

## **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

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

### **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**

Definitions are located on the AHCCCS website at: [AHCCCS Contract and Policy Dictionary](#).

### **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. The 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 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, and

- b. The Contractor may distribute health educational materials without prior AHCCCS approval when the material is developed by a recognized organization as outlined 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: "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
- vi. 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 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. 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:*  
*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**

<b>PRE-APPROVED EVENTS</b> <i>(Shall Be Health Related)</i>	<b>NOT APPROVED</b>
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)
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.)	
Jobs Fairs as specified in Contract and ACOM Policy 407.	Job Fairs (except those listed on the approval list)
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)

<b>PRE-APPROVED EVENTS</b> <i>(Shall Be Health Related)</i>	<b>NOT APPROVED</b>
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 Events” 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 as specified in 42 CFR 438.104 apply to all marketing activities:

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. 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 party.
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. 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.

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.

5. The AHCCCS Marketing Committee will review the Contractor's submission to determine if the Contractor's participation in the events was in compliance with this Policy. Submission Requirements

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 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.

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 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 review and approval.

In addition to obtaining approval of the advertisement, approval of the publication in which the ad will be placed is also required.

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.

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.