National Association of Benefits and Insurance Professionals
NABIP
Shaping the *future* of healthcare

January 26, 2026

Mehmet Oz, M.D.
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Submitted electronically via www.regulations.gov

Re: CMS-4212-P - Medicare Program; Contract Year 2027 Policy and Technical Changes to the Medicare Advantage and Part D Programs

Dear Administrator Oz:

On behalf of the National Association of Benefits and Insurance Professionals (NABIP), formerly known as NAHU, we appreciate the opportunity to comment on the Centers for Medicare & Medicaid Services' (CMS) Contract Year (CY) 2027 Medicare Advantage and Part D proposed rule (CMS-4212-P).

NABIP represents more than 100,000 licensed health insurance agents, brokers, general agents, consultants, and employee benefits professionals who assist Medicare beneficiaries with education, plan comparison, enrollment, and year-round service. Our members support CMS's goals of protecting beneficiaries, improving program integrity, and ensuring access to clear, unbiased information that enables informed decision-making.

Several of the issues raised in the proposed rule overlap with the request for information on improving and modernizing Medicare Advantage. Accordingly, we have consolidated our feedback into a single response.

I. Comments on Proposed Regulatory Changes in CMS-4212-P

A. Marketing and Communications Flexibilities

NABIP strongly supports several of CMS's proposed changes intended to modernize Medicare marketing rules to provide needed flexibility while preserving appropriate consumer protections.

a. **Removal of the 48-Hour Scope of Appointment (SOA) Waiting Period**
Eliminating the 48-hour waiting period respects beneficiary autonomy and reflects real-world decision-making. Beneficiaries who actively seek assistance should not be required to delay discussions when they are prepared to proceed. Retaining the requirement that an SOA be completed prior to discussing benefits continues to provide meaningful safeguards against abusive practices.

b. **Educational and Sales Event Flexibilities**
Allowing SOAs to be made available at educational events and removing the prohibition on holding educational and sales events at the same venue within a 12-hour period appropriately returns control to beneficiaries. These changes reduce unnecessary travel and scheduling burdens while maintaining transparency and consumer choice.

c. **TPMO Disclaimer Modifications**
NABIP supports CMS's proposal to simplify the TPMO disclaimer by allowing the disclaimer to be delivered at any time prior to discussing plan benefits, rather than within the first minute of contact. These changes reduce confusion while preserving disclosure objectives.

d. **Marketing Language and Use of the Medicare Card**
Relaxing overly restrictive marketing language rules will allow agents, brokers, and plans to communicate using plain language that beneficiaries understand, without resorting to awkward or misleading phrasing to avoid prohibited terms. CMS retains authority to evaluate marketing materials on a case-by-case basis and intervene where communications are misleading.

e. **Record Retention Requirements**
NABIP strongly supports CMS's proposal to reduce the call recording and documentation retention period from 10 years to 6 years, aligning more closely with HIPAA requirements. This change will significantly reduce program costs and mitigate data-security risks without compromising oversight.

Taken together, these proposals enhance beneficiary access to trusted guidance, reduce unnecessary administrative friction, and improve data security. They also recognize the essential role licensed agents and brokers play in assisting beneficiaries, particularly those with limited digital access or complex health needs, while maintaining appropriate guardrails against misconduct.

II. Request for Information (submitted separately)

A. Streamlining Regulation and Reducing Administrative Burden

A number of recommendations addressing administrative burden and deregulation were included in the previous section under "Comments on Proposed Regulatory Changes in CMS-4212-P." We make the following recommendations in addition to those comments:

a. Late Enrollment Penalties for Federal Retirees and Veterans
Current Medicare Part B late enrollment penalty (LEP) rules can result in permanent financial penalties for federal retirees and veterans who maintained continuous, credible coverage through federal or military sources but later discovered they do not qualify for an enrollment exception. This lack of clarity creates confusion for beneficiaries and unnecessary administrative burden for CMS, plans, and agents.

NABIP urges CMS to establish a permanent Special Enrollment Period (SEP) and exempt these populations from LEPs when they can demonstrate continuous, credible

federal or military coverage. This approach would reduce beneficiary harm, streamline administration, and ensure fair treatment of individuals who served in public service or the military.

B. Modernizing the TPMO Definition Through Meaningful Segmentation

NABIP appreciates CMS's request for input on whether the current Third-Party Marketing Organization (TPMO) definition appropriately reflects today's Medicare marketing and distribution landscape. The existing definition is overly broad and fails to distinguish between entities with fundamentally different roles, risk profiles, and levels of regulatory oversight.

Currently, the TPMO definition functions as an "all other" category, encompassing nearly any entity involved in the marketing or sale of Medicare Advantage and Part D plans other than CMS and contracted Medicare Advantage organizations. This lack of precision limits CMS's ability to identify bad actors, target enforcement effectively, and design safeguards that protect beneficiaries without burdening compliant participants.

Meaningful reform requires accurate identification and segmentation of market participants rather than expansion of a single undifferentiated definition. This framework better reflects the current Medicare marketing landscape; NABIP encourages CMS to engage with the association as it considers potential changes to existing policies.

a. Lead Generation Companies

Lead generation companies primarily generate consumer interest in Medicare products and produce Permissions to Contact (PTCs) on behalf of downstream entities. These companies are often not licensed to sell insurance, not certified by CMS, and not contracted directly with Medicare Advantage organizations. They do not maintain ongoing relationships with beneficiaries or provide year-round support comparable to that offered by licensed agents and brokers.

While some lead generators operate compliantly, this segment has become one of the most significant sources of consumer complaints. These organizations are largely responsible for the frequent and often problematic national television commercials aimed at Medicare Advantage and Prescription Drug Plan beneficiaries. NABIP members routinely report abusive practices including spoofed phone numbers, cold calling without valid consent, misleading branding implying Medicare affiliation, and multiple call transfers designed to obscure the originating entity. In many cases, these entities operate offshore or outside effective U.S. jurisdiction. There are currently no ramifications for non-compliance.

NABIP urges CMS to establish clear guardrails specific to lead generation entities and to coordinate closely with the Federal Trade Commission and Federal Communications Commission to address deceptive advertising, robocalls, and telemarketing abuse.

b. **Licensed Agents and Brokers**

Licensed agents and brokers are natural persons who interact directly with Medicare beneficiaries to provide education, plan comparisons, enrollment assistance, and ongoing post-enrollment service. They are state-licensed, individually certified,

contracted with Medicare organizations, and subject to CMS marketing and compliance oversight.

CMS may further distinguish between independent agents, who represent multiple carriers and provide comparisons across the market, and captive agents, who represent a single Medicare organization. Licensed agents already operate under extensive federal and state oversight and should not be regulated as TPMOs in the same manner as unlicensed marketing entities.

c. **Field Marketing Organizations and Administrative Sales Offices**
Field Marketing Organizations (FMOs), National Marketing Organizations (NMOs), Independent Marketing Organizations (IMOs), and similar entities primarily function as variable-cost administrative and compliance support organizations. They pool independent agents, provide training, compliance oversight, technology, and operational support, and assist Medicare Advantage organizations in meeting CMS requirements. These entities generally do not interact directly with beneficiaries and serve an important role in maintaining program efficiency.

d. **General Agencies, Managing General Agencies, and Related Structures**
General Agencies (GAs), Managing General Agencies (MGAs), and similar entities reflect contractual or financial relationships rather than distinct regulatory roles. GAs often operates as local agencies employing or contracting licensed agents and performing delegated administrative functions. MGAs typically represent larger regional organizations providing recruitment, compliance, and operational support at scale. Other designations such as Service General Agencies (SGAs) or Regional Marketing Organizations (RMOs) describe variations in business structure rather than beneficiary-facing activity.

These entities are already part of contractual chains subject to CMS oversight and should be regulated based on function rather than nomenclature.

e. **Call Centers and Digital Enrollment Models**
NABIP recognizes the importance of telephonic and digital enrollment channels in expanding beneficiary access. However, high-volume call center models present elevated risk for abuse, particularly when combined with aggressive lead generation. While these models should not be prohibited, they should be subject to uniform safeguards and equivalent scrutiny to ensure beneficiary protections are consistently applied.

C. Additional Recommendations to Address Bad Actors Without Burdening Compliant Participants

NABIP strongly supports CMS's goal of addressing bad actors while avoiding unnecessary burdens on compliant agents and organizations. In previous sections, we highlighted recommendations to streamline marketing rules in ways that do not eliminate consumer protection. Additionally, we highlighted recommendations to address problematic actions committed by lead generators, including establishing clear guardrails specific to lead generation

entities and coordinating closely with the Federal Trade Commission and Federal Communications Commission.

The current enforcement framework that oversees agent conduct relies heavily on carriers and other organizations, even as distribution models and relationships may complicate comprehensive oversight. This has enabled "turn-and-burn" practices in which unethical agents are rightfully removed without addressing systemic misconduct.

We recommend that CMS establish streamlined reporting mechanisms that allow beneficiaries and licensed agents to report suspected misconduct and support accountability at the organizational level when patterns of abuse emerge. To ensure proper guardrails surrounding reporting and any corrective actions, CMS should ensure any new mechanism is accompanied by a clear, widely communicated framework that provides timely notice and meaningful opportunities to respond. It should also work in recognition of the operational realities of beneficiary servicing during the Annual Enrollment Period.

NABIP strongly urges CMS to partner closely with NABIP and other stakeholders in developing reporting mechanisms that deliver meaningful accountability while preserving agents' ability to effectively serve beneficiaries.

III. Additional Information for the Record

A. Role of Licensed Agents in the Medicare Marketplace & Compensation

Licensed agents are the human infrastructure of Medicare. Agents provide year-round service at modest ongoing compensation and remain a critical component of Medicare's consumer protection framework.

a. Data from a nationwide survey of Medicare agents indicates that the majority of agents actively support regional plan participation: 88 percent reported selling regional Medicare Advantage plans, including 29 percent who sell only regional plans, while only 10 percent reported selling national plans exclusively. In addition, 94 percent of respondents indicated they work with Field Marketing Organizations (FMOs), which serve as regulated partners providing compliance oversight, training, and accountability.

b. To better promote the health and well-being of the American people, we urge the agency to examine opportunities to minimize disruption to beneficiaries during the upcoming Annual Enrollment Period (AEP). In advance of recent AEPs, there have been changes to product availability and distribution channels, including the removal of certain plans from electronic enrollment platforms or limiting of enrollment to telephonic or Medicare.gov channels. These changes can reduce visibility of available options and create confusion for beneficiaries navigating plan selection.

   In addition, adjustments to agent compensation, oftentimes occurring shortly before or during AEP, can affect the ability of agents to continue assisting beneficiaries with both initial and renewal enrollments. Collectively, these developments risk limiting beneficiary access to personalized guidance at a time when decision-making is most critical.

To promote stability and transparency, NABIP encourages CMS to consider requiring carriers to refrain from making changes after October 1 to (1) which plans are displayed on electronic enrollment platforms and (2) posted agent commission structures, aligning these policies with the timeframe in which plans are finalized and released ahead of AEP.

IV. Conclusion

NABIP appreciates CMS's efforts to modernize Medicare marketing rules, reduce unnecessary administrative burden, and improve oversight of high-risk actors. We urge CMS to pursue reforms that emphasize clear definitions, centralized oversight, and targeted enforcement while preserving beneficiary access to licensed, trusted guidance.

We truly appreciate the opportunity to comment on this draft regulation, as well as your willingness to consider the viewpoints of all stakeholders. If you have any questions or need additional information, please do not hesitate to contact Michael Andel, Vice President of Government Affairs, at mandel@nabip.org.

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