

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, 02/01/20, 10/01/21, 10/01/23, 10/01/24, 10/01/25, 10/01/26

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, 11/21/19, 04/15/21, 04/06/23, 05/07/24, 04/16/25, 06/02/26

I. PURPOSE

This Policy applies to ACC, ACC-RHBA, ALTCS E/PD, and DES DDD (DDD) Contractors. This Policy establishes requirements and restrictions for Contractors regarding marketing activities related to the AHCCCS program.

II. DEFINITIONS

Refer to the [AHCCCS ACOM and AMPM Dictionary](#) for common terms found in this Policy.

III. POLICY

As required by 42 CFR 457.1224 and 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.

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

The Contractor is responsible for ensuring its subcontractors comply with this Policy.

Pursuant to 42 CFR 438.104, the AHCCCS Marketing Committee will consult with the Arizona State Medicaid Advisory Committee (SMAC) established under 42 CFR 431.12 in reviewing submitted marketing materials.

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

1. Materials and Giveaways:
 - a. The Contractor shall submit a description and image of marketing materials and marketing items (giveaways) as specified in Contract for approval. If approved, the materials and giveaways may be distributed by the Contractor. In addition to marketing materials and giveaways, the Contractor shall submit templates for flyers or posters that advertise regular meetings or events, provided that content, messaging, purpose, format, and imagery remain unchanged and only non-substantive logistical details, such as event date and time, vary. If approved, these templates may be distributed by the Contractor. Any changes or amendments to previously approved materials shall be submitted in advance to AHCCCS for approval as specified in this Policy, and
 - b. The Contractor may distribute health educational materials without prior AHCCCS approval when the material is developed by a recognized organization specified in ACOM Policy 404, Attachment A. All 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 from the Contractor to the general public does not exceed \$15.00,
 - ii. All materials identify the Contractor as an AHCCCS Contracted Managed Care Organization (MCO) and are consistent with the requirements for member information specified in the Contract and AHCCCS policies,
 - iii. All marketing materials that have been produced by the Contractor and refer to Contract services specify that “Contract services are funded under contract with the State of Arizona” and
 - iv. Marketing materials distributed by the Contractor are distributed to the Contractor’s entire contracted Geographic Service Area (GSA). Exclusion of any particular group or class of members is considered a discriminatory marketing practice and is prohibited.
2. The Contractor does not encourage or attempt to induce a member to select a particular Contractor when completing an application for enrollment and does not complete any portion of the application on behalf of the potential member. These prohibitions apply in all situations, whether sponsored by the Contractor, the Contractor’s parent company, or any other entity.

3. Events

The Contractor may participate in health-related marketing events that are listed in the “Pre-Approved Events” column in Figure 1 of this Policy. However, all events that are listed in this “Pre-Approved Events” 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 AHCCCS Marketing Committee for approval as specified in this Policy. If the event is not listed as a Pre-Approved Event in Figure 1 of this Policy, the Contractor shall submit a request as specified in Contract for prior approval. The submission shall include the event name, date, 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. The Contractor pays sponsorship fees,
- b. The Contractor donates benefits or items of nominal value, including but not limited to non-cash promotional items, or
- c. The Contractor distributes materials not previously approved by AHCCCS.

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:
Toothbrush Approved 12/10/14

We will be handing out the toothbrush 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 (SHALL BE HEALTH-RELATED)	NOT APPROVED
Back to School Events	Events that are not health-related or do not have a health education component
College/University Events	
State Agency Health and/or Resource Events – if open to all AHCCCS plans	State Agency Offices

PRE-APPROVED EVENTS (SHALL BE HEALTH-RELATED)	NOT APPROVED
Women, Infants, and Children (WIC) Health and/or Resource Events – if open to all AHCCCS plans	WIC Offices, unless otherwise approved by AHCCCS
Events where health education is a component (e.g., celebration events such as Angeles Del Barrio)	County/State Fairs
Community Center/Recreational Events (e.g., Golden Gate, Boys and Girls Club, YMCA, parks, and senior center)	Bi-national Health Events (e.g., events held on Mexican consulate premises)
Community/Family Resource Events (e.g., food banks, food distribution locations, and homeless and/or women’s shelters)	Political Events
<i>Events held by providers, including but not limited to doctors, hospitals, or specialists, with whom the Contractor has a contractual relationship.</i>	Pharmacy Events not open to all Contractors
Faith-Based Events	Swap Meets
Farmers Market Events	Events created or sponsored by an AHCCCS Contractor or its affiliates that target individuals not enrolled with that Contractor, including individuals of the general public.
Health Educational Forum (community-sponsored) (e.g., nutritional, health benefits, and prevention topics)	
Safety Events (e.g., sun safety, water safety, and fire safety)	
Immunization Clinics	
Senior Events	
Shopping Mall Events	
AHCCCS Contractor’s Event that is created and sponsored by the Contractor for its own members only	

4. Sponsorships

The Contractor may participate as a financial sponsor of health-related marketing events that are listed in the “Pre-Approved Events” column in Figure 1 of this Policy. The Sponsorships shall be submitted to the AHCCCS Marketing Committee for approval as specified in this Policy. In addition to the information required to be submitted for events, the request shall include:

- a. The dollar amount of the sponsorship, listed separately for each line of business, and
- b. A copy of any materials (including event flyers and websites with URLs) on which the Contractor’s name or logo will appear prior to production.

5. 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.

6. Contractor Logo 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 name and/or logo may be included on the related event flyers or websites that are produced by hosting organizations without additional approval. The Contractor is prohibited from utilizing its name or logo for television advertising. If the Contractor is a financial sponsor for the event, the related event flyers and websites with URLs, including a copy of the name and/or logo to be used, shall be submitted for approval by AHCCCS.

B. RESTRICTIONS

The following restrictions as specified in 42 CFR 438.104 apply to all marketing activities:

1. The following is prohibited:
 - a. Unsolicited contact 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. Comparative or promotional references to competing Contractors that are intended to influence enrollment,
 - 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 (PHI).

- d. Television advertising, including broadcast, cable, and television-like video advertising delivered via streaming, or Over-The-Top (OTT) platforms,
 - e. Direct mail advertising,
 - f. Social networking applications advertising (refer to 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,
 - l. Any information that may defraud members or the public,
 - m. Discriminatory marketing practices as specified in AAC R9-22-504 and as applicable to ALTCS E/PD and DDD Contractors under AAC R9-28-507 and R9-31-504,
 - n. The Contractor 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 the Contractor may engage in outreach and retention activities with its current members,
 - o. Any assertion or statement (whether written or oral) that the member shall enroll with the Contractor to obtain benefits or to not lose benefits,
 - p. Any assertion or statement (whether written or oral) that the Contractor is endorsed by Centers for Medicare & Medicaid Services (CMS), the Federal or State government, or a similar entity, and
 - q. Marketing materials that reference both AHCCCS-covered services and Medicare or Medicare Advantage products shall clearly distinguish each program and shall not imply integration, endorsement, or any dependency related to eligibility or enrollment.
2. AHCCCS reserves the right to impose additional restrictions.

C. DUAL ELIGIBLE MARKETING

The Dual Eligible Marketing focuses on enrollment in the Contractor’s Medicare Dual Special Needs Plan (D-SNP).

The State understands that the Medicare D-SNP can enroll any dual eligible member, but to increase alignment, the State encourages the Contractor to only market to individuals enrolled in its AHCCCS plan. The Dual Eligible 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 is 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 a reference to AHCCCS benefits and/or service information require submission to AHCCCS as specified in Contract, and

- b. AHCCCS may accept CMS approval of dual marketing materials for distribution; however, AHCCCS reserves the right to review such materials either before or after distribution.
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 organization or other related party.
2. The Contractor shall review and revise all materials as necessary to ensure continued accuracy and consistency with 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.
3. Submission Requirements:
 - a. All proposed Marketing Materials including giveaways, event requests, sponsorships and press releases, and dual eligible marketing materials shall be submitted as individual requests for approval as specified in Contract Section F, Attachment F3, Contractor Chart of Deliverables. Bulk submissions (i.e., submissions that include more than one event, sponsorship, or press release) are not permitted, with the exception of giveaway items. Giveaway items shall be submitted for approval as a standalone submission, separate from any event or sponsorship submission, and submissions may include multiple giveaway items for review. All submissions shall be complete and include all corresponding documents,
 - b. Event submissions shall specify the health-related purpose or health education component,
 - c. The Contractor may request an expedited review when the required submission timeframe cannot be met. In addition to the submission requirements noted above, the Contractor shall submit notification of the request to the AHCCCS Marketing Committee at marketingcommittee@azahcccs.gov. The notification shall be clearly marked as expedited and indicate the reason for the shortened timeframe,
 - d. 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 review and approval. The resubmission shall include the date the material was previously approved, the reason for the update, and clearly identify all content revisions,
 - e. In addition to obtaining approval of an advertisement, the Contractor is also required to obtain approval of the publication in which the ad will be placed, and

- f. The Contractor may request a reconsideration of any AHCCCS Marketing Committee decision by submitting a written request for reconsideration to the AHCCCS Marketing Committee and following the submission requirements for Marketing Materials as specified in Contract. The Contractor may provide additional 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 specified in ACOM Policy 408.

Any activities, materials, or mediums in violation of this Policy are subject to administrative action, regardless of previous approval or terms of privately held contractual agreements.

IMPLEMENTATION DATE 10/01/20