



Highlights of [GAO-10-36](#), a report to the Chairman, Subcommittee on Health, Committee on Ways and Means, House of Representatives

Why GAO Did This Study

Members of Congress and state agencies have raised questions about complaints that some Medicare Advantage (MA) organizations and their agents inappropriately marketed their health plans to Medicare beneficiaries. Inappropriate marketing may include activities such as providing inaccurate information about covered benefits and conducting prohibited marketing practices.

The Centers for Medicare & Medicaid Services (CMS) is responsible for oversight of MA organizations and their plans. GAO was asked to examine (1) the extent to which CMS has taken compliance and enforcement actions, (2) how CMS has helped beneficiaries affected by inappropriate marketing and the problems beneficiaries have encountered, and (3) information CMS has about the extent of inappropriate marketing. To do this work, GAO reviewed relevant laws and policies; analyzed Medicare data on beneficiary complaints, compliance actions and enforcement actions; and interviewed officials from CMS and selected state departments of insurance, state health insurance assistance programs, and MA organizations.

What GAO Recommends

GAO recommends that CMS gather more information on the extent of inappropriate marketing. CMS concurred with GAO's recommendation.

[View GAO-10-36 or key components.](#)
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MEDICARE ADVANTAGE

CMS Assists Beneficiaries Affected by Inappropriate Marketing but Has Limited Data on Scope of Issue

What GAO Found

CMS took compliance and enforcement actions for inappropriate marketing against at least 73 organizations that sponsored MA plans from January 2006 through February 2009. While the number of MA organizations varied during that time period, 192 MA organizations offered MA plans as of March 2009. Actions taken ranged from initial notices of noncompliance and warning letters to more punitive measures, such as civil money penalties and suspensions of marketing and enrollment. Nineteen of the 73 MA organizations had multiple types of actions taken against them.

CMS helped beneficiaries who experienced inappropriate marketing by providing special election periods (SEP) through which beneficiaries could disenroll from their MA plan and enroll in new coverage without waiting for the twice yearly regular enrollment periods. However, some beneficiaries experienced financial or access-to-care problems as a result of inappropriate marketing that could not be addressed by a SEP. Financial hardships occurred, for example, when beneficiaries disenrolled from their MA plans and the withholding of premiums from Social Security for their former MA plan was not stopped promptly. In other cases, beneficiaries did not realize they had been enrolled in an MA plan until they tried to access services. Some of these beneficiaries experienced disruption of their access to providers and medications because their providers did not participate in the MA plan.

CMS has limited information about the number of beneficiaries who experienced inappropriate marketing. Some beneficiaries who experienced inappropriate marketing may have exercised their option to disenroll from their MA plans during regular enrollment periods and might not have notified CMS of the marketing problems they encountered. For example, about 21 percent of beneficiaries disenrolled during the regular enrollment periods in 2007 from one type of MA plan that CMS officials acknowledged had a high incidence of inappropriate marketing. However, CMS discontinued a survey after 2005 that collected information on reasons for disenrollment and could have provided important information about the extent to which the disenrollments were the result of inappropriate marketing. CMS officials said that they plan to reinstitute a survey on disenrollment reasons in late summer 2010. CMS also has limited information about the number of beneficiaries who experienced inappropriate marketing because it did not directly track the number of SEP disenrollments. CMS did estimate the number of SEPs it provided for inappropriate marketing, but its estimates were based on data that were unreliable.