



STATE OF MAINE
DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION
BUREAU OF INSURANCE



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Bulletin 471

Use of Medicare Marketing Materials by Producers, Agencies, and Insurers

Public Law 2023, Chapter 243, [*An Act to Require a Disclaimer on Promotional Materials for Medicare, Medicaid and MaineCare Products by Private Entities*](#), amends the Trade Practices and Frauds chapter of the insurance code to add provisions that explicitly prohibit the use of any advertisement, solicitation, informational brochure, mailer or any other promotional material that uses the term “Medicare”, “Medicaid” or “MaineCare” and mimics official notices or otherwise implies that it is an official document from a state or federal agency.¹ Additional new provisions require any printed marketing materials for Medicare products to:

- Include a statement printed on the top and both the front and back of the material, in a type size no smaller than the largest type size used in the material, stating: “This is an advertisement and solicitation.” The type color may not be in grayscale or other faded tone and may not mimic or be similar to a font used in an official document from a state or federal agency;
- Include a statement, in a type size no smaller than the second-largest type size used in the material, stating “[Name of person sponsoring the promotional material] is a private company that is not Medicare, Medicaid or MaineCare and is not a governmental agency”; and
- Print any other disclaimer contained in the material in a type size no smaller than the second-largest type size on the material.²

These disclosure requirements do not apply to informational material developed or distributed by a state or federal regulatory agency or by a nonprofit organization, or to information related to an existing policy from a policyholder’s insurer, licensed producer, or agency of record.³ Also exempt are marketing materials that have been filed with and approved by the Bureau of Insurance or filed with the federal Centers for Medicare and Medicaid Services (CMS) and either approved

¹ 24-A M.R.S. § 2152-B(2)(D), enacted by P.L. 2023, ch. 243.

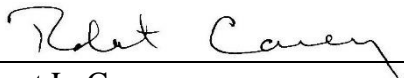
² 24-A M.R.S. § 2152-C(1), enacted by P.L. 2023, ch. 243.

³ 24-A M.R.S. § 2152-C(2), enacted by P.L. 2023, ch. 243.

by CMS or subject to CMS policies allowing for the filing and use of certain marketing materials without prior approval.⁴

This new law applies to all printed materials marketing Medicare products, including “lead cards,” which are post cards, mailers, or other written communications encouraging consumers to respond to the sender and supply their contact and other personal information. Producers and insurers should also review the requirements and cautions applicable to solicitations of all insurance products discussed in Bulletin 403, [Use of Lead Cards by Producers and Agencies](#).

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Robert L. Carey
Superintendent of Insurance

NOTE: This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Bureau of Insurance if additional information is needed.

⁴ 24-A M.R.S. § 2152-C(3), enacted by P.L. 2023, ch. 243.