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## 42 C.F.R. § 423.2274

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### Agent, broker, and other third-party requirements.

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If a Part D sponsor uses agents and brokers to sell its Medicare Part D plans, the requirements in paragraphs (a) through (e) of this section are applicable. If a Part D sponsor makes payments to third parties, the requirements in paragraph (f) of this section are applicable.

(a) *Definitions.* For purposes of this section, the following definitions are applicable:

*Compensation.* (i) Includes monetary or non-monetary remuneration of any kind relating to the sale, renewal, or services related to a plan or product offered by a Part D sponsor including, but not limited to the following:

(A) Commissions.

(B) Bonuses.

(C) Gifts.

(D) Prizes or Awards.

(E) Beginning with contract year 2025, payment of fees to comply with state appointment laws, training, certification, and testing costs.

(F) Beginning with contract year 2025, reimbursement for mileage to, and from, appointments with beneficiaries.

(G) Beginning with contract year 2025, reimbursement for actual costs associated with beneficiary sales appointments such as venue rent, snacks, and materials.

(H) Beginning with contract year 2025, any other payments made to an agent or broker that are tied to enrollment, related to an enrollment in a Part D plan or product, or for services conducted as a part of the relationship associated with the enrollment into a Part D plan or product.

(ii) Does not include any of the following:

(A) Payment of fees to comply with State appointment laws, training, certification, and testing costs.

(B) Reimbursement for mileage to, and from, appointments with beneficiaries.

(C) Reimbursement for actual costs associated with beneficiary sales appointments such as venue rent, snacks, and materials.

*Fair market value (FMV)* means, for purposes of evaluating agent or broker compensation under the requirements of this section only, the amount that CMS determines could reasonably be expected to be paid for an enrollment or continued enrollment into a Part D plan. Beginning January 1, 2021, the national FMV is 81. In contract year

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2025, there will be a one-time increase of \$100 to the FMV to account for administrative payments included under the compensation rate. For subsequent years, FMV is calculated by adding the current year FMV and the produce of the current year FMV and Annual Percentage Increase for Part D, which is published for each year in the rate announcement issued under § 422.312.

*Initial enrollment year* means the first year that a beneficiary is enrolled in a plan versus subsequent years (c.f., *renewal year*) that a beneficiary remains enrolled in a plan.

*Like plan type* means one of the following:

- (i) PDP replaced with another PDP.
- (ii) MA or MA-PD replaced with another MA or MA-PD.
- (iii) Cost plan replaced with another cost plan.

*Plan year* and *enrollment year* mean the year beginning January 1 and ending December 31.

*Renewal year* means all years following the initial enrollment year in the same plan or in different plan that is a like plan type.

*Unlike plan type* means one of the following:

- (i) An MA or MA-PD plan to a PDP or Section 1876 Cost Plan.
- (ii) A PDP to a Section 1876 Cost Plan or an MA or MA-PD plan.
- (iii) A Section 1876 Cost Plan to an MA or MA-PD plan or PDP.

(b) *Agent/broker requirements.* Agents and brokers who represent Part D sponsors must follow the requirements in paragraphs (b)(1) through (3) of this section. Representation includes selling products (including Medicare Advantage plans, Medicare Advantage-Prescription Drug plans, Medicare Prescription Drug plans, and section 1876 Cost plans) as well as outreach to existing or potential beneficiaries and answering or potentially answering questions from existing or potential beneficiaries.

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