of training, and are required by law to be certified before selling MA plans. Agent marketing practices for Medicare Advantage are strictly regulated by CMS, along with carrier-specific oversight. Most states also require licensed insurance agents to complete continuing education courses to maintain their license, ensuring that agents are always informed about the ever-changing landscape of Medicare benefits.

Unfortunately, recent Medicare regulations have grouped independent agents and brokers with unscrupulous third-party marketing organizations, or TPMOs. Lead-generation and marketing entities have traditionally been defined as TPMOs. The call centers they control have engaged in bad-faith practices for several years, airing television commercials that leverage a celebrity's popularity and credibility to attract the attention of Medicare beneficiaries, with the goal of enrolling the beneficiary in supplemental plans they may not need – purely for the pursuit of profit.

TPMO call centers feature auto-dialers and other productivity tools that maximize the number of calls in a day, which prioritizes the quantity of consumers contacted over the quality of assistance provided. NABIP members report that it is not unusual for a call center representative to average over 40 enrollments in just one month, with calls lasting less than 20 minutes. In contrast, the average production of a successful traditional independent agent is between 10 and 15 enrollments in a month.

Additionally, TPMOs can include ad agencies and lead-generation companies that are not regulated by CMS. Unlike the personal referrals that make up most independent agents’ books of business, TPMO call centers commonly engage in other types of lead-generation activities. Outside of the “television leads” that a TPMO obtains when airing previously mentioned advertisements, vendors sell different types of leads – from shared leads (sold to multiple buyers at a low price) to exclusive leads (sold to one buyer at a high price before being repackaged and resold as a shared lead). These leads are sometimes sold as part of a larger financial package marketed as relatively easy profit. Such lead-generation practices result in multiple undesired cold calls to Medicare beneficiaries.

These call centers also commonly employ “fronters,” which are unlicensed entities from call centers that are often (but not always) offshore. Fronters use an Internet lead to call a Medicare beneficiary and qualify the beneficiary’s interest in the insurance consultation. Once that is done, the beneficiary is transferred by phone to the TPMO call center.

Independent agents should not, under any circumstances, be lumped into the same group as TPMO call centers. As previously mentioned, agents are state-licensed, certified by the plans they contract with, pay attention to clients’ specific needs, and take care of their clients year-round. TPMOs, on the other hand, only have interest in enrolling beneficiaries in certain plans (regardless of whether it is the correct fit for the beneficiary) and have no interest in establishing a genuine relationship with the beneficiary as a servicing agent.



CMS stated in recent regulation that the government cannot determine which entities are contributing to the deceptive television commercials, who is buying certain leads, and more. While CMS may not be able to make that determination, a contracted entity, such as an insurance carrier, can. Carriers already process such information, such as tracking which entities are the agent of record for a specific beneficiary. Independent agents should not be regulated as TPMOs, but separately through the plans they contract with in their respective states.

Outside of independent agents and TPMO call centers, there are other actors in the Medicare space that the committee should have a comprehensive understanding of. Field marketing organizations (FMOs) play a unique role in the system, serving as an intermediary between agents and carriers that offer MA and MAPD plans. FMOs operate as variable cost sales offices working on a contracted basis with multiple carriers. The organizations provide a wide variety of services that empower agents and their clients, from handling contracting and credentialing processes to helping agents navigate the regulatory environment. For example, many small independent agencies would not be able to fully comply with recent call-recording requirements without FMO assistance, since they do not possess the proper technology to comply with the rule. Without an FMO to provide these services, many services would fall on the carrier to implement, which would likely lead to increased premiums. Overall, FMOs are a necessary piece of the Medicare system and make the enrollment process quicker and smoother for both the agent and consumer.

FMOs contract with an array of MA and MAPD plans of varying sizes. FMOs and insurance carriers choose which entities to work with based on a variety of reasons. For example, a regional FMO may not choose to contract with a small plan because the FMO seeks to represent all plans in its region. FMOs may also consider factors like a carrier's star rating or technology capabilities. Some carriers, on the other hand, choose not to contract with large national FMOs because they only want to work with local agencies.

FMOs may have their own call centers, but a distinction must be drawn between FMO call centers and the TPMO call centers. Unlike TPMO call centers, FMO call centers are required to follow CMS-approved scripts with set benchmarks and quality metrics such as retention and satisfaction. FMOs are the primary servicing point for agents who have issues concerning the status of an enrollment, commissions and post-enrollment issues. For these reasons, FMOs should not be equated with TPMOs that strictly generate leads or operate only as a call center.

Like the Senate Finance Committee, NABIP wants to protect the vulnerable senior population from the unscrupulous actors in our healthcare system. Independent agents serve beneficiaries across the country as trustworthy advocates who provide accurate and ethical guidance. Ultimately, without licensed and certified agents assisting in enrollments, Medicare beneficiaries will have few choices in finding accurate enrollment assistance and will be led directly to the bad actors that the federal government seeks to protect them from.



We appreciate the opportunity to provide these comments and would be pleased to respond to any additional questions or concerns of the committee. If you have any questions about our comments or if NABIP can be of assistance as you move forward, please do not hesitate to contact me at jgreene@nabip.org or (202) 595-3677.

Sincerely,

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