



Troy Medicare Policy and Procedure

Title: Sales Allegation Investigation		Policy Number: CMP017		
Primary Department: Compliance		LOB: Medicare Advantage		Author: S Scott
Effective Date: 8/5/2022	Approval Date: 8/2/2022	Original Date: 8/2/2022	Review Date(s): 8/2/2023; 3/8/2023; 12/21/2023, 10/15/2024	Archive Date:
Interactive Related Department(s)				
<input type="checkbox"/> All Departments <input checked="" type="checkbox"/> Compliance <input type="checkbox"/> Medical Management <input type="checkbox"/> Provider Operations <input checked="" type="checkbox"/> Sales and Marketing	<input type="checkbox"/> Appeals and Grievances <input type="checkbox"/> Care Management <input type="checkbox"/> Customer Service <input type="checkbox"/> Enrollment <input type="checkbox"/> Member Services	<input type="checkbox"/> Plan Administration <input type="checkbox"/> Quality Management <input type="checkbox"/> Claims <input type="checkbox"/> Utilization Management <input type="checkbox"/> Other _		

POLICY PURPOSE

The purpose of this Policy is to document the Troy Sales allegation investigation, determination, and outcome process. Furthermore, this policy is to ensure that Troy is in compliance with the requirements set forth by the Centers for Medicare and Medicaid Services (CMS).

Troy Medicare is committed to complying with federal and state rules and regulations.

SCOPE

This policy applies to the Sales and Marketing Department and Compliance.

REFERENCES

- 42 CFR §§422.2263, 422.2264, 422.2266, 422.2272, 422.2274(b) and (c)
- [42 CFR § 422 Subpart V](#)
- [42 CFR § 423 Subpart V](#)
- Medicare Communication and Marketing Guidelines

RESPONSIBLE PARTIES

- Chief Compliance Officer
- Senior Compliance Analyst
- Vice President, Delivery and Development

DEFINITIONS

- **CMS** – Centers for Medicare and Medicaid Services, the agency that regulates Medicare Advantage and Prescription Drug Programs.
- **Communication** – means activities and use of materials created or administered to provide information to current and prospective enrollees. This means that all activities and materials aimed at prospective and current enrollees, including their caregivers and other decision makers associated with a prospective or current enrollee, are “communications” within the scope of the regulations.
- **CTM** - refers to the CMS Complaints Tracking Module in the Health Plan Management System. This module is used by CMS to track complaints received by Medicare beneficiaries, and will assign complaints to the responsible Medicare Advantage organization or Prescription Drug Plan. A complaint assigned to a Medicare Advantage organization or Prescription Drug Plan may contain a sales allegation.
- **Sales Agent / Agency**– The term “Sales Agent” is used in this policy and procedure to define an individual who markets and/or sells products and includes internal Sales force, brokers, agents, Field Marketing Organization (FMOs), and all other individuals, entities, and downstream contractors who may be used to market and/or sell on behalf of Troy.
- **Marketing** – is a subset of communication materials and activities used by the Plan/Part D sponsor with the intent to draw a beneficiary's attention to a plan or plans and to influence a beneficiary's decision-making process when making a plan selection or decision to stay enrolled in a plan (that is, retention-based marketing). Additionally, marketing contains information about the plan's benefits, benefit structure, premiums, cost sharing, measuring or ranking standards, and rewards and incentives.
- **Sales Allegation** – Any inquiry or concern/complaint specifically identified as being related to Sales Agent practices as reported by enrollees, members, employees, regulatory agencies, or other individuals. A Sales allegation does not have to be specifically said but may be inferred from comments made about the Sales process. Sales Allegations can be received via multiple entry points within Troy, including but not limited to: Call Center, Sales, Compliance Hotline, CMS (e.g., via CTM), or directly by an individual within Troy.
- **Third-Party Marketing Organization (TPMO)** – An entity such as a Field Marketing Organization (FMO), General Agent (GA), or similar type of organization that has been selling or promoting products on behalf of Troy either directly, indirectly or a combination of both.

POLICY

Each Sales allegation is documented and reported to the Compliance Representative via the Troy Sales Allegation Investigation form (Attachment 1, Section A) for investigation. Each Sales Allegation is documented in Monday.com and maintained for a period of no less than ten years.

INVESTIGATION PROCESS

Upon receipt of the sales allegation, Compliance logs the allegation in the Sales Allegation Tracker and also completes the Sales Allegation Investigation Agent Statement Request Form (Attachment 1) and sends the form to the Agent Manager (Sales Department) within 5 business days of receipt.

The Sales Manager sends the Sales Agent Statement Request form via email to the Sales Agent in question within two (2) days of receipt. The email includes the following information:

- The Sales Agent must provide his/her statement to the Agent Manager via email within three (3) business days of receipt.
- Lack of timely response could result in disciplinary actions being taken against the Sales Agent.
- **Under no circumstances should any Sales Agent attempt to contact the beneficiary, member or any other individual involved in the investigation, other than the Sales Manager.**

Upon receipt of the completed Sales Agent Statement Request form, the Sales Manager reviews the form for completeness and returns the form to Compliance within two (2) business days.

During the course of the review, Compliance collects all relevant documentation, including but not limited to the following examples:

- The scope of appointment form, or recorded call
- The signed enrollment form
- The telephone enrollment call recording
- Recorded Sales calls

Compliance requests assistance from other departments as necessary during the review process (e.g., Quality Assurance, Operations and/or Legal). The Compliance Representative consults the Compliance Officer prior to requesting assistance from outside departments.

OUTCOME

Within twenty (20) business days of receipt of the allegation, the Compliance Representative meets with the Compliance Officer, and presents the case investigation and recommended classification and determination. The Compliance Officer reviews and confirms or revises the classification and determination within five (5) business days, unless additional investigation is necessary, ensuring that all allegations are closed within sixty (60) days of receipt. If the Sales Allegation is expedited as a result of CMS classification (e.g., CTM), or other high priority requests, the above timeline will be modified to ensure timely closure.

Upon case closure, Compliance enters the details of the investigation in the Sales Allegation Tracker and classifies the allegation as one of the following:

- No Sales Violation
- Major Sales Violation
- Minor Sales Violation

Note: A description of each category outlined below can be found in the offense ranking grid (Attachment 3).

Additionally, Compliance closes each allegation with one of the following determinations:

Founded Allegation

- Any allegation in which the investigation concludes that the concern about a Sales Agent is valid, and which finds fault or responsibility on the part of the Sales Agent.

Inconclusive Allegation

- Any Sales Allegation outcome in which the investigation yields an inconclusive determination of the Sales Agent's responsibility.

Unfounded

- Any Sales Allegation outcome in which the investigation yields no fault or responsibility on the part of the Sales Agent.

Withdrawn

- Any Sales Allegation that, upon investigation, is determined to be erroneous due to one of the following circumstances:
 - o The beneficiary has no inquiry regarding the Sales Agent
 - o The allegation was for the incorrect Sales Agent
 - In this case, the allegation against the original Sales Agent will be withdrawn and reissued against the correct Sales Agent.

DISCIPLINARY ACTIONS

Any required disciplinary or corrective actions will follow the Troy Medicare Sales and Marketing Progressive Disciplinary Policy.

If the result of the investigation requires corrective action (including training, verbal or written warning) Compliance completes the outcome form (see Attachment 2) and forwards the form via email to the Agent Manager.

The Agent Manager completes the corrective action required with the Sales Agent and returns it to Compliance within 10 business days. The documentation (i.e., outcome form and attestation) is electronically attached to the Sales Allegation Tracker. If suspension or termination is recommended by the Compliance Representative due to the results of the Allegation investigation, the Sales Oversight Committee will convene to review the case documentation with the Compliance Officer. If termination of the Sales Agent/Agency is the agreed upon finding the Sales Agent/Agency will be terminated in accordance with the Troy Medicare Sales and Marketing Progressive Disciplinary Policy.

The results of the Sales Allegations Investigations will be reported monthly to the Sales and Compliance executive teams.

ATTACHMENTS/RELATED POLICIES/STANDARD OPERATING PROCEDURES/FORMS

- SALES_003 Sales and Marketing Progressive Disciplinary Policy
- Attachment 1: Sales Allegation Investigation Form/Agent Statement Request
- Attachment 2: Outcome Form
- Attachment 3: Offense Ranking Grid

APPROVALS

Sally Scott

Chief Compliance Officer

10/30/2024

Date

Christina Za

Policy Committee

Date

Revision History

Revision Date	Revised By	Revisions Made
7/1/2022	S Scott	Initial policy
3/8/2023	R Bever, E Young	1) Revised Sales allegation closure timeline; 2) Revised agent statement turn-around time to Compliance; 3) Attachments
12/21/2023	E Young	Annual review, no revisions
10/15/2024	S Scott	Annual review. Updated responsible parties and definitions.