

## Responding to a Sales Allegation or Inquiry

**Have you ever received a sales allegation, or have you heard about these compliance inquiries and find yourself worrying what you will do if you're faced with such a situation? Follow our guide below to further your understanding on this extremely important topic!**

### **What are Compliance and Regulatory Allegations?**

Inquiries are opened due to potential sales misrepresentation and may be referred by a number of different terms. Any of the following terms may be used to refer to a single misrepresentation occurrence including (but not limited to):

- Allegation
- Sales Complaint or just "Complaint"
- MMR or "Medicare Marketing Misrepresentation"
- Investigation
- Sales Incident
- Inquiry
- Grievance

**They can originate from anyone, and some examples include:**

- Beneficiaries and/or their families
- Other sales agents or associates
- Department of Insurance (DOI) and/or Department of Managed Health Care (DMHC)
- Centers for Medicare and Medicaid Services (CMS)



## What is the Process for Responding to an Allegation?

When an inquiry is first opened, a carrier's Compliance and/or Sales Oversight teams will perform an investigation. They will generally send a questionnaire, either to both the agent and the SMA/MHB Compliance Department, or directly to the SMA/MHB Compliance Manager who will get in contact with you. **YOU WILL BE REQUIRED TO PROVIDE A DETAILED RESPONSE WITHIN A SHORT PERIOD OF TIME- SOMETIMES AS LITTLE AS 24 HOURS!**

You will also likely need to include any pertinent notes/information, including (but not limited to):

- Beneficiary Application
- Scope of Appointment Form
- Call notes specific to or contributing to the complaint
- Drug lists or provider search info
- Recorded calls

It is extremely important for you to retain all documentation from sales appointments and to keep it available in an easily accessible (yet secure) location- whether electronic or hard copy. Also, be sure to keep a list of the materials you reviewed or left behind with the beneficiary.

## What Happens After I Respond to an Allegation?

Once your response is submitted (either directly to the carrier or via the SMA/MHB Compliance Department) and received, the investigation will continue until a conclusion is reached by the carrier's Compliance and Sales Oversight teams. Once evaluated, all allegations are subject to three (3) primary outcomes:

- **Founded/Substantiated:** The investigation concludes that the inquiry about an agent/broker is valid and finds fault or responsibility on the part of the agent/broker
- **Unfounded/Unsubstantiated:** The investigation yields no fault or responsibility on the part of the agent/broker
- **Inconclusive:** The investigation yields an inconclusive determination of an agent/broker's responsibility

**The carrier will inform the SMA/MHB Compliance Department of the outcome, and any required disciplinary actions/follow-up. SMA/MHB Compliance will then send an alert to the agent/broker regarding the outcome of the investigation.** Some potential disciplinary actions for “founded/substantiated” investigations can include:

- Re-education and training
- Verbal warning
- Written warning
- Agent termination
- A combination of the above depending on circumstances

*If any disciplinary actions are assigned, you will be informed of the time period in which you must have them completed and your manager will likely need to send an attestation confirming completion at that time.*

## **Common Allegation Reasons**

### **BENEFITS (especially when there is an unexpected cost to beneficiary)**

- Misquoted deductible
- Misstating services as being covered under preventive care
- Coinsurance amount misquoted for specific benefits
- Copayments misquoted for specific benefits

### **PROVIDERS**

- Failing to confirm with the SPECIFIC plan that their providers are in the network
- Not offering a detailed response to “Am I covered if I go out of network?”
- Failing to use the specific carrier’s provider search tool to ensure their network status
- Failing to inform the beneficiary that providers may enter or leave the network at any time

### **MEDICARE SUPPLEMENT versus MEDICARE ADVANTAGE**

- Not covering (in detail) the differences between the plan types for MedSupp vs MA
- Not capturing the SOA- this reinforces the beneficiary’s agreement to advance to discuss MA plans

**Just because you've received a sales allegation DOES NOT mean you've got a tarnished record or reputation for the rest of your career. A number of situations "initiate" an inquiry, especially at the carrier service level, so don't be alarmed. Just answer any questions truthfully and without hostility (this is extra-important)! Many complaints turn out to be unsubstantiated- turn them into learning experiences and JUST. KEEP. GOING.**

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