



# Sales Policy Job Aid

## Permission to Contact and Lead Generation

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## Permission to Contact Overview

The permission to contact (PTC) rules outlined in this document are only applicable to Medicare plans, consumers inquiring about, or eligible for enrollment in Medicare plans, and agents who market Medicare plans.

Permission to contact (PTC) is consent given by a consumer or plan member to have a plan representative contact the consumer or member regarding Medicare plans. PTC has limits based on:

- Who may be contacted, and who may respond to the contact request,
- What may be provided in response to the contact request,
- How contact may be made and
- When PTC begins and expires.

Consumers may provide permission to contact to a plan representative by:

- approaching in person a plan representative (sales/marketing/educational event or place of business)
- Completing and submitting a business reply card (paper or electronic)
- Telephoning, texting, or emailing the plan or a plan representative

Regardless of how PTC is received, agents must ensure that the PTC is valid and not expired prior to use. Once PTC received has expired, new PTC must be obtained to contact the consumer. Failure to ensure that PTC is valid and not expired may result in “unsolicited contact”. Unsolicited contact other than by postal mail or mass market advertisements is prohibited and is subject to corrective and, or disciplinary action.

All PTC is event specific. This means that permission to contact ends whichever of these two events happen first:

- You have contacted the consumer and fulfilled their request, or
- The time period during which you may contact the consumer has ended.

**When PTC ends** without renewal, you must cease contact and update your PTC documentation.

As a best practice, while PTC is still active, renew the PTC during your last contact with consumer by asking the consumer if they consent to further contact. Once PTC ends you must only contact the consumer through postal mail.

**You must not contact any member who initiates disenrollment from their Medicare plan to renew PTC.**

Regardless of whether PTC exists, all plan representatives must comply with restrictions against marketing the upcoming plan year prior to October 1 of the current year.

## Implicit Permission to Contact

Implicit or implied permission to contact (PTC) exists in the following situations:

- A consumer initiates a request for contact via phone call, text, or email. Plan representatives must only respond in same way the request was received (e.g., email to email, phone call to phone call) unless the consumer specifies otherwise.
- A consumer approaches a plan representative at an office, an informal event, or attends a formal event to obtain information about Medicare plans.

For both the above bullets, unless the plan representative receives explicit PTC for a follow up interaction with the consumer (see “Explicit Permission to Contact”), this PTC *ends once that specific interaction with the consumer has been completed.*

- **Agents**, in addition to the first two bullets in this section, may also have implicit PTC when an agent is the consumer’s current Medicare plan Agent of Record (AOR). The agent may contact the consumer to discuss existing plan details and benefits, and other Medicare plans that may benefit the consumer.

This permission to contact ends if:

- The agent is no longer the AOR, or
- If requested by the consumer, or
- If the member initiates disenrollment from the plan.

Agents also have implicit PTC when the consumer is actively in an agent’s book of business as an enrollee in other products the agent offers (e.g., life, home or auto). (Proof may be required by UnitedHealthcare.) Implicit PTC for Medicare plans ends for this situation if the consumer disenrolls from the product and is no longer active in the agent’s book of business.

For additional information on UnitedHealthcare’s AOR program, please refer to the appropriate agent guide located on Jarvis.

- **Solicitors**, in addition to the first two bullets in this section, may also have implicit PTC when: The UnitedHealthcare member is in the solicitor’s UnitedHealthcare book of business, and the solicitor is still under the same UnitedHealthcare hierarchy (upline) as when the solicitor enrolled the member. The solicitor may contact the member to discuss existing plan details and benefits, and other Medicare plans that may benefit the member.

If the solicitor changes their UnitedHealthcare hierarchy or is terminated by their upline National Marketing Alliance (NMA), any business written while under that hierarchy remains with that hierarchy.

Solicitors are not directly contracted with, only certified, and where applicable appointed by UnitedHealthcare. As such, they may be subject to additional book of business ownership rules by any agency with which the solicitor is employed or contracted.

### **Explicit Permission to Contact**

Consumers may grant explicit PTC by:

- Documenting their desire to receive information on a Business Reply Card (BRC) on paper or electronically (eBRC) on a webpage.
- Verbally agreeing during an implicit PTC encounter to continued contact with the agent. In which case, the agent is responsible for documenting the PTC granted by the consumer.

The time frame for explicit PTC begins on the date that the PTC has been received by the entity to which the consumer provided their permission to contact. For example, a consumer sends a BRC to UnitedHealthcare. The PTC is then delegated to you by UnitedHealthcare. You must calculate the start date using the date received by UnitedHealthcare.

Explicit permission to contact ends the earliest of the following when:

- Contact has been made with the consumer, (for example when an email has been sent by the agent to the consumer or a phone call (consumer requested) from the agent has been answered by the consumer), or
- PTC has been withdrawn or ended by the consumer or delegating entity, or
- 90 days has passed after the original date of receipt for consumers requesting information on Medicare Supplement insurance or who are on the federal Do-Not-Call Registry, or
- Nine months after the original date of receipt for MA plan and PDP.

## Unsolicited Contact

Unsolicited contact other than by postal mail (e.g., direct postal mailing campaign) is strictly prohibited.

Unsolicited contact happens when an agent initiates the initial contact with a consumer without that consumer's permission or invitation, or for a product the consumer has not requested, or by a method not expressly permitted by the consumer. This includes:

- Phoning, automated dialing, voice messaging, or text messaging, or using electronic means, including proximity/push marketing, and smart phone applications or social media interactive functionality (or equivalent service).
- *Emailing* consumers without explicit PTC to email is prohibited under UnitedHealthcare policy.
- Leaving *unrequested* materials on the consumer's property (home or auto). A consumer's personal room and mailbox at assisted living, nursing home, or other group residences are included in this category. Materials may be left for consumers who are not at home for a pre-arranged appointment.
- *Uninvited* approach to consumers in locations outside of a consumer's residence (door knocking) or publicly accessible areas. This includes outside a formal marketing/sales or educational event's location. Consumer residence includes and is not limited to rooms at assisted living facilities or nursing homes. Even though you have received PTC, you must never go to a consumer or member's home without first having an agreed upon appointment with the consumer or current member.
- *Calling consumers over* to speak to you at an informal event for the purpose of marketing a plan. Agents may exchange pleasantries or greetings with passersby at informal events but must not ask the consumer over to their location to engage in sales activities. This also includes indirect invitations such as, "Are you interested in saving money?" and "Are you or your family member on Medicare?"
- Using "*bait and switch*" tactics by engaging the consumer on a non-Medicare plan, then introducing a Medicare plan discussion.
- "*Following up*" with consumers who attended an event or to whom material was mailed without PTC.
- *Using a third party* such as a provider, provider staff, or building manager for any of the above actions.

Except for requesting an email address to grant access to an online event or online appointment, you must not at any time require consumers to provide contact information as condition for attending an event or providing information verbally or in person. The email provided for the online event or online appointment cannot be utilized to conduct any other business unless the consumer/member provides permission to email for another specific purpose.

## **Additional Permission to Contact Requirements**

### **Permission to contact (PTC) is non-transferrable**

PTC can only be provided by the individual (or their legal authorized legal representative) who requests to be contacted Medicare plans. You must not accept requests made on behalf of any other individual, including spouses or individuals sharing the same home. Except for “delegated” PTC (discussed on the next page), PTC received for Medicare plans must not be transferred to another agent or entity (such as financial planners).

If a consumer would like to refer a friend or relative to you, you may provide your contact information such as on a business card that the individual could provide to a friend or relative.

### **Product Scope**

Medicare plans for which permission to contact is granted are limited to either:

- Specific plan types (e.g., Medicare supplement, Medicare Advantage, etc.) selected by the consumer, or in absence of a selection,
- Medicare plans specified in the permission to contact statement (see “Permission to Contact Statement” section).

### **Contact Methods That May be Used by Plan Representatives**

Consumers dictate the methods by which they may be contacted. This includes in-person, telephonic (including voice message, auto-dialed calls/messaging, and text messaging), electronic (including social media interactive functionality, direct messaging, and smart phone applications), email, and conventional postal mail.

*Even if you have telephonic PTC, you must still comply with the federal and state calling hours.*

### **Delegated Permission to Contact**

Permission to contact may be delegated by either UnitedHealthcare or an upline owning the PTC to an agent who is not the member’s, or consumer’s agent of record (AOR). (See UnitedHealthcare’s AOR policy in the appropriate agent guide for your sales channel posted on Jarvis.) Contact information provided through this delegation must only be used to the extent necessary to conduct business for which the PTC was granted. Any other use of PHI/PII obtained through delegated PTC is prohibited.

Should the consumer become part of your book or business from this delegated PTC, refer to the previous section about implicit permission to contact. If, however, this consumer does not become part of your book of business, and/or your contract or employment be terminated, the delegated PTC reverts to the delegating entity.

## **Delegated Permission to Contact from UnitedHealthcare**

PTC delegated by UnitedHealthcare must only be used for conducting UnitedHealthcare business. If you are using UnitedHealthcare's bConnected platform, you must only use consumer information from leads assigned to you.

## **Maintaining Permission to Contact Records**

All permission to contact you receive, whether verbal, written or electronic, must be documented, retained for ten years, and made available to UnitedHealthcare upon request.

UnitedHealthcare does not provide a PTC tracking template for agent use. If you have access to bConnected, you must document and update PTC in bConnected. If you do not, you are responsible for documenting and retaining your PTC documentation for the required ten years.

Best practices for maintaining PTC records are keeping records that are retrievable by name or other identifier, and capture the following elements:

- Consumer name (or authorized legal representative name), any products specifically requested or preferred contact method expressed by the consumer.
- Date received by you or if purchased from a third party, the date the third party received the PTC
- End date if the consumer wishes to end the PTC before standard expiration time periods.

Examples of PTC documentation methods:

- Retaining paper lead cards or BRCs in files. (These should be stamped with a receipt date.)
- Documenting PTC in a consumer file
- Documenting PTC in a spreadsheet or database.

PTC may be stored electronically. All electronic storage systems must be secure, encrypted, and any suspected or known privacy incidents must be reported to UnitedHealthcare. Employees of UnitedHealthcare are only permitted to store PHI/PII on a company server rather than a laptop or other device. Review UnitedHealthcare's policy on security and privacy incident reporting requirements in the Agent Guides found on Jarvis before storing any PHI/PII.

## Lead Generation

A lead is a consumer or plan member who, by their actions, has demonstrated an interest in a UnitedHealthcare product. UnitedHealthcare documents and manages the leads it generates in the bConnected system. You are responsible for ensuring any lead you obtain, including leads provided by your up-line, meet all federal and state regulations and UnitedHealthcare business rules, prior to using the lead to market any UnitedHealthcare Medicare product. Leads may be generated through any of the following:

- Direct mail campaigns
- Mass Marketing Advertisements
- Posting fliers in public or common areas permitted by a location
- Sales/Marketing Events
- Educational Events

Prohibited actions include:

- Using referrals that are consumer telephone or email addresses
- Violating PTC rules.
- Using other resources like the internet or phone directories to “make good” for bad information received. For example, if you receive incorrect telephone or email information, you must not search for the correct information to use in its place.
- Converting PTC received for a non-Medicare plan to market a Medicare plan. For example, a financial planner who receives a request for financial planning information must not convert that to a Medicare plan lead.
- Attempting to create interest in your ability to sell Medicare plans by introducing your ability to sell Medicare plans to Medicare eligible prospects while:
  - Conducting business unrelated to Medicare plans (e.g., selling nutritional supplements or working at a hair salon), or
  - Acting as a volunteer at a community-based organization (CBO) or event.

## Lead Referral Programs

UnitedHealthcare does not sponsor a lead referral program.

## Agent Initiated Programs

If you choose to use a third-party lead generating service, you are responsible for ensuring the leads are obtained compliantly, within compensation limits, do not violate any applicable fraud and abuse laws, including the federal anti-kickback statute, and are compliant with any and all applicable state and federal regulations. If documented PTC for a consumer on a lead list is not provided, only postal mail can be used to market UnitedHealthcare Medicare products to the consumer.

UnitedHealthcare does not approve or endorse any third-party lead generation company or service. You are responsible for ensuring any PTC or any contact information provided or received complies with any applicable state laws that govern these activities. Consult with legal counsel in your state as needed.

## Compensation in Exchange for Leads

- **Members/consumers and providers:** Sending thank you cards or notes is a compliant relationship building activity, but you must not offer any item of value (e.g., gift card, flowers) either up front to solicit, or afterwards as a “thank you” in exchange for a referral from a provider, member or consumer. The card or note’s content must be compliant with guidance found in the “*Agent Created and UnitedHealthcare Toolkit Guidelines*” job aid.
- **Other parties:** You must comply with CMS regulations related to compensation limits, commission splitting, and/or payments to non-licensed/appointed agents. UnitedHealthcare recommends agents consult with their own local legal counsel to determine the compliance of any compensation arrangements they make with referrers.

## Lead Collection Stations

Lead boxes and/or collection stations must comply with all CMS regulations and UnitedHealthcare rules, policies, and procedures related to obtaining PTC, contacting consumers, marketing materials used, and marketing/sales activities. You must:

- Obtain permission from the venue before placement.
- Secure the lead box to prevent consumer contact information from unauthorized access. The collection box must be locked and either integrated into or attached to a fixture to prevent unauthorized removal.
- Only use lead cards and marketing materials that meet CMS requirements.
- Keep consumer information private.
- Only use consumer information for the purpose that has been described to the consumer.
- Empty the lead box or collection station weekly at minimum.
- For UnitedHealthcare branded lead boxes, only use UnitedHealthcare approved materials.

Immediately report to UnitedHealthcare any suspected or known breach or theft of the lead box, collection station, and/or individual lead cards.

## Business Reply Cards (BRCs/eBRCs)

A BRC and eBRC are two methods by which PTC may be obtained and documented.

Pre-approved UnitedHealthcare branded and generic BRCs and lead generation materials that document PTC are available on the UnitedHealthcare Toolkit (accessible via **Jarvis** > Sales & Marketing Tools > Sales Materials > UnitedHealthcare Toolkit).

You may also develop your own generic eBRC on your business website or Facebook account.

Image is for display purposes only. Actual item or image may vary.

As a best practice, bear in mind that a consumer expressing interest in a Medicare Supplement may also have a need for a Part D plan. Account for this when developing BRCs or eBRCs.

*(See the "Agent Created and UnitedHealthcare Toolkit Materials Guidelines" job aid for additional information on required content for Business Reply Cards, including approved agent titles, and specific eBRC instructions.)*

### **The following are not BRCs and are not appropriate for obtaining PTC:**

- Sign in sheets must not be used for obtaining PTC. Sign in sheets do not simultaneously make the PTC statement visible and protect PHI/PII.
- Scope of Appointment (SOA) forms are **not** the same as and are not interchangeable with BRCs/eBRCs. SOAs cannot be combined with BRCs. A SOA is a CMS required document that must be completed prior to conducting any in-person, telephonic or virtual appointment with a consumer. See the Scope of Appointment job aid for further details on SOAs and their use.

### **Permission to Contact Statement**

A permission to contact statement is verbiage on a Business Reply Card (paper or electronic) that makes a consumer aware that, by completing the BRC/eBRC, the consumer is consenting to receive contact from a Medicare plan representative to discuss Medicare plans by the method(s) indicated.

*(See the “Agent Created and UnitedHealthcare Toolkit Materials Guidelines” job aid for appropriate agent titles and permission to contact statement content requirements.)*

### **Providers and Lead Generation**

Please review this section together with other information about working with providers posted on Jarvis. Providers are often in the position to share information with their patients about the plans in which they participate. However, they are not permitted to lead generate on behalf of plans or their agents. This prohibition includes:

- Accepting or gathering scope of appointment forms; enrollment applications, or lead cards (BRCs) to convey to the plan or its representatives.
- Managing lead card stations (e.g., emptying, monitoring, conveying contents to plan representatives).
- Making phone calls or directing, urging, or attempting to persuade their patients to enroll in a specific plan based on financial or any other interests of the provider.
- Mailing CMS-defined marketing materials on behalf of Plans/Part D sponsors.

## Resources

### Agent Guide

The Agent Guide provides guidance on CMS regulations and UnitedHealthcare rules, policies, and procedures. It is available on **Jarvis**.

### Sales Policy Job Aids (available on Jarvis)

Agent Created and UnitedHealthcare Toolkit Materials Guidelines Job Aid

Agent Events Job Aid

Agent Website and Social Media Guidelines Job Aid

Permission to Contact and Lead Generation Job Aid

Prescription Drug Coverage Reference Job Aid

Scope of Appointment Job Aid

### Compliance Questions

Submit compliance-related questions to [compliance\\_questions@uhc.com](mailto:compliance_questions@uhc.com).

### Jarvis

Access **Jarvis** through [www.uhcjarvis.com](http://www.uhcjarvis.com).

For assistance accessing or using Jarvis, contact the Producer Help Desk (PHD) at [phd@uhc.com](mailto:phd@uhc.com) or 1-888-381-8581.