

## 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

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

### 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 Contract and Policy 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.

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) 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 where only the dates and times of the events change. 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. 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 specified in the Contract and AHCCCS policies,
  - iv. 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
  - v. Marketing materials that are 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, their parent company, or any other entity.
3. Events

The Contractor may participate in health-related marketing events that are listed in Figure 1 in the "Pre-Approved Events" column. 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 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 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. The Contractor pays sponsorship fees,
- b. The Contractor donates benefits or items (e.g., raffle items, gift baskets, cash), and/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
Women, Infants and Children (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.)	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., Mexican consulate on their premises)
Community/Family Resource Events (e.g., Food banks, food distribution locations, homeless and/or women’s shelters)	Political Events
Provider Events (e.g., Doctors, hospitals, and/or specialist) that the Contractor is contracted with	Pharmacy Events not open to all Contractors

PRE-APPROVED EVENTS (SHALL BE HEALTH RELATED)	NOT APPROVED
Faith Based Events	Swap Meets
Farmers Market Events	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.
Health Educational Forum (community sponsored) (e.g., Nutritional, health benefits, and prevention topics)	
Safety Events (e.g., Sun safety, water safety, and fire safety)	AHCCCS Contractor’s Event that is created and sponsored by the Contractor for its own members only
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 Figure 1 of this Policy in the “Pre-Approved Events” column. Sponsorships shall be submitted to the Marketing Committee for approval as specified in this Policy. 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 listed individually by each line of business), and 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. 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 (PHI).
  - d. Television advertising,
  - 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, and any information that may defraud members or the public,
  - l. Discriminatory marketing practices as specified in AAC R9-22-504, R9-28-507, R9-31-504,
  - m. 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 may engage in outreach and retention activities with its current members,
  - n. 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. 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.
  2. AHCCCS reserves the right to impose additional restrictions.

### **C. DUAL ELIGIBLE MARKETING**

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, 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 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 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 organization or other related party.
2. The Contractor shall review and revise all materials on a regular basis 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.
3. The Contractor CEO (or designee) shall sign and submit Attachment A, as specified in Contract Section F, Attachment F3, Contractor Chart of Deliverables. The DDD Contractor's Attestation Statement shall also address the compliance of its DDD Subcontracted Health Plans with the requirements of this Policy.

4. The Contractor shall submit, as specified in Contract, a Marketing Activities Report of pre-approved events the Contractor participated in within the reporting period, utilizing Attachment B. Participation in marketing activities includes but is not limited to having a booth at the event, and/or having a presence at the event:
  - a. The DDD shall also report marketing activities of its DDD Subcontracted Health Plans. However, the requirement for reporting DDD's Subcontracted Health Plans marketing activities is not required if DDD's Subcontracted Health Plans are NCQA Health Plan Accredited,
  - b. Should a DDD Subcontractor lose accreditation (due to non-renewal or revocation), DDD shall commence with reporting of the Marketing Activities Report and include its subcontractor(s), and
  - c. The report shall specify the subcontractor's previous six months' marketing activities as specified in Contract.
5. The Contractor is only required to submit Attachment A and Attachment B if the Contractor has not obtained The National Committee for Quality Assurance (NCQA) Health Plan Accreditation or should the Contractor lose its accreditation (either due to non-renewal or revocation).
6. The AHCCCS Marketing Committee will review the Contractor's submission(s) to determine if the Contractor's participation in the events were in compliance with this Policy.
7. 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. Bulk submissions (i.e., submissions that include more than one event, sponsorship, press release) 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,
  - 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 expedited request to the AHCCCS Marketing Committee mailbox. The expedited 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 including the date the material was previously approved, the reason for the update, and shall clearly identify all content revisions,
  - e. In addition to obtaining approval of an advertisement, approval of the publication in which the ad will be placed is also required, and

- f. 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 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 actions, regardless of previous approval or terms of privately held contractual agreements.

IMPLEMENTATION DATE 10/01/20