

1 **101 MARKETING**

2 REVISION DATE: (XX/XX/XXXX)

3 REVIEW DATE: 6/19/2023

4 EFFECTIVE DATE: October 1, 2019

5 REFERENCES: ACOM 101

6 **PURPOSE**

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

10 **DEFINITIONS**

- 11 1. "Arizona Health Care Cost Containment System" or "AHCCCS"
12 means Arizona's Medicaid Program, approved by the Centers for
13 Medicare and Medicaid Services (CMS) as a Section 1115 Waiver
14 Demonstration Program and described in A.R.S. Title 36, Chapter
15 29.
- 16 2. "Administrative Services Subcontract/Subcontractor" or "AdSS"
17 means An agreement that delegates any of the requirements of
18 the Contract with AHCCCS, including, but not limited to the
19 following:

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

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

35 3. “Dual Eligible” means a Member who is eligible for both Medicare
36 and Medicaid. There are two types of Dual Eligible Members: a
37 Qualified Medicare Beneficiary (QMB) Dual Eligible Member (a
38 QMB Plus or a QMB Only), and a Non-QMB Dual Eligible Member

- 39 (a Special Low-Income Beneficiary [SLMB] Plus or an Other Full
40 Benefit Dual Eligible).
- 41 4. “Dual Eligible Special Needs Plan (D-SNP)” means a type of
42 health benefits plan offered by a Centers for Medicare and
43 Medicaid Services (CMS) - contracted Medicare Advantage
44 Organization (MAO) that limits its enrollment to those
45 beneficiaries who are entitled to both Medicare (Title XVIII)
46 program covered health benefits and full Medicaid (Title XIX)
47 program covered health benefits.
- 48 5. “Dual Marketing” means Marketing efforts specifically targeting a
49 contractor’s Member who is eligible for Medicare and Medicaid.
- 50 6. “Financial Sponsor” means any monies or in-kind contributions
51 provided to an organization other than attendance fees or table
52 fees, to help offset the cost of an event.
- 53 7. “Geographic Service Area” or “GSA” means an area designated
54 by AHCCCS within which a Contractor of record provides, directly
55 or through subcontract, covered health care services to a
56 member enrolled with that Contractor of record.

- 57 8. “Marketing” means any communication from Contractors to a
58 Member not enrolled with the Contractor that can reasonably be
59 interpreted as intended to influence the Member to enroll with
60 the Contractor, or to not enroll or disenroll with another
61 Contractor’s Medicaid product as specified in 42 CFR 438.104.
62 Marketing does not include communication to any Member about
63 a Qualified Health Plan, as specified in 45 CFR 155.20.
- 64 9. “Marketing-Health Message” means a slogan or statement on
65 Marketing Materials to promote healthy lifestyles, situations that
66 affect or influence health status, behaviors that affect or
67 influence health status, or methods or modes of medical
68 treatment.
- 69 10. “Marketing-Health Related” means an event that has a direct or
70 indirect health care purpose, and/or it supports or contributes to
71 any AHCCCS initiative or program goal. Giveaway items shall
72 have a Health Message or a health care purpose to be
73 considered health-related.
- 74 11. “Marketing Materials” means materials produced in any medium,
75 by or on behalf of the Contractor that can reasonably be

76 interpreted as intended for Marketing purposes. This includes
77 general audience materials such as general circulation
78 brochures, Contractor’s website and other materials that are
79 designed, intended, or used to increase Contractor membership
80 or establish a brand.

81 12. “Member” means the same as “Client” as defined in A.R.S. § 36-
82 551.

83 13. “Potential Member” means a Medicaid-eligible recipient who is
84 not yet enrolled with a Contractor or a Member during Annual
85 Enrollment Choice (AEC).

86 14. “Promotion” means any activity in which Marketing Materials are
87 given away or displayed with the intent to increase the
88 Contractor’s membership.

89 15. “Social Networking Application” means web-based services or
90 platforms, excluding the Contractor’s State mandated website
91 content, member portal, and provider portal, for online
92 collaboration that provide a variety of ways for users to interact,
93 such as email, comment posting, image sharing, invitation, and

94 instant messaging services – collectively also referred to as
95 social media (e.g., Facebook).

96 16. “Subcontractor” means

97 a. A provider of health care who agrees to furnish covered
98 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.

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 DIVISION LOGO NAME**

111 **USE**

112 **1. Materials and Giveaways**

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

- 132 d. The Division shall distribute health educational materials
133 without prior AHCCCS approval if the materials are:
134 i. Health-related; and
135 ii. Developed based on information from an approved,
136 recognized organization as listed on ACOM Policy
137 404, Attachment A.
- 138 e. The Division shall submit for approval materials considered
139 Marketing Materials that include Division specific
140 information related to the Division Integrated Contract.
- 141 f. The Division shall ensure that:
142 i. The value of any Marketing item or ~~(giveaway)~~ to the
143 general public by the Division must not exceed
144 \$15.00;
145 ii. Giveaway items are health related, or if non health
146 related, include a Health Message on the item;
147 iii. All Marketing Materials identify the Division as a
148 AHCCCS provider and are consistent with the
149 requirements for information to Members described
150 in the AHCCCS Contract and in Division policies;=

151 iv. All Marketing Materials that have been produced by
152 the Division and refer to contract services shall
153 specify: "Contract services]are funded in part under
154 contract with the State of Arizona Department of
155 Economic Security/Division of Developmental
156 Disabilities";

157 v. Marketing Materials that are distributed by the
158 Division are distributed to its entire contracted GSA,
159 exclusion of any particular group or class of Members
160 would be considered to be a discriminatory Marketing
161 practice; and subject to contract action.

162 g. The Division shall not market directly to Members eligible
163 for the Division;

164 h. The Division shall not encourage or induce a Member to
165 select a particular AdSS when completing the application
166 and may not complete any portion of the application on
167 behalf of the Potential Member.

168 2. Events

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

- 188 iv. Any event determined by the Division to not be in
189 the best interest of the State of Arizona.
- 190 v. The Division is not certain if an event would qualify
191 as pre-approved, in which case the Division shall
192 submit a request for approval to AHCCCS prior to the
193 event, including the name, date, location, and the
194 address of the event.
- 195 e. The Division may attend the following pre-approved,
196 health related events:
- 197 i. Back to School Events;
- 198 ii. College or University Events;
- 199 iii. DES Health or Resource Events if open to all AHCCCS
200 plans;
- 201 iv. Women, Infants and Children (WIC) Health or
202 Resource Events-if open to all AHCCCS plans;
- 203 v. Events where health education is a component;
- 204 vi. Jobs Fairs as specific in Contract and ACOM Policy
205 407;
- 206 vii. Community Center or Recreational Events;

- 207 viii. Community or Family Resource Events;
- 208 ix. Provider Events that the Contractor is contracted
- 209 with;
- 210 x. Faith Based Events;
- 211 xi. Farmers Market Events;
- 212 xii. Health Educations Forum, community sponsored;
- 213 xiii. Safety Events;
- 214 xiv. Immunization Clinics;
- 215 xv. Senior Events;
- 216 xvi. Shopping Mall Events;
- 217 xvii. AHCCCS Contractor's Event that is created and
- 218 sponsored by the Contractor for its own Members
- 219 only.
- 220 f. The Division shall not participate in Marketing activities at
- 221 the following events:
- 222 i. Events that are not health related or do not have a
- 223 health education component;
- 224 iii. WIC Offices, except those listed on the approval list;
- 225 iv. Job Fairs, except those listed on the approval list;

226 v. County or State Fairs;

227 vi. Bi-national Health Events;

228 vii. Political Events;

229 viii. Pharmacy Events not open to all AdSSs;

230 ix. Swap Meets;

231 3. Sponsorships

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

235 4. Press Releases

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

239 i. Press releases that do not include Division-specific
240 information related to the Division Integrated
241 Contract do not require prior AHCCCS approval.

242 ii. All other press releases must be submitted to
243 AHCCCS for prior approval.

244 5. Division Logos and Name Inclusion

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

247 i. Upon receiving AHCCCS approval for an event, the
248 Division's logo can be included on event flyers or
249 websites that are produced by hosting organizations
250 without prior approval.

251 ii. The use of the Division's name or logo is prohibited
252 for television advertising of the event.

253 iii. If the Division is a Financial Sponsor for the event,
254 the event flyers or websites will require prior
255 approval by AHCCCS.

256 **B. RESTRICTIONS**

257 The Division shall not participate in the following Marketing activities:

258 a. Television advertising;

259 b. Direct mail advertising;

260 c. Social Networking Applications; ,

261 d. Marketing of non-mandated services;

262 e. Utilization of the word "free" in reference to covered

263 services;

- 264 f. Listing of providers in Marketing Materials who do not have
265 signed contracts with the Division;
- 266 g. Inaccurate, misleading, confusing or negative information
267 about AHCCCS; and any information that may defraud
268 Members or the public; or
- 269 h. Discriminatory Marketing practices as specified in A.A.C.
270 R9-22-501 et seq, A.A.C. R9-28-501 et seq, A.A.C. R9-31-
271 501 et seq;.

272 **C. DIVISION RESPONSIBILITIES**

- 273 1. The Division shall report their Marketing costs on a quarterly
274 basis as a separate line item in the quarterly financial
275 statements. This requirement also applies to any Marketing costs
276 included in an allocation from a parent or other related
277 corporation.
- 278 2. The Division shall review and revise all materials on a regular
279 basis in order to reflect current practices.
- 280 3. The Division shall submit any changes or amendments to
281 previously approved materials in advance to the Division for
282 approval as indicated above.

283 4. The Division CEO or designee shall sign and submit to AHCCCS,
284 ACOM 101, Attachment A, Marketing Attestation Statement as
285 specified in Section F3, Contractor Chart of Deliverables,
286 addressing the compliance of its plan with the requirements of
287 this policy, including submissions from the AdSSs with Division
288 submissions.

289 5. The Division shall submit to AHCCCS, ACOM 101, Attachment B,
290 Marketing Activities Report, as specified in Section F3,
291 Contractor Chart of Deliverables including the previous six
292 months of Marketing activities in which the Division was a
293 participant, including submissions from the AdSSs with Division
294 submissions.

295 **E. SUBMISSION REQUIREMENTS**

296 1. The Division shall submit all Marketing Materials including,
297 giveaways, event requests, sponsorships and press releases as
298 individual requests for approval at least 21 days prior to
299 dissemination as specified in the AHCCCS Contract. Section F3,
300 Contractor Chart of Deliverables.

- 301 a. Bulk submissions, including more than one event,
302 sponsorship, press release, are not permitted with the
303 exception of giveaway items.
- 304 b. Giveaway items shall be submitted for approval separately
305 from any event or sponsorship submission and may consist
306 of more than one giveaway.
- 307 c. All submissions shall be complete and include all
308 corresponding documents.
- 309 2. The Division shall ensure the following criteria are completed
310 when requesting an expedited review, when a 21-day notice is
311 not possible:
- 312 a. Follow the submission requirements as noted above; and
313 b. Indicate the reason for the shortened timeframe.
- 314 3. The Division shall resubmit any Marketing Materials for review
315 and approval if any substantive changes or modifications of
316 previously approved materials have been made. Resubmissions
317 require inclusion of:
- 318 a. Date the material was previously approved;
319 b. Reason for update; and

320 c. All clearly identified content revisions.

321 4. The Division may request a reconsideration of any AHCCCS
322 decision by submitting a written request for reconsideration and
323 following the submission requirements for Marketing Materials as
324 specified in Contract. The Division may provide information in
325 support of its request for reconsideration.

326 ~~101 MARKETING~~

327 ~~REVISION DATE: 4/29/2020~~

328 ~~EFFECTIVE DATE: October 1, 2019~~

329 ~~REFERENCES: DDD Operations Policy 404, AdSS Operations Policy 101~~

330 ~~Marketing is defined as any communication from the Division of~~
331 ~~Developmental Disabilities (DDD) to a member not enrolled with the Division~~
332 ~~that can reasonably be interpreted as intended to influence the member to~~
333 ~~enroll with the Division, or to not enroll or disenroll with another Contractor's~~
334 ~~Medicaid product as described in 42 CFR 438.104. Marketing does not~~
335 ~~include communication to any Medicaid member about a Qualified Health~~
336 ~~Plan, as defined in 45 CFR 155.20. For the purposes of this Policy, Marketing~~
337 ~~contrasts with Member Information found in DDD Policy 404, which~~
338 ~~addresses requirements and restrictions for the Division related to member~~
339 ~~and potential member information and activities. The Division is the sole~~
340 ~~contractor with AHCCCS for providing Medicaid services to individuals with~~
341 ~~Developmental Disabilities. As the sole contractor, the Division does not~~
342 ~~engage in Marketing as defined by AHCCCS. See Division Operations Policy~~
343 ~~404 – Member Information Material and AdSS Operations Policy 101 –~~
344 ~~Marketing for more information.~~

345