

MARKETING MODIFIED PRIVACY RULE (2002)

TEST: DOES COMMUNICATION* RECOMMEND A PRODUCT OR SERVICE RELATED TO HEALTH?

***NOT* MARKETING**

***NOT* PAID FOR
RECOMMENDING
PRODUCT OR
SERVICE**

Requirements

No authorization required

Example

Pharmacy on its own initiative recommends different medicine to avoid adverse drug reaction.

**PAID FOR RECOMMENDING
HEALTH RELATED PRODUCT OR
SERVICE**

Requirements

- **No authorization**
- **No opt out**
- **No notification** that covered entity is paid to encourage purchase or use product or service
- **No identification** of source of material

Example

Drug company pays pharmacy to identify and send to patients taking drug co.'s brand of medicine prescription refill reminders

Example

Drug company pays pharmacy to identify patients taking certain drugs and to send letters encouraging them to switch to drug company's brand.

MARKETING

**PAID FOR RECOMMENDING
PRODUCT OR SERVICE *NOT*
RELATED TO HEALTH.**

Requirements

Prior authorization required

Example

Pharmacy is paid by third party to identify patients taking depression medication and to send them advertisements for vacation destinations.

* All communications are made to a patient by a covered entity and encourage the patient to purchase or use a product or service.