101 – MARKETING

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I. PURPOSE

This Policy applies to ACC, ALTCS/EPD, and DES/DDD (DDD) Contractors as specified 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.

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

Providers are not Administrative Services Subcontractors.

**DUAL ELIGIBLE MEMBER**

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.

**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 shall have a Health Message or a health care purpose to be considered health related. |
| **MARKETING** | 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 pursuant to 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. |
| **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. |
| **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. |
| **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). |
Sубконтрибутор

1. Поставщик услуг здравоохранения, который согласен обеспечить обслуживание застрахованным.
2. Отдельное лицо, учреждение, или организация, с которой контрактная сторона заключила договор или делегировала некоторые из своих управленческих/административных функций или обязанностей.
3. Отдельное лицо, учреждение, или организация, с которой аудитор заключил договор, соглашение, контракт, договор аренды (или аренды недвижимости), чтобы получить место, оборудование, или услуги, предоставленные в рамках соглашения AHCCCS.

III. ПОЛИТИКА

Как требуется по 42 CFR 438.104, маркетинговые материалы могут быть использованы только при условии, что они утверждены AHCCCS и соответствуют данной политике. Действия контрактной стороны по маркетингу ограничены теми, что определены данной политикой. Кроме того, для получения утверждения на публикацию, утверждение публикации в которой будет размещена реклама также требуется.

Контрактная сторона должна обеспечивать, что ее субконтировоты соответствуют данной политике. Несоблюдение субконтировотами данной политики может привести к административным действиям к контрактной стороне.

A. МАРКЕТИНГОВЫЕ МАТЕРИАЛЫ, ПОДАРОЧНЫЕ, СОБЫТИЯ, СПОНСОРОВАНИЯ, ПРЕСС РЕЛИЗЫ И ЛОГОТИП ИМЯ ИСПОЛЬЗОВАНИЕ

1. Материалы и Подарки

Материалы, которые ранее были утверждены как информация для застрахованных под АСМ Политика 404, могут быть использованы в маркетинговых активностях только при условии, что они соответствуют требованиям данной политики.

a. Контрактная сторона должна представить описание и изображение маркетинговых материалов и подарков, как было указано в контракте для утверждения. Если утвержден, материалы и подарки могут быть распространены контрактной стороной на протяжении двух лет от даты утверждения. Любые изменения или корректировки к ранее утвержденным материалам также должны быть представлены в АСМ для утверждения. В дополнение к маркетинговым материалам и подаркам, Контрактная сторона должна предоставить шаблоны для плакатов или постеров, которые рекламируют регулярные мероприятия или события, где только даты или время событий меняются. Если утверждены, эти шаблоны могут быть распространены контрактной стороной на протяжении двух лет от даты утверждения.

b. Контрактная сторона может распространять образовательные материалы без предварительного утверждения AHCCCS. Эти материалы должны быть здравоохранительными и разработанными на основе информации от признанного организациии. Для списка признанных организаций, смотрите АСМ Политика 404, Приложение A. Материалы, которые включают информацию, относящуюся к контракту AHCCCS Medicaid (например, сведения о вступлении в силу, сети, или информации об услугах) являются маркетинговыми материалами и должны быть представлены для утверждения.
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: “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

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 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

<table>
<thead>
<tr>
<th>PRE-APPROVED EVENTS (Shall Be Health Related)</th>
<th>NOT-APPROVED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Back to School Events</td>
<td>Events that are not Health Related or do not have a health education component</td>
</tr>
<tr>
<td>College/University Events</td>
<td>DES offices (except those listed on the approval list)</td>
</tr>
<tr>
<td>DES Health and/or Resource Events – if open to all AHCCCS plans</td>
<td>WIC Offices (except those listed on the approval list)</td>
</tr>
<tr>
<td>WIC Health and/or Resource Events – if open to all AHCCCS plans</td>
<td>Job Fairs</td>
</tr>
<tr>
<td>Events where health education is a component (e.g. Celebration events – Angeles Del Barrio, etc.)</td>
<td>County/State Fairs</td>
</tr>
<tr>
<td>Community Center/Recreational Events (e.g. Golden Gate, Boys and Girls Club, YMCA, parks and senior center)</td>
<td>Bi-national Health Events (e.g. Mexican consulate on their premises)</td>
</tr>
<tr>
<td>Community/Family Resource Events (e.g. Food banks, food distribution locations, homeless and/or women’s shelters)</td>
<td>Political Events</td>
</tr>
<tr>
<td>Provider Events (e.g. Doctors, hospitals, and/or specialist) that the Contractor is contracted with</td>
<td>Pharmacy Events not open to all Contractors</td>
</tr>
<tr>
<td>Faith Based Events</td>
<td>Swap Meets</td>
</tr>
<tr>
<td>Farmers Market Events</td>
<td></td>
</tr>
<tr>
<td>Health Educational Forum (community sponsored) (e.g. Nutritional, health benefits, and prevention topics)</td>
<td></td>
</tr>
</tbody>
</table>

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### Pre-Approved Events (Shall Be Health Related)

<table>
<thead>
<tr>
<th>Safety Events (e.g. Sun safety, water safety, and fire safety)</th>
<th>Not-Approved</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immunization Clinics</td>
<td>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</td>
</tr>
<tr>
<td>Senior Events</td>
<td></td>
</tr>
<tr>
<td>Shopping Mall Events</td>
<td></td>
</tr>
<tr>
<td>AHCCCS Contractor’s Event that is created and sponsored by the Contractor for its own Members only</td>
<td></td>
</tr>
</tbody>
</table>

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.

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.

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.

4. All Contractors, shall submit a Marketing Activities Report using the template in Attachment B. The report shall specify 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 the event. The Contractor shall report Pre-Approved Events, as 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 specify 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 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.

When 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 to the AHCCCS Marketing Committee mailbox. The expedited notification shall be 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 Contract. 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 specified in ACOM Policy 408.