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2 **101 MARKETING**

3 REVISION DATE: ~~XX/XX/XXXX~~, 3/13/2024, 4/29/2020

4 REVIEW DATE: 7/31/2024, 6/19/2023

5 EFFECTIVE DATE: October 1, 2019

6 REFERENCES: Section F3, Contractor Chart of Deliverables; ACOM Policy 101

7 Attachment A Marketing Attestation Statement; ACOM Policy 101

8 Attachment B, Marketing Activities Report; A.A.C. R9-22-501 et seq, A.A.C.

9 R9-28-501 et seq, A.A.C. R9-31-501 et seq, 9 A.A.C. 34; 42 CFR 438.10(a),

10 42 CFR 438.104, 45 CFR 155.20

11 **PURPOSE**

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

16 **DEFINITIONS**

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

- 20  
21 Demonstration Program and described in A.R.S. Title 36, Chapter  
22 29.
- 23 2. "Administrative Services Subcontract" or "AdSS" means an  
24 agreement that delegates any of the requirements of the  
25 Contract with AHCCCS, ~~to a person, individual or entity, who~~  
26 ~~holds an Administrative Services Subcontract as is an~~  
27 ~~Administrative Services Subcontractor.~~
- 28 3. "Dual Eligible" means a Member who is eligible for both Medicare  
29 and Medicaid. There are two types of Dual Eligible Members: a  
30 Qualified Medicare Beneficiary (QMB) Dual Eligible Member (a  
31 QMB Plus or a QMB Only), and a Non-QMB Dual Eligible Member  
32 (a Special Low-Income Beneficiary [SLMB] Plus or an Other Full  
33 Benefit Dual Eligible).
- 34 4. "Dual Eligible Special Needs Plan" or "D-SNP" means a type of  
35 health benefits plan offered by a Centers for Medicare and  
36 Medicaid Services (CMS) - contracted Medicare Advantage  
37 Organization (MAO) that limits its enrollment to those  
38 beneficiaries who are entitled to both Medicare (Title XVIII)

- 39  
40 program covered health benefits and full Medicaid (Title XIX)  
41 program covered health benefits.
- 42 5. "Dual Marketing" means Marketing efforts specifically targeting a  
43 Division Member who is eligible for Medicare and Medicaid.
- 44 6. "Financial Sponsor" means any monies or in-kind contributions  
45 provided to an organization other than attendance fees or table  
46 fees, to help offset the cost of an event.
- 47 7. "Geographic Service Area" or "GSA" means an area designated  
48 by AHCCCS within which a Contractor of record provides, directly  
49 or through subcontract, covered health care services to a  
50 Member enrolled with that Contractor of record.
- 51 8. "Marketing" means any communication from Contractors to a  
52 Member not enrolled with the Contractor that can reasonably be  
53 interpreted as intended to influence the Member to enroll with  
54 the Contractor, or to not enroll or disenroll with another  
55 Contractor's Medicaid product as specified in 42 CFR 438.104.  
56 Marketing does not include communication to any Member about  
57 a qualified health plan, as specified in 45 CFR 155.20.

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

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77 12. "Member" means the same as "Client"- a person receiving  
78 developmental disabilities services from the Division as specified  
79 in A.R.S. § 36-551.
- 80 13. "Potential Member" means a Medicaid-eligible recipient who is  
81 not yet enrolled with a Contractor or a Member during Annual  
82 Enrollment Choice (AEC).
- 83 14. "Promotion" or "Promotional" means any activity in which  
84 Marketing Materials are given away or displayed with the intent  
85 to increase the Contractor's membership.
- 86 15. "Rural County" means a county that has been designated as  
87 non-urban by the United States Census.
- 88 16. "Social Networking Application" means web-based services or  
89 platforms, excluding the Contractor's State mandated website  
90 content, Member portal, and provider portal, for online  
91 collaboration that provide a variety of ways for users to interact,  
92 such as email, comment posting, image sharing, invitation, and  
93 instant messaging services – collectively also referred to as  
94 social media.

- 95  
96 17. "Subcontractor" means:
- 97 a. A provider of health care who has contracted with an AdSS  
98 to furnish covered services to Members;
- 99 b. An individual, agency, or organization with which the  
100 Contractor, or its Subcontractor, has contracted or  
101 delegated some of its management or administrative  
102 functions or responsibilities; or
- 103 c. An individual, agency, or organization with which a fiscal  
104 agent has entered into a Contract, agreement, purchase  
105 order or lease, or leases of real property, to obtain space,  
106 supplies equipment or services provided under the  
107 AHCCCS agreement.

108 **POLICY**

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

- 112 1. Materials and Giveaways

- 113  
114 a. The AdSS shall only use Member Marketing Materials  
115 during Marketing activities that have been previously  
116 approved as Member information under AdSS Operations  
117 Policy Manual, Policy 404 if the Marketing Materials  
118 ~~they~~ comply with the requirements of this policy.
- 119 b. The AdSS shall submit a description and image of  
120 Marketing Materials and Marketing items or giveaways for  
121 approval to the Division as required under this policy and  
122 as specified in the Division Contract.
- 123 c. The AdSS shall ~~not only~~ distribute Marketing Materials and  
124 giveaways prior to receiving approval for use from the  
125 Division. ~~for up to two years from the date of approval.~~
- 126 d. The AdSS shall submit any changes or amendments to  
127 previously approved Marketing Materials ~~materials~~ to the  
128 Division for approval prior to use.
- 129 e. The AdSS shall submit templates for flyers or posters that  
130 advertise regular meetings or events where only the dates

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and times of the events change, to the Division for approval prior to use.

- f. The AdSS ~~shall not may~~ distribute templates before receiving approval for use of the templates from the Division. ~~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 are:
  - i. ~~Include Health-related;~~ and
  - ii. Developed based on information from an approved, recognized organization as listed found in ACOM Policy 404, Attachment A.
  - iii. ~~Do not include AdSS specific information related to the Division Integrated Contract.~~
- h. The AdSS shall submit to the Division for approval, materials considered Marketing Materials that include Division-specific information.
- i. The AdSS shall ensure that:



- 133  
134 i. The value of any Marketing item or giveaway given  
135 to the general public by the AdSS does not exceed  
136 \$15.00;
- 137 ii. Giveaway items are health-related, or if not  
138 health-related, include a Health Message on the  
139 item;
- 140 iii. All Marketing Materials identify the AdSS as a  
141 Division provider and are consistent with the  
142 requirements for information to Members described  
143 in the AHCCCS Contract and in Division policies;
- 144 iv. All Marketing Materials that have been produced by  
145 the AdSS and refer to contract services specify:  
146 "Contract services are funded in part under contract  
147 with the State of Arizona Department of Economic  
148 Security/Division of Developmental Disabilities;"
- 149 v. Marketing Materials distributed by the AdSS are  
150 distributed to the AdSS's entire contracted GSA  
151 population;

- 152  
153           j.     The AdSS shall not:
- 154                   i.     Market directly to Members eligible for the Division;
- 155                             or
- 156                   ii.    Encourage or induce a Member to select a particular
- 157                             AdSS when completing the application; or
- 158                   iii.   Complete any portion of the application on behalf of
- 159                             the Potential Member, this prohibition covers all
- 160                             situations, whether sponsored by the AdSS, their
- 161                             parent company, or any other entity.
- 162           2.     Events
- 163                   a.     The AdSS shall only participate in Health-Related
- 164                             Marketing events that are listed as pre-approved events in
- 165                             Section (A)(2)(e) of this policy, if the event is either:
- 166                             i.     Health related; or incorporates a
- 167                             ii.    Health education component.
- 168                   b.     The AdSS shall submit a request for prior approval to
- 169                             AHCCCS if the event is not listed as a pre-approved event

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171 as specified in the AdSS contract containing the event  
172 name, date, location and address.
- 173 c. The AdSS participation in events shall include AdSS staff in  
174 attendance and available to respond to participants.
- 175 d. The AdSS shall only attend events after receiving approval  
176 from the Division when the following criteria apply:
- 177 i. The AdSS pays sponsorship fees;
- 178 ii. The AdSS donates benefits or items;
- 179 iii. The AdSS plans to distribute Marketing Materials not  
180 previously approved by the Division ~~within the last~~  
181 ~~two years~~;
- 182 iv. The AdSS is not certain if an event would qualify as  
183 pre-approved.
- 184 e. The AdSS may attend the following pre-approved, health  
185 related events:
- 186 i. Back to School Events;
- 187 ii. College or University Events;

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189           iii.    State Agency~~DES~~ Health or Resource Events-if open  
190                   to all AHCCCS plans;  
191           iv.    Women, Infants and Children (WIC) Health or  
192                   Resource Events-if open to all AHCCCS plans;  
193           v.    Events where health education is a component;  
194           vi.    ~~Jobs Fairs as specific in Contract and ACOM Policy~~  
195                   407;  
196           vi.    Community Center or Recreational Events;  
197           vii.   Community or ~~Family~~ Resource Events;  
198           viii.   Provider Events that the AdSS is contracted with;  
199           ix.    Faith Based Events;  
200           x.    Farmers Market Events;  
201           xi.    Health Educations Forum, community sponsored;  
202           xii.   Safety Events;  
203           xiii.   Immunization Clinics;  
204           xiv.   Senior Events;  
205           xv.    Shopping Mall Events; and

- 206  
207                    xvi.    Division’s Event that is created and sponsored by the  
208                    Division for its own Members only.
- 209                    f.        The AdSS shall not participate in Marketing activities at the  
210                    following events:
- 211                    i.        Events that are not health related or do not have a  
212                    health education component;
- 213                    ii.      ~~State Agency~~DES offices, except those listed on the  
214                    approval list;
- 215                    iii.     WIC Offices, except those listed on the approval list;
- 216                    iv.      ~~Job Fairs, except those listed on the approval list;~~
- 217                    iv.      County or State Fairs;
- 218                    v.       Bi-national Health Events;
- 219                    vi.      Political Events;
- 220                    vii.     Pharmacy Events not open to all AdSSs;
- 221                    viii.    Swap Meets;
- 222                    ix.      AdSS’s Event that is created and sponsored by the  
223                    AdSS or through its affiliates for Division Members

- 224  
225 not enrolled with the AdSS, or for the general public;  
226 or
- 227 x. Any event determined by the Division to not be in  
228 the best interest of the State of Arizona.
- 229 3. Sponsorships
- 230 a. The AdSS shall only participate as a Financial Sponsor of  
231 Health-Related Marketing events that have been  
232 pre-approved and listed in Section (A)(2)(e) of this policy.
- 233 b. The AdSS shall submit a request to the Division prior to  
234 participation as a Financial Sponsor of Health-Related  
235 Marketing events that contains information as described in  
236 Section A.2 of this policy, in addition to the following  
237 criteria:
- 238 i. The dollar amount of the participation ~~broken down~~  
239 ~~and~~ listed individually by each line of business; and
- 240 ii. Either a copy or description of any materials,  
241 ~~including websites,~~ on which the AdSS's name or

242  
243 logo will appear at the sponsored event, prior to  
244 production, to include:

- 245 a) Websites with Uniform Resource Locators  
246 (URLs);  
247 b) Event Flyers; and  
248 c) Other materials intended for use.

249 4. Press Releases

250 The AdSS shall submit all ~~only issue~~ press releases or  
251 announcements about program innovations and events that  
252 promote the goals of the Division for prior approval to the  
253 Division, except for press releases that do not contain

254 i. ~~Press releases that do not include AdSS-specific~~  
255 information related to the Division Integrated Contract. ~~do~~  
256 ~~not require prior Division approval.~~

257 ii. ~~All other press releases shall be submitted to the Division~~  
258 ~~for prior approval.~~

259 5. AdSS Logos and Name Inclusion

260 a. The AdSS shall prevent misuse of their name and logo.

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262           b.    The AdSS may include the AdSS’s logo without requesting  
263                    additional approval on event flyers or websites that are  
264                    produced by hosting organizations, if the Division has  
265                    approved the event.
- 266           c.    The AdSS shall not allow use of the AdSS’s name or logo  
267                    for television advertising of the event.
- 268                    iii.
- 269           d.    ~~When~~ If the AdSS is a Financial Sponsor for the event, the  
270                    AdSS shall submit related event flyers and websites with  
271                    URLs for or websites will require prior approval by the  
272                    Division.

273   **B.    RESTRICTIONS**

274    The AdSS shall ~~not participate in the following prohibited the following~~  
275    Marketing activities:

- 276           a.    ~~Unsolicited contact~~ Solicitation of any individual, whether  
277                    directly or indirectly;
- 278           b.    References to a competing AdSS;



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- 280 c. Promotional materials, incentives, or any other activity to
- 281 influence enrollment in conjunction with the sale or
- 282 offering of any private insurance;
- 283 i. ~~For the purposes of this policy, qualified health plans~~
- 284 ~~are not considered private insurance, and~~
- 285 ii. ~~The AdSS may discuss its affiliated qualified health~~
- 286 ~~plan in Promotional materials, however, the AdSS is~~
- 287 ~~a separate legal entity from all other affiliated health~~
- 288 ~~plans and is therefore subject to restrictions on the~~
- 289 ~~use of Protected Health Information (PHI).~~
- 290 d. Television advertising;
- 291 e. Direct mail advertising;
- 292 f. Social Networking Applications advertising as described in
- 293 AdSS Operations Policy Manual, Policy 425;
- 294 g. Marketing of non-mandated services;
- 295 h. Utilization of the word “free” in reference to covered
- 296 services;

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298 i. Listing of providers in Marketing Materials who do not have  
299 signed contracts with the AdSS;  
300 j. Use of the Arizona Department of Economic Security,  
301 Division of Developmental Disabilities logo or AHCCCS  
302 logo;  
303 k. Inaccurate, misleading, confusing or negative information  
304 about the Division or the AdSS; and any information that  
305 may defraud Members or the public;  
306 l. Discriminatory Marketing practices as specified in A.A.C.  
307 R9-22-501 et seq, A.A.C. R9-28-501 et seq, A.A.C.  
308 R9-31-501 et seq;  
309 m. AdSSs providing services in a GSA where its enrollment is  
310 capped to prohibit Members from selecting the AdSS may  
311 not engage in Marketing activities in that GSA, but may  
312 engage in outreach and retention activities with its current  
313 Members;  
314 n. ~~Marketing Materials containing~~ Any assertion or statement,  
315 whether written or oral, that the Member is required to

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317                    ~~must~~ enroll with the AdSS to obtain benefits or to not lose  
318                    benefits;
- 319                    o.    ~~Marketing Materials containing~~ Any assertion or statement,  
320                    whether written or oral, that the AdSS is endorsed by CMS,  
321                    the Federal or state government, or a similar entity; and  
322                    p.    Other restrictions as determined by the Division.

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324    **C.    DUAL ELIGIBLE MARKETING**

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

335    **D.    AdSS RESPONSIBILITIES**

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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 organization~~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.

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**E. SUBMISSION REQUIREMENTS**

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1. The AdSS shall submit all Marketing Materials including, giveaways, event requests, sponsorships, advertisements including the publications in which the Marketing Materials 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 specify the health-related purpose, or health education component of event submissions.
4. The AdSS shall submit giveaway items for approval separately from any event or sponsorship submission and may consist of more than one giveaway.
5. The AdSS shall submit advertisements, the publications in which the ad will be placed, to the Division for approval.

- 374  
375 6. The AdSS shall ensure Marketing Material submissions are  
376 complete and include all corresponding documents.
- 377 7. The AdSS shall ensure the following criteria are completed when  
378 requesting an expedited review of Marketing Materials, ~~when a~~  
379 ~~21-day notice is not possible:~~
- 380 a. Follow the submission requirements as noted in this  
381 section;
  - 382 b. Submit notification of the expedited request to the  
383 Division's Compliance Unit, ensuring expedited notification  
384 is clearly marked; and
  - 385 c. Indicate the reason for the shortened time frame.
- 386 8. The AdSS shall resubmit any Marketing Materials to the Division  
387 for review and approval if any substantive changes or  
388 modifications of previously approved materials have been made,  
389 with the inclusion of:
- 390 a. Date the material was previously approved;
  - 391 b. Reason for update; and
  - 392 c. All clearly identified content revisions.

- 393  
394 9. The AdSS shall request a reconsideration of any Division decision  
395 by submitting a written request for reconsideration to the  
396 Division Compliance Unit and following the submission  
397 requirements for Marketing Materials as specified in the AdSS  
398 Contract with the Division.
- 399 10. The AdSS shall provide information to the Division in support of  
400 the AdSS' request for reconsideration.

401 **SUPPLEMENTAL INFORMATION**

- 402 A. For the purposes of this Policy, qualified health plans are not  
403 considered private insurance.
- 404 B. The AdSS may discuss its affiliated qualified health plan in promotional  
405 materials; however, the AdSS is a separate legal entity from all other  
406 affiliated health plans and is therefore subject to restrictions on the  
407 use of Protected Health Information (PHI).