

Appendix IV — Marketing Guidelines

Appendix IV-A — Medicaid Marketing Guidelines for Medical Service Providers

Definitions

“**Providers**” shall mean all physicians or medical facilities (hospitals, clinics, diagnostic and treatment centers, and physician group practices) that contract with one or more Medicaid managed care organizations.

“**Marketing**” shall mean all forms of communication, written or oral, used to encourage or induce Medicaid recipients to enroll in a managed care plan.

Appropriateness of Advertising and Outreach Materials

1. Advertising and outreach materials must be pre-approved by the State Department of Health (SDOH) or the Local Department of Social Services (LDSS) prior to distribution.
2. Providers shall not engage in marketing practices, nor distribute any advertising and outreach materials, that mislead, confuse, or defraud eligible persons, the public, or any government agency. Providers may not misrepresent the Medicaid program, the Medicaid managed care program, or the program or policy requirements of the LDSS or the SDOH.

Reminder: Medicaid recipients may never be told by their providers that they have to join a plan now—they will never have to make a selection until they receive their official notices.

3. Advertising and outreach materials must accurately reflect general information which is applicable to the average consumer of Medicaid managed care. Advertising and outreach materials must provide as much information as possible to allow consumers to choose the plan that best meets their needs.
4. Providers may not use any federal, state, or local government logos in their materials. Care should be taken to avoid the format and colors used in informational materials by these entities to ensure that there is not confusion about their sources.

Permitted/Impermissible Advertising and Outreach Activities

1. Advertising and outreach activities may not discriminate on the basis of a potential member's health status, prior health service use, or need for future healthcare services.
2. Providers may not conduct “cold call” telephone solicitations.
3. Providers may not provide mailing lists of their patients to managed care organizations (MCO). Providers may not provide mailing lists of their patients to managed care organizations (MCO).
4. Providers may give permission to managed care organization marketing representatives to conduct advertising and outreach activities at their facility. If the providers are in multiple plans and allow one (1) plan to market in their facilities or want to let their patients know of their affiliation with one (1) or more MCOs, they must prominently display a list of all other managed care plans operating in the county or borough **with which they are contracted**.
5. Physicians may speak to their patients about their MCO affiliation and should encourage the patient to make their choice of plan based on the health needs of the patient and his/her family. Such advice, whether presented verbally or in writing, must be individually based and not merely a promotion of one (1) plan over another.
6. Neither the provider nor MCO-facilitated enrollment representatives may market in emergency room facilities, treatment rooms, or hospital patient rooms. MCOs may not require providers to distribute plan-prepared communications to their patients.

7. In the event a provider is no longer affiliated with a particular MCO but remains affiliated with other participant MCOs, the provider may notify his/her patients of the new status and the impact of such change on the patient.
8. All advertising and outreach activities shall be conducted in an orderly, nondisruptive manner and shall not interfere with the privacy of potential members or the general community.
9. Providers shall not target individuals and families who are already enrolled in other managed care plans.

Inducements to Enroll

1. Providers may not offer material or financial gain to Medicaid beneficiaries as an inducement to enroll. Specifically, providers may only:
 - a. make reference in advertising and outreach materials and activities to benefits/services offered under the program; and
 - b. offer only nominal gifts, with a fair market value of no more than \$5, with such gifts being offered regardless of beneficiary's intent to enroll.
2. Providers shall not pay any individual, or accept payment from a Medicaid MCO, any commission, bonus, or similar compensation that uses numbers of Medicaid-eligible persons enrolled in the managed care plan as a factor in determining compensation.