

101 – MARKETING

EFFECTIVE DATES: 10/01/10, 01/19/12, 08/01/13, 05/01/14, 10/01/15, 11/01/15, 07/01/16, 04/18/17, 10/01/18, xx/xx/xx¹

REVISION

APPROVAL DATES: 11/08/10, 01/19/12, 08/01/13, 03/20/14, 06/30/14, 08/20/15, 10/15/15, 04/07/16, 02/16/17, 06/13/18, 11/21/19²

I. PURPOSE

This Policy applies to ~~AHCCCS Complete Care (ACC)~~, ALTCS/EPD, and DES/DDD (DDD) Contractors as specified³~~delineated~~ within Policy. This Policy establishes requirements and restrictions for Contractors regarding marketing activities related to the AHCCCS program.

II. DEFINITIONS

ADMINISTRATIVE SERVICES SUBCONTRACT/ SUBCONTRACTOR

An agreement that delegates any of the requirements of the Contract with AHCCCS, including, but not limited to the following:

1. Claims processing, including pharmacy claims,
2. Credentialing, including those for only primary source verification (i.e. Credential Verification Organization),
3. Management Service Agreements,
4. Service Level Agreements with any Division or Subsidiary of a corporate parent owner,
5. DDD Subcontracted Health Plan, ~~acute care subcontractors~~.

A person (individual or entity) who holds an Administrative Services Subcontract is an Administrative Services Subcontractor.⁴

Providers are not Administrative Services Subcontractors.

DUAL ELIGIBLE MEMBER⁵

For purposes of this Policy, a member who is eligible for both Medicare and Medicaid.

DUAL MARKETING

Marketing efforts specifically targeting a Contractor's member who is eligible for Medicare and Medicaid.

¹ Policy Effective Date will be the date Published to the ACOM Web Page

² Date presented at APC Meeting or without APC review, the date Policy is published

³ Policy standard; updating to 'specified'

⁴ Revised to align with Contract definition

⁵ Added 'member' to align with Contract

FINANCIAL SPONSOR

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.

HEALTH MESSAGE

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.

HEALTH RELATED

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 ~~must shall~~ have a Health Message or a health care purpose to be considered health related.

MARKETING

Any communication from Contractors to a ~~member~~ ~~not 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 described in 42 CFR 438.104. Marketing does not include communication to any Medicaid member about a Qualified Health Plan, as defined in 45 CFR 155.20.

~~For the purposes of this Policy, Marketing contrasts with Member Information found in ACOM Policy 404, which addresses requirements and restrictions for Contractors related to member and potential member information and activities.⁶~~

MARKETING MATERIALS

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. ~~Examples include, but are not limited to: scripts or outlines for member services representatives, provider directories, brochures or leaflets that are distributed or circulated by any third party (including providers), and posters.~~

⁶ Deleted for redundancy: section A.1. specifies Member information under ACOM Policy 404 may be used during Marketing activities only if they comply with the requirements of this Policy;

MEMBER

[An eligible individual who is enrolled in AHCCCS, as defined in A.R.S. §36-2931, §36-2901, §36-2901.01 and A.R.S. §36-2981. Also referred to as Title XIX/XXI Member or Medicaid Member.⁷](#)

~~A Medicaid recipient who is currently enrolled with a Contractor.~~

POTENTIAL MEMBER

A Medicaid-eligible recipient who is not yet enrolled with a Contractor or a member during Annual Enrollment Choice (AEC).

PROMOTION

Any activity in which marketing materials are given away or displayed with the intent to increase the Contractor's membership.

SOCIAL NETWORKING APPLICATIONS

Web based services/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 e-mail, comment posting, image sharing, invitation and instant messaging services – collectively also referred to as social media (e.g. Facebook).

SUBCONTRACTOR

1. A provider of health care who agrees to furnish covered services to members.
2. An individual, agency, or organization with which the Contractor has contracted or delegated some of its management/administrative functions or responsibilities.
3. 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.

III. POLICY

As required by 42 CFR 438.104, Marketing Materials may only be utilized if they are approved by AHCCCS and comport with this Policy. Contractor Marketing activities are limited to those defined by this Policy. In addition to obtaining approval of the advertisement, approval of the publication in which the ad will be placed is also required.

The Contractor is responsible for ensuring its Subcontractors comply with this Policy. Failure of a Subcontractor to adhere to this Policy may result in administrative actions to the Contractor.

⁷ [Revised to align with Contract](#)

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

1. Materials and Giveaways

Member materials that have been previously approved as Member information under ACOM Policy 404 may be used during Marketing activities only if they comply with the requirements of this Policy.

- a. The Contractor shall submit a description and image of marketing materials and marketing items (giveaways) as specified in Contract to the⁸ AHCCCS Marketing Committee for approval. If approved, the materials and giveaways may be distributed by the Contractor for a period of two years from the date of approval. Any changes or amendments to previously approved materials shall also be submitted in advance to AHCCCS for approval. In addition to marketing materials and giveaways, the Contractor shall submit templates for flyers or posters that advertise regular meetings or events where only the dates and times of the events change. If approved, these templates may be distributed by the Contractor for a period of two years from the date of approval,
- b. The Contractor may distribute health educational materials without prior AHCCCS approval. The materials shall be health-related and developed based on information from a recognized organization. For a list of approved recognized organizations see ACOM Policy 404, Attachment A. Materials that include Contractor-specific information related to the AHCCCS Medicaid Contract (e.g. enrollment, network, or information on services) are considered marketing materials and shall be submitted for approval.

The Contractor shall ensure that:

- i. The value of any single giveaway item to the general public by the Contractor does not exceed \$15.00,
- ii. Giveaway items are Health Related (e.g. toothbrush, dental floss). If the giveaway item is not Health Related (e.g. cups, key chains, buttons, t-shirts), a Health Message shall be on the item (e.g. Don't Smoke, Get Your Flu Shot),
- iii. All materials identify the Contractor as an AHCCCS Contracted Managed Care Organization (MCO) and are consistent with the requirements for information to Members described in the Contract and AHCCCS policies,
- iv. All marketing materials that have been produced by the Contractor and refer to Contract services specify: "Contract services are funded under contract with the State of Arizona",
- v. Marketing materials that are distributed by the Contractor shall be distributed to its entire contracted Geographic Service Area (GSA). Exclusion of any particular group or class of members is considered a discriminatory marketing practice and may subject the Contractor to administrative actions, and

⁸ Changed to as specified in Contract for consistency throughout manuals. Contract references changed throughout Policy

The Contractor does not encourage or attempt to induce a Member to select a particular Contractor when completing an application for enrollment and may not complete any portion of the application on behalf of the Potential Member. This prohibition covers all situations, whether sponsored by the Contractor, their parent company, or any other entity.

2. Events

The Contractor may participate in health-related marketing events that are listed in Figure 1 in the “Pre-Approved” column. However, all events that are listed in this “Pre-Approved” column shall either be Health Related or have a health education component (e.g., celebration events). All marketing items/giveaways used or distributed at the events shall be submitted to the Marketing Committee for approval as specified in this Policy. If the event is not listed as a “Pre-Approved” event, the Contractor shall submit a request [as specified in Contract to the AHCCCS Marketing Committee](#) for prior approval. The submission shall include the event name and date with the location and address. The Contractor’s participation in events shall be substantive; an unmanned booth with handouts is not acceptable. The Contractor is not required to obtain approval from AHCCCS to attend Pre-Approved events listed in Figure 1 of this Policy, with the following exceptions:

- a. Contractor pays sponsorship fees,
- b. Contractor donates benefits or items (e.g. raffle items, gift baskets, cash), and/or
- c. Contractor distributes materials not previously approved by AHCCCS within the last two years.

The Contractor is prohibited from marketing at events that are listed in the “Not-Approved” column in Figure 1 of this Policy, or any event determined by AHCCCS to not be in the best interest of the State of Arizona.

Example of an Acceptable Marketing Submission Request:

Roosevelt Shot Clinic (Name of Event)
Phoenix Ranch Market (Location)
1602 E Roosevelt St (Address)
Phoenix, AZ 85006
9AM-1PM (Start and End Time)
Flu Shots (Service)

We will distribute the following:
Tooth Brush Approved 12/10/14

We will be handing out the tooth brush kits as the Roosevelt Clinic has been stressing dental hygiene this month. (Health related purpose)

FIGURE 1 - PRE-APPROVED AND NOT-APPROVED EVENTS

PRE-APPROVED EVENTS <i>(Shall Be Health Related)</i>	NOT-APPROVED
Back to School Events	Events that are not Health Related or do not have a health education component
College/University Events	
DES Health and/or Resource Events – if open to all AHCCCS plans	DES offices (except those listed on the approval list)
WIC Health and/or Resource Events – if open to all AHCCCS plans	WIC Offices (except those listed on the approval list)
Events where health education is a component (e.g. Celebration events – Angeles Del Barrio, etc.)	Job Fairs
Community Center/Recreational Events (e.g. Golden Gate, Boys and Girls Club, YMCA, parks and senior center)	County/State Fairs
Community/Family Resource Events (e.g. Food banks, food distribution locations, homeless and/or women’s shelters)	Bi-national Health Events (e.g. Mexican consulate on their premises)
Provider Events (e.g. Doctors, hospitals, and/or specialist) that the Contractor is contracted with	Political Events
Faith Based Events	Pharmacy Events not open to all Contractors
Farmers Market Events	
Health Educational Forum (community sponsored) (e.g. Nutritional, health benefits, and prevention topics)	Swap Meets
Safety Events (e.g. Sun safety, water safety, and fire safety)	AHCCCS Contractor’s Event that is created and sponsored by the Contractor or through its affiliates for AHCCCS Members not enrolled with the Contractor, or for the general public
Immunization Clinics	
Senior Events	
Shopping Mall Events	
AHCCCS Contractor’s Event that is created and sponsored by the Contractor for its own Members only	

3. Sponsorships

The Contractor may participate as a Financial Sponsor of health-related marketing events that are listed in Figure 1 of this Policy in the “Pre-Approved” column. In addition to the information required to be submitted for events, the request shall include the dollar amount of the participation (the dollar amount should be broken down and listed individually by each line of business, as applicable), and either a copy or description of any materials (including websites) on which the Contractor’s name or logo will appear prior to production.

4. Press Releases

The Contractor may issue press releases or announcements about program innovations and events that promote the goals of the AHCCCS program. Press releases that do not include Contractor-specific information related to the AHCCCS Medicaid Contract (e.g. benefits, how to enroll, provider network) do not require prior AHCCCS approval. All other press releases shall be submitted to AHCCCS for prior approval.

5. Contractor Logos and Name Inclusion

The Contractor is responsible for preventing misuse of its name and logo. Upon receiving AHCCCS approval for an event, the Contractor’s logo may be included on event flyers or websites that are produced by hosting organizations without prior approval. The use of the Contractor’s name or logo is prohibited for television advertising of the event. If the Contractor is a Financial Sponsor for the event, the event flyers or websites require prior approval by AHCCCS.

B. RESTRICTIONS

The following restrictions apply to all marketing activities [42 CFR 438.104].

1. The following shall not be allowed:

- a. Personal solicitation of an individual, whether directly or indirectly (e.g., face-to-face, door-to-door, over the telephone, via email or text, or other cold-call Marketing activities),
- b. References to competing Contractors,
- 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 Contractor may discuss its affiliated Qualified Health Plan in Promotional materials, however, the Contractor is a separate legal entity from all other affiliated health plans and is therefore subject to restrictions on the use of Protected Health Information.
- d. Television advertising,

- e. Direct mail advertising,
 - f. Social Networking Applications (see ACOM Policy 425 for requirements regarding social networking),
 - 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 Contractor,
 - j. Use of the AHCCCS logo,
 - k. Inaccurate, misleading, confusing or negative information about AHCCCS or the Contractor, and any information that may defraud Members or the public,
 - l. Discriminatory Marketing practices as specified in 9 A.A.C. 22, Article 5, 9 A.A.C. 28, Article 5, 9 A.A.C. 31, Article 5,
 - m. Contractors providing services in a GSA where its enrollment is capped to prohibit Members from selecting the Contractor may not engage in marketing activities in that GSA, but may engage in outreach and retention activities with its current Members,
 - n. Marketing materials cannot contain any assertion or statement (whether written or oral) that the Member shall enroll with the Contractor to obtain benefits or to not lose benefits, and
 - o. Marketing materials cannot contain any assertion or statement (whether written or oral) that the Contractor is endorsed by CMS, the Federal or state government, or a similar entity.
2. Any activities, materials, or mediums in violation of this Policy are subject to administrative actions, regardless of previous approval or terms of privately held contractual agreements.
 3. AHCCCS reserves the right to impose additional restrictions.

C. DUAL ELIGIBLE MARKETING

Dual Marketing focuses on enrollment in the Contractor’s Medicare Dual Special Needs Plan (D-SNP). The State understands that the Medicare D-SNP is able to enroll any Dual Eligible Member, but to increase alignment, encourages the Contractor to only market to individuals enrolled in its AHCCCS plan. Marketing to the Contractor’s Dual Eligible Members may include print advertisements, radio advertisements, billboards, bus advertising, and television.

1. In the case of marketing materials for Dual Eligible Members the process will be as follows:
 - a. AHCCCS does not review Dual marketing materials that have been approved by CMS and/or that do not include references to AHCCCS benefits and/or service information. However, all Dual marketing materials that have not been approved by CMS and/or include reference to AHCCCS benefits and/or service information require submission to AHCCCS as specified in Contract, and

- b. While AHCCCS may accept CMS approval of Dual marketing Materials as sufficient for distribution of materials, AHCCCS retains and reserves the right to review before or after the fact, materials that have received CMS approval.
2. The Contractor shall adhere to the following restrictions regarding use of billboards which use the terms ‘Medicaid’ or ‘AHCCCS’.
 - a. Limited to two billboards in each urban county (Maricopa and Pima), and
 - b. Limited to one billboard in each rural county.

D. CONTRACTOR RESPONSIBILITIES

1. The Contractor is required to report its marketing costs on a quarterly basis as a separate line item in its quarterly financial statements. This requirement also applies to any marketing costs included in an allocation from a parent or other related corporation.

~~Additionally, any Contractor not in compliance with the AHCCCS financial viability standards, as defined in the Contract, may be prohibited from further marketing until the Contractor is in compliance with the financial viability standards.⁹~~

- ~~2. The Contractor shall review and revise all materials on a regular basis in order to reflect current practices. Any changes or amendments to previously approved marketing materials (e.g., prior leaflet approved, but subsequently modified) shall be submitted to AHCCCS for approval as indicated above.¹⁰~~

- ~~2.3. The Contractor CEO (or designee) shall sign and submit Attachment A, as specified in Contract. The DDD Contractor’s Attestation Statement will address the compliance of its Administrative Services Subcontractors with the requirements of this Policy.~~

- ~~3. The Contractor shall review and revise all materials on a regular basis in order to reflect current practices. Any changes or amendments to previously approved marketing materials (e.g., prior leaflet approved, but subsequently modified) shall be submitted to AHCCCS for approval as indicated above.¹¹~~

4. All Contractors, shall submit a Marketing Activities Report using the template in Attachment B. The report shall describe the Contractor’s previous six months’ marketing activities as specified in Contract. Participation in marketing activities includes, but is not limited to: having a booth at the event, and/or having a presence at

⁹ Removed section as this is not a current practice.

¹⁰ Moved from former #3:

¹¹ Moved above as new #2

the event. The Contractor shall report Pre-Approved Events, as ~~outlined-specified~~ in this Policy, in which the Contractor was a participant.

The DDD Contractor's Report shall also address marketing activities of its Administrative Services Subcontractors. The report shall describe the Administrative Services Subcontractor's previous six months' marketing activities as specified in Contract.

The AHCCCS Marketing Committee will review the Contractor's semi-annual submission to determine if the Contractor's participation in the events was in compliance with this Policy. If AHCCCS determines a violation has occurred, the Contractor may be subject to Administrative Actions.

5. Submission Requirements

All marketing materials including giveaways, event requests, sponsorships and press releases, and Dual Eligible marketing materials shall be submitted as individual requests separately to the AHCCCS Marketing Committee for approval at least 21 days prior to dissemination as specified in Contract. Bulk submissions (i.e. submissions that include more than one event, sponsorship, press release etc.) are not permitted with the exception of giveaway items. Giveaway items shall be submitted for approval separately from any event or sponsorship submission and may consist of more than one giveaway. All submissions shall be complete and include all corresponding documents.¹²

~~-When~~If a 21 day notice is not possible, the Contractor may request an expedited review. The Contractor shall follow the submission requirements as noted above but also submit notification of the expedited request shall be to the AHCCCS Marketing Committee mailbox. The expedited notification shall be¹³ clearly marked as expedited and also indicate the reason for the shortened timeframe.

AHCCCS approval shall only apply to the form of communication or specific date described with the submission. Any substantive changes or modifications of previously approved marketing materials shall be resubmitted for approval.

Pursuant to 42 CFR 438.104, the AHCCCS Marketing Committee will consult with the Arizona State Medicaid Advisory Committee (SMAC) in reviewing submitted marketing materials.

The Contractor may request a reconsideration of any Marketing Committee decision by submitting a written request for reconsideration to the Marketing Committee and following the submission requirements for marketing materials as specified in

¹² Changes for better clarity when submitting bulk submissions

¹³ New language was added in to describe process for expedited requests

Contract¹⁴. The Contractor may provide information in support of its request for reconsideration.

E. ADMINISTRATIVE ACTION

Any violation of this Policy may result in Administrative Action, including but not limited to, Sanctions as ~~described~~specified in ACOM Policy 408.

OPEN UNTIL 01/05/20

¹⁴ Added to align with Contract