

101 MARKETING

REVISION DATE: 3/13/2024, 4/29/2020

REVIEW DATE: 6/19/2023

EFFECTIVE DATE: October 1, 2019

REFERENCES: Section F3, Contractor Chart of Deliverables; ACOM Policy 101 Attachment A Marketing Attestation Statement; ACOM Policy 101 Attachment B, Marketing Activities Report; A.A.C. R9-22-501 et seq, A.A.C. R9-28-501 et seq, A.A.C. R9-31-501 et seq, 9 A.A.C. 34; 42 CFR 438.10(a), 42 CFR 438.104, 45 CFR 155.20

PURPOSE

This policy establishes guidelines and restrictions for Administrative Services Subcontractors (AdSS) and their Subcontractors to remain in compliance when developing or using Marketing Materials or participating in Marketing activities related to AHCCCS and the Division.

DEFINITIONS

1. "Arizona Health Care Cost Containment System" or "AHCCCS" means Arizona's Medicaid Program, approved by the Centers for Medicare and Medicaid Services (CMS) as a Section 1115 Waiver

Demonstration Program and described in A.R.S. Title 36, Chapter 29.

2. "Administrative Services Subcontractor" or "AdSS" means an agreement that delegates any of the requirements of the Contract with AHCCCS to a person, individual or entity, who holds an Administrative Services Subcontract is an Administrative Services Subcontractor,
3. "Dual Eligible" means a Member who is eligible for both Medicare and Medicaid. There are two types of Dual Eligible Members: a Qualified Medicare Beneficiary (QMB) Dual Eligible Member (a QMB Plus or a QMB Only), and a Non-QMB Dual Eligible Member (a Special Low-Income Beneficiary [SLMB] Plus or an Other Full Benefit Dual Eligible).
4. "Dual Eligible Special Needs Plan" or "D-SNP" means a type of health benefits plan offered by a Centers for Medicare and Medicaid Services (CMS) - contracted Medicare Advantage Organization (MAO) that limits its enrollment to those beneficiaries who are entitled to both Medicare (Title XVIII)

program covered health benefits and full Medicaid (Title XIX)
program covered health benefits.

5. "Dual Marketing" means Marketing efforts specifically targeting a Division Member who is eligible for Medicare and Medicaid.
6. "Financial Sponsor" means any monies or in-kind contributions provided to an organization other than attendance fees or table fees, to help offset the cost of an event.
7. "Geographic Service Area" or "GSA" means an area designated by AHCCCS within which a Contractor of record provides, directly or through subcontract, covered health care services to a Member enrolled with that Contractor of record.
8. "Marketing" means any communication from Contractors to a Member not enrolled with the Contractor that can reasonably be interpreted as intended to influence the Member to enroll with the Contractor, or to not enroll or disenroll with another Contractor's Medicaid product as specified in 42 CFR 438.104. Marketing does not include communication to any Member about a Qualified Health Plan, as specified in 45 CFR 155.20.

9. “Marketing-Health Message” means a slogan or statement on Marketing Materials to promote healthy lifestyles, situations that affect or influence health status, behaviors that affect or influence health status, or methods or modes of medical treatment.
10. “Marketing-Health Related” means an event that has a direct or indirect health care purpose, or it supports or contributes to any AHCCCS initiative or program goal. Giveaway items shall have a Health Message or a health care purpose to be considered health-related.
11. “Marketing Materials” means materials produced in any medium, by or on behalf of the Contractor that can reasonably be interpreted as intended for Marketing purposes. This includes general audience materials such as general circulation brochures, Contractor’s website and other materials that are designed, intended, or used to increase Contractor Membership or establishing a brand.

12. "Member" means the same as "Client" as defined in A.R.S. § 36-551.
13. "Potential Member" means a Medicaid-eligible recipient who is not yet enrolled with a Contractor or a Member during Annual Enrollment Choice (AEC).
14. "Promotion" or "Promotional" means any activity in which Marketing Materials are given away or displayed with the intent to increase the Contractor's membership.
15. "Rural County" means a county that has been designated as non-urban by the United States Census.
16. "Social Networking Application" means web-based services or platforms, excluding the Contractor's State mandated website content, Member portal, and provider portal, for online collaboration that provide a variety of ways for users to interact, such as email, comment posting, image sharing, invitation, and instant messaging services – collectively also referred to as social media.
17. "Subcontractor" means

- a. A provider of health care who has contracted with an AdSS to furnish covered services to Members;
- b. An individual, agency, or organization with which the Contractor, or its Subcontractor, has contracted or delegated some of its management or administrative functions or responsibilities; or
- c. An individual, agency, or organization with which a fiscal agent has entered into a Contract, agreement, purchase order or lease, or leases of real property, to obtain space, supplies equipment or services provided under the AHCCCS agreement.

POLICY

A. MARKETING MATERIALS, GIVEAWAYS, EVENTS, SPONSORSHIPS, PRESS RELEASES AND ADSS AND DIVISION LOGO NAME USE

1. Materials and Giveaways
 - a. The AdSS shall only use Member Marketing Materials during Marketing activities that have been previously

approved as Member information under AdSS Operations Policy Manual, Policy 404 if they comply with the requirements of this policy.

- b. The AdSS shall submit a description and image of Marketing Materials and Marketing items or giveaways for approval to the Division as required under this policy and as specified in the Division Contract.
- c. The AdSS shall only distribute Marketing Materials and giveaways for up to two years from the date of approval.
- d. The AdSS shall submit any changes or amendments to previously approved materials to the Division for approval prior to use.
- e. The AdSS shall submit templates for flyers or posters that advertise regular meetings or events where only the dates and times of the events change.
- f. The AdSS may distribute previously approved templates for a period of up to two years from the date of approval.

- g. The AdSS shall only distribute health educational materials without prior Division approval if the materials:
 - i. Include health-related and developed based on information from an approved recognized organization found in ACOM Policy 404, Attachment A.
 - ii. Do not include AdSS specific information related to the Division Integrated Contract.
- h. The AdSS shall ensure that:
 - i. The value of any Marketing item or giveaway given to the general public by the AdSS does not exceed \$15.00;
 - ii. Giveaway items are health related, or if not health-related, include a Health Message on the item;
 - iii. All Marketing Materials identify the AdSS as a Division provider and are consistent with the

- requirements for information to Members described in the AHCCCS Contract and in Division policies;
- iv. All Marketing Materials that have been produced by the AdSS and refer to contract services specify:
“Contract services are funded in part under contract with the State of Arizona Department of Economic Security/Division of Developmental Disabilities;”
 - v. Marketing Materials distributed by the AdSS are distributed to its entire contracted GSA population;
 - i. The AdSS shall not:
 - i. Market directly to Members eligible for the Division;
or
 - ii. Encourage or induce a Member to select a particular AdSS when completing the application; or
 - iii. Complete any portion of the application on behalf of the Potential Member, this prohibition covers all situations, whether sponsored by the AdSS, their parent company, or any other entity.

2. Events

- a. The AdSS shall only participate in Health-Related Marketing events that are listed as pre-approved events in Section (A)(2)(e) of this policy, if the event is either:
 - i. Health related; or incorporates a
 - ii. Health education component.
- b. The AdSS shall submit a request for prior approval to AHCCCS if the event is not listed as a pre-approved event as specified in the AdSS contract containing the event name, date, location and address.
- c. The AdSS participation in events shall include AdSS staff in attendance and available to respond to participants.
- d. The AdSS shall only attend events after receiving approval from the Division when the following criteria apply:
 - i. The AdSS pays sponsorship fees;
 - ii. The AdSS donates benefits or items;
 - iii. The AdSS distributes materials not previously approved by the Division within the last two years;

- iv. The AdSS is not certain if an event would qualify as pre-approved.
- e. The AdSS may attend the following pre-approved, health related events:
 - i. Back to School Events;
 - ii. College or University Events;
 - iii. DES Health or Resource Events-if open to all AHCCCS plans;
 - iv. Women, Infants and Children (WIC) Health or Resource Events-if open to all AHCCCS plans;
 - v. Events where health education is a component;
 - vi. Jobs Fairs as specific in Contract and ACOM Policy 407;
 - vii. Community Center or Recreational Events;
 - viii. Community or Family Resource Events;
 - ix. Provider Events that the AdSS is contracted with;
 - x. Faith Based Events;
 - xi. Farmers Market Events;

- xii. Health Educations Forum, community sponsored;
 - xiii. Safety Events;
 - xiv. Immunization Clinics;
 - xv. Senior Events;
 - xvi. Shopping Mall Events; and
 - xvii. Division's Event that is created and sponsored by the Division for its own Members only.
- f. The AdSS shall not participate in Marketing activities at the following events:
- i. Events that are not health related or do not have a health education component;
 - ii. DES offices, except those listed on the approval list;
 - iii. WIC Offices, except those listed on the approval list;
 - iv. Job Fairs, except those listed on the approval list;
 - v. County or State Fairs;
 - vi. Bi-national Health Events;
 - vii. Political Events;
 - viii. Pharmacy Events not open to all AdSSs;

- ix. Swap Meets;
 - x. AdSS's Event that is created and sponsored by the AdSS or through its affiliates for Division Members not enrolled with the AdSS, or for the general public;
or
 - xi. Any event determined by the Division to not be in the best interest of the State of Arizona.
3. Sponsorships
- a. The AdSS shall only participate as a Financial Sponsor of Health-Related Marketing events that have been pre-approved and listed in Section A.2.e. of this policy.
 - b. The AdSS shall submit a request to the Division prior to participation as a Financial Sponsor of Health-Related Marketing events that contains information as described in Section A.2 of this policy, in addition to the following criteria:
 - i. The dollar amount of the participation broken down and listed individually by each line of business; and

- ii. Either a copy or description of any materials, including websites, on which the AdSS's name or logo will appear at the sponsored event, prior to production.

4. Press Releases

The AdSS shall only issue press releases or announcements about program innovations and events that promote the goals of the Division.

- i. Press releases that do not include AdSS-specific information related to the Division Integrated Contract do not require prior Division approval.
- ii. All other press releases shall be submitted to the Division for prior approval.

5. AdSS Logos and Name Inclusion

- a. The AdSS shall prevent misuse of their name and logo.
- b. The AdSS may include the AdSS's logo without requesting prior approval on event flyers or websites that are

produced by hosting organizations, if the Division has approved the event.

- c. The AdSS shall not allow use of the AdSS's name or logo for television advertising of the event.
 - iii. If the AdSS is a Financial Sponsor for the event, the event flyers or websites will require prior approval by the Division.

B. RESTRICTIONS

The AdSS shall prohibit the following Marketing activities:

- a. Solicitation of any individual, whether directly or indirectly;
- b. References to a competing AdSS;
- c. Promotional materials, incentives, or any other activity to influence enrollment in conjunction with the sale or offering of any private insurance;
 - i. For the purposes of this policy, Qualified Health Plans are not considered private insurance, and
 - ii. The AdSS may discuss its affiliated Qualified Health Plan in Promotional materials, however, the AdSS is

a separate legal entity from all other affiliated health plans and is therefore subject to restrictions on the use of Protected Health Information (PHI).

- d. Television advertising;
- e. Direct mail advertising;
- f. Social Networking Applications as described in AdSS Policy Manual, Policy 425;
- g. Marketing of non-mandated services;
- h. Utilization of the word “free” in reference to covered services;
- i. Listing of providers in Marketing Materials who do not have signed contracts with the AdSS;
- j. Use of the Arizona Department of Economic Security, Division of Developmental Disabilities logo or AHCCCS logo;
- k. Inaccurate, misleading, confusing or negative information about the Division or the AdSS; and any information that may defraud Members or the public;

- I. Discriminatory Marketing practices as specified in A.A.C. R9-22-501 et seq, A.A.C. R9-28-501 et seq, A.A.C. R9-31-501 et seq;
- m. AdSSs providing services in a GSA where its enrollment is capped to prohibit Members from selecting the AdSS may not engage in Marketing activities in that GSA, but may engage in outreach and retention activities with its current Members;
- n. Marketing Materials containing any assertion or statement, whether written or oral, that the Member is required to ~~must~~ enroll with the AdSS to obtain benefits or to not lose benefits;
- o. Marketing Materials containing any assertion or statement, whether written or oral, that the AdSS is endorsed by CMS, the Federal or state government, or a similar entity; and
- p. Other restrictions as determined by the Division.

C. DUAL ELIGIBLE MARKETING

1. The AdSS shall submit to the Division all Dual Marketing Materials that:
 - a. Have not been approved by CMS; or
 - b. Includes reference to Division benefits; or
 - c. Includes Division service information.
2. The AdSS shall adhere to the following restrictions regarding use of billboards that use the terms 'Medicaid' or 'AHCCCS':
 - a. Limited to two in each urban county; Maricopa and Pima; and
 - b. Limited to one in each Rural County.

D. AdSS RESPONSIBILITIES

1. The AdSS shall submit to the Division ACOM 101 Attachment B, Marketing Activities Report, containing Marketing costs, including:
 - a. The previous six months of Marketing activities in which the AdSS was a participant as-separate line items in the quarterly financial statements; and

- b. Any Marketing costs included in an allocation from a parent or other related corporation.
2. The AdSS shall review and revise all Marketing Materials on a regular basis in order to reflect current practices.
3. The AdSS shall submit any changes or amendments to previously approved Marketing Materials in advance to the Division for approval as indicated in this policy.
4. The AdSS CEO or their designee shall sign and submit to the Division, ACOM 101, Attachment A, Marketing Attestation Statement, as adopted by the Division and as specified in Section F3, Contractor Chart of Deliverables, addressing the compliance of its plan with the requirements of this policy.

E. SUBMISSION REQUIREMENTS

1. The AdSS shall submit all Marketing Materials including, giveaways, event requests, sponsorships, advertisements including the publications in which they will be placed, press releases, and Dual Eligible Marketing Materials as individual requests to the Division for approval at least 21 days prior to

dissemination as specified in the AdSS Contract with the Division.

2. The AdSS shall not submit Bulk submissions, containing more than one event, sponsorship, or press release, with the exception of giveaway items.
3. The AdSS shall submit giveaway items for approval separately from any event or sponsorship submission and may consist of more than one giveaway.
4. The AdSS shall submit advertisements, the publications in which the ad will be placed, to the Division for approval.
5. The AdSS shall ensure Marketing Material submissions are complete and include all corresponding documents.
6. The AdSS shall ensure the following criteria are completed when requesting an expedited review of Marketing Materials, when a 21-day notice is not possible:
 - a. Follow the submission requirements as noted in this section;

- b. Submit notification of the expedited request to the Division's Compliance Unit, ensuring expedited notification is clearly marked; and
 - c. Indicate the reason for the shortened time frame.
- 7. The AdSS shall resubmit any Marketing Materials to the Division for review and approval if any substantive changes or modifications of previously approved materials have been made, with the inclusion of:
 - a. Date the material was previously approved;
 - b. Reason for update; and
 - c. All clearly identified content revisions.
- 8. The AdSS shall request a reconsideration of any Division decision by submitting a written request for reconsideration to the Division Compliance Unit and following the submission requirements for Marketing Materials as specified in the AdSS Contract with the Division.
- 9. The AdSS shall provide information to the Division in support of the AdSS' request for reconsideration.