

## **101 MARKETING**

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REFERENCES: ACOM 101

### **PURPOSE**

This policy sets forth requirements and restrictions for the Division of Developmental Disabilities' (Division) participation in Marketing activities related to the AHCCCS program.

### **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 Subcontract/Subcontractor" or "AdSS" means An agreement that delegates any of the requirements of the Contract with AHCCCS, including, but not limited to the following:

- a. Claims processing, including pharmacy claims,
- b. Pharmacy Benefit Manager (PMB),
- c. Dental Benefit Manager,
- d. Credentialing, including those for only primary source verification (i.e., Credential Verification Organization [CVO]),
- e. Management Service Agreements,
- f. Medicaid Accountable Care Organization (ACO),
- g. Service Level Agreements with any Division or Subsidiary of a corporate parent owner, and
- h. CHP and DDD Subcontracted Health Plan.

A person, individual or entity, who holds an Administrative Services Subcontract is an Administrative Services Subcontractor. Providers are not Administrative Services Subcontractors.

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 (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 contractor's 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, and/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 establish 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" means any activity in which Marketing Materials are given away or displayed with the intent to increase the Contractor's membership.
15. "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 (e.g., Facebook).

16. “Subcontractor” means
- a. A provider of health care who agrees 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.
  - 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 DIVISION LOGO NAME USE**

1. Materials and Giveaways

- a. The Division shall use Member Marketing Materials during Marketing activities that have been previously approved as Member information under Division Operations Policy Manual Policy 404, only if they comply with the requirements of this policy.
- b. The Division shall submit a description and image of Marketing Materials and Marketing items or giveaways for approval to AHCCCS as required under this policy and as specified in the AHCCCS Contract.
- c. The Division shall not distribute approved materials and giveaways after two years from the date of approval.
- d. The Division shall submit any changes or amendments to previously approved materials in advance to AHCCCS for approval.
- e. The Division 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 Division shall distribute approved templates for a period of two years from the date of approval.

- d. The Division shall distribute health educational materials without prior AHCCCS approval if the materials are:
  - i. Health-related; and
  - ii. Developed based on information from an approved, recognized organization as listed on ACOM Policy 404, Attachment A.
- e. The Division shall submit for approval materials considered Marketing Materials that include Division specific information related to the Division Integrated Contract.
- f. The Division shall ensure that:
  - i. The value of any Marketing item or giveaway to the general public by the Division must not exceed \$15.00;
  - ii. Giveaway items are health related, or if non health related, include a Health Message on the item;
  - iii. All Marketing Materials identify the Division as a AHCCCS 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 Division and refer to contract services shall 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 that are distributed by the Division are distributed to its entire contracted GSA, exclusion of any particular group or class of Members would be considered to be a discriminatory Marketing practice; and subject to contract action.
- g. The Division shall not market directly to Members eligible for the Division;
- h. The Division shall not encourage or induce a Member to select a particular AdSS when completing the application and may not complete any portion of the application on behalf of the Potential Member.

## 2. Events

- a. The Division shall participate in Health-Related Marketing events listed as pre-approved events in Section A.2.e. of this document, with the additional requirement that the pre-approved event also contains either:
  - i. A health related; or
  - ii. Health education component.
- b. The Division shall submit a request for prior approval if the event is not specified as a pre-approved event in the contract for prior approval, containing the event name and date with the location and address.
- c. The Division's participation in events shall be substantive; an unmanned booth with handouts is not acceptable.
- d. The Division shall obtain approval from AHCCCS to attend pre-approved events when the following criteria apply:
  - i. The Division pays sponsorship fees;
  - ii. The Division donates benefits or items;
  - iii. The Division plans to distribute materials not previously approved by AHCCCS within the last two years;

- iv. Any event determined by the Division to not be in the best interest of the State of Arizona.
- v. The Division is not certain if an event would qualify as pre-approved, in which case the Division shall submit a request for approval to AHCCCS prior to the event, including the name, date, location, and the address of the event.
- e. The Division 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 Contractor 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;
  - xvii. AHCCCS Contractor's Event that is created and sponsored by the Contractor for its own Members only.
- f. The Division 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;
  - 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;

### 3. Sponsorships

The Division may participate as a Financial Sponsor of Health-Related Marketing events that are listed as pre-approved in Section A.2.e. in accordance with ACOM 101.

### 4. Press Releases

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

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

## 5. Division Logos and Name Inclusion

The Division shall be responsible for preventing misuse of the Division's name and logo.

- i. Upon receiving AHCCCS approval for an event, the Division's logo can be included on event flyers or websites that are produced by hosting organizations without prior approval.
- ii. The use of the Division's name or logo is prohibited for television advertising of the event.
- iii. If the Division is a Financial Sponsor for the event, the event flyers or websites will require prior approval by AHCCCS.

## **B. RESTRICTIONS**

The Division shall not participate in the following Marketing activities:

- a. Television advertising;
- b. Direct mail advertising;
- c. Social Networking Applications;
- d. Marketing of non-mandated services;

- e. Utilization of the word “free” in reference to covered services;
- f. Listing of providers in Marketing Materials who do not have signed contracts with the Division;
- g. Inaccurate, misleading, confusing or negative information about AHCCCS; and any information that may defraud Members or the public; or
- h. 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;.

**C. DIVISION RESPONSIBILITIES**

1. The Division shall report their Marketing costs on a quarterly basis as a separate line item in the quarterly financial statements. This requirement also applies to any Marketing costs included in an allocation from a parent or other related corporation.
2. The Division shall review and revise all materials on a regular basis in order to reflect current practices.

3. The Division shall submit any changes or amendments to previously approved materials in advance to the Division for approval as indicated above.
4. The Division CEO or designee shall sign and submit to AHCCCS, ACOM 101, Attachment A, Marketing Attestation Statement as specified in Section F3, Contractor Chart of Deliverables, addressing the compliance of its plan with the requirements of this policy, including submissions from the AdSSs with Division submissions.
5. The Division shall submit to AHCCCS, ACOM 101, Attachment B, Marketing Activities Report, as specified in Section F3, Contractor Chart of Deliverables including the previous six months of Marketing activities in which the Division was a participant, including submissions from the AdSSs with Division submissions.

**D. SUBMISSION REQUIREMENTS**

1. The Division shall submit all Marketing Materials including, giveaways, event requests, sponsorships and press releases as individual requests for approval at least 21 days prior to



dissemination as specified in the AHCCCS Contract. Section F3, Contractor Chart of Deliverables.

- a. Bulk submissions, including more than one event, sponsorship, press release, are not permitted with the exception of giveaway items.
  - b. Giveaway items shall be submitted for approval separately from any event or sponsorship submission and may consist of more than one giveaway.
  - c. All submissions shall be complete and include all corresponding documents.
2. The Division shall ensure the following criteria are completed when requesting an expedited review, when a 21-day notice is not possible:
- a. Follow the submission requirements as noted above; and
  - b. Indicate the reason for the shortened timeframe.
3. The Division shall resubmit any Marketing Materials for review and approval if any substantive changes or modifications of previously approved materials have been made. Resubmissions require inclusion of:

- a. Date the material was previously approved;
  - b. Reason for update; and
  - c. All clearly identified content revisions.
4. The Division may request a reconsideration of any AHCCCS decision by submitting a written request for reconsideration and following the submission requirements for Marketing Materials as specified in Contract. The Division may provide information in support of its request for reconsideration.