

Offices in
Portsmouth and
Virginia Beach, Virginia
Tel: 757-399-7506
Fax: 757-397-1267
Web: www.oasthook.com



MEMBER



Special needs require special lawyers.

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Editor
Sandra L. Smith,
Certified Elder Law Attorney

CMS PROPOSES NEW PROTECTIONS FOR MEDICARE BENEFICIARIES

The Centers for Medicare and Medicaid Services (CMS) has proposed enhanced protections for beneficiaries enrolled in Medicare Advantage (MA) plans and Medicare prescription drug plans. The proposed regulation will strengthen marketing standards and extend additional protections to all beneficiaries. It would incorporate a number of requirements previously imposed through operational guidance, as well as introduce several new MA and prescription drug plan requirements. MA and the prescription drug benefit were established by law in 2003. Under Medicare Advantage, the federal government contracts with private insurers that offer plans to beneficiaries, unlike traditional fee-for-service Medicare. The MA plans are popular because they often offer more benefits and sometimes lower premiums. The federal government will spend approximately \$86.4 billion this calendar year on MA plans, covering 9.4 million people.

The health insurance industry has been criticized for using overly aggressive marketing tactics. The proposed regulation incorporates the following marketing standards:

- Prohibit cold-calling and expand the current prohibition on door-to-door solicitation to cover other unsolicited circumstances. Any appointment with a beneficiary to market health care-related products would have to be limited to the scope that the beneficiary agreed to in advance. Cross-selling of non-health care-related products to a prospective MA or Part D enrollee would also be prohibited.
- Prohibit sales activities at educational events such as health information fairs and community meetings or in areas such as waiting rooms where patients primarily intend to receive health care-related services, as well as limit the value and type of promotional items offered to potential enrollees.

- Require that MA organizations that use independent agents to market MA and Part D plans use state-licensed agents for such marketing, and require that MA organizations report to states, in a manner consistent with state appointment laws, that they are using those agents.
- Require MA organizations to establish commission structures for sales agents and brokers that are level across all years and across all MA plan product types (for example, HMOs, PPOs, and private fee-for-service plans). Commission structures for prescription drug plans would have to be level across the sponsors' plans as well. These requirements are designed to discourage "churning" of beneficiaries from plan to plan each year in a manner that earns agents and brokers the highest commissions and would ensure that beneficiaries are receiving the information and counseling necessary to select the best plan based on their needs.

The Acting Administrator of CMS, Kerry Weems, said "These proposed changes will have a direct, positive impact on people with Medicare. The Medicare Advantage program is a valuable source of enhanced benefits and coordinated care for beneficiaries, and it should not be undermined by the actions of a limited number of unscrupulous sales agents." The proposed regulation is a continuation of CMS's efforts to enhance compliance and oversight of the Medicare Advantage program over the past ten months.

The proposed regulation is available on the CMS website at: www.cms.hhs.gov/HealthPlansGenInfo. Comments must be submitted by 5:00 p.m. Eastern time on July 15, 2008.

The attorneys at Oast & Hook can assist clients with their long-term care, insurance, financial and estate planning needs.

Announcement

Oast & Hook and the Episcopal Church Women (ECW) of Trinity Episcopal Church invite you to a seminar to be given by the elder law firm of Oast & Hook. This seminar will be held in the Parish Hall at Trinity Episcopal Church at 9:00 a.m., Tuesday, June 17th, and it is entitled "Estate, Long-term Care and Financial Planning." This two-hour seminar will address the many issues facing people in, or planning for, retirement, and it will cover estate, disability, insurance, and financial planning. The seminar speakers will be Oast & Hook attorneys Andrew Hook, William Oast III, and Sandra Smith. There is a \$15 registration fee, and all proceeds will be donated to the ECW's Mission and Outreach work. To register or obtain more information about this seminar, please phone Jennifer Lantz of Oast & Hook at 757-399-7506.

Ask Allie

O&H: Allie, now that summer is here, do you have any advice for families regarding care for their pets during this season?

Allie: Now that the hot weather is here, it is very important to make sure your pets have plenty of water, and if they are outside, cool places to relax and get out of the heat. You will want to check with your veterinarian to make sure that our flea protection is up-to-date; people are good about with this with their dogs, but many people do not realize that cats can also get heartworms, so don't forget us! If you are traveling this summer and will not be taking your pets with you, please be sure that you have people checking in on them. People think cats are relatively independent, (and we are!), but we really do miss you when you are gone, so it helps to have someone stop by and make sure we are ok, have plenty of food and water, and that the litter box is clean.



Please feel free to e-mail your questions to Allie at: allie@oasthook.com.

Distribution of This Newsletter

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