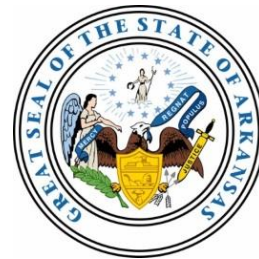




Division of Medical Services

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Dental Managed Care Marketing Criterion

Contract Language

The Contractor shall submit to the Contract Monitor any marketing and advertising materials referencing the services it is providing on behalf of DHS for approval at least thirty (30) days prior to intended use. Marketing and advertisement materials include but are not limited to: bulk mailers, television advertisements, radio advertisements, newspaper advertisements, billboard artwork, etc. All marketing materials must comply with all state and federal rules and regulations. Written approval from the Contract Monitor of all marketing materials shall be required.

Marketing Definition – ECFR 438.104

Marketing means any communication, from an MCO, PIHP, PAHP, PCCM or PCCM entity to a Medicaid beneficiary who is not enrolled in that entity, that can reasonably be interpreted as intended to influence the beneficiary to enroll in that particular MCO's, PIHP's, PAHP's, PCCM's, or PCCM's entity's Medicaid product. Marketing does not include communication to a Medicaid beneficiary from the issuer of a qualified health plan, as described in 45 CFR § 155.20, about the qualified health plan.

Marketing does not include and these guidelines will not apply to any marketing or advertisements released by an MCO, PIHP, PAHP, PCCM or PCCM entity that does not refer to Medicaid or to the Arkansas DHS managed care dental program.

Marketing Criterion

(As used in below, "Vendor" and "Contractor" have the same meaning as "Contractor" as the latter term is used in the DHS Contract)

Definitions

"Broadcast Media" means media that transmit information electronically, through methods such as film, radio, recorded messages or television.

"Cold-call marketing" means soliciting applicants and beneficiaries to enroll with the Vendor through direct contact without the individual initiating the contact.

"Digital Media" means media that comprises both internet and mobile mass communication including social media.

“Print Media” means media that transmit information via physical objects such as books, magazines, newspapers, or pamphlets.

1. Vendors may prepare and use marketing materials to promote product(s) specified in the contract between Vendor and the Department of Human Services (DHS) under the following conditions:
 - a. Vendors shall submit proposed marketing materials to DHS for review and approval at least thirty (30) calendar days prior to their use by Vendor. A Vendor may use submitted marketing materials if DHS has not disapproved them within thirty (30) days of submission by Vendor.
 - b. Marketing materials must be accurate and not mislead, confuse, or defraud the applicant or DHS.
 - c. Marketing materials cannot contain any statement (whether written or oral) that the Contractor is endorsed by CMS, the federal government or the State of Arkansas.
 - d. Marketing materials shall not contain an assertion or statement that the applicant or beneficiary must enroll with the Vendor to obtain benefits or to lose benefits.
 - e. Materials must be written at or below a 6th grade reading level, except for language required by federal or state rules.
 - f. Print media materials must be written in English, Spanish, and the languages of other major population groups in the State. DHS shall notify Vendors of all “other major population groups” for which translation of print media materials is required no later ninety (90) days prior to the beginning of each plan year. Marketing materials that are shared through other mass media venues, such as broadcast and digital media, may be translated at the option of the Vendor for other major population groups.
 - g. Vendors may not use absolute superlatives (e.g., “the best”, “highest ranked”, “rated number 1”) and/or qualified superlatives (e.g., “one of the best”, “among the highest ranked”) unless they are substantiated with supporting data provided to DHS as part of the marketing review process. Vendors are permitted to use data that DHS can substantiate (e.g., Vendor ABC has the best provider network).
2. Vendor will distribute marketing materials approved by DHS in the following manner:
 - a. Vendors shall take reasonable steps to distribute marketing materials to their entire service area (statewide). Vendor shall advertise and distribute materials across the state in both urban and rural areas.
 - b. Vendors shall not seek to influence enrollment in conjunction with the sale or offering of any private insurance.
 - c. Vendors shall not directly or indirectly engage in door-to-door, telephone, email, texting, or other cold-call marketing techniques.
 - d. Vendors must not knowingly or willfully market to a beneficiary of another vendor unless information is requested by that beneficiary.
3. Dental providers participating in the Vendor’s network may inform patients of the benefits, services, and specialty care services offered through a Vendor provided the following conditions are met:
 - a. Dental providers must not make unsolicited recommendations to beneficiaries regarding selecting one Vendor over another or offer patients incentives to select one Vendor over another.
 - b. At a patient’s request, dental providers may give patients the information necessary to contact a particular vendor or refer the beneficiary to a Vendor’s orientation material.
 - c. Dental providers choosing to distribute or display any Vendor marketing materials must distribute or display for all Vendors they contract with and which participate in the Dental

Managed Care Program. If a dental provider only contracts with one Vendor, the dental provider may distribute or display marketing materials for that one Vendor.

4. A Vendor may create a social media account specific to Vendor's participation in the Dental Managed Care Program and use such account to communicate with the general. All social media communications that are "marketing materials" must be submitted to DHS and comply with the requirements of Paragraph 1 here.
5. Upon enrollment (i.e., the date on which the beneficiary enrolls with a Vendor, notwithstanding the 90 day "no cause" switch period) and thereafter, Vendors may:
 - a. Use social media such as Facebook and Twitter to communicate with enrollees of the Vendor
 - b. Use electronic communications (electronic ads, email, mobile apps, member apps, and text messages) but must provide the option for enrollees to unsubscribe from receiving electronic communications.
6. Promotional giveaway or incentives, of any value, are limited to those specified in the Vendor's contract with DHS and the Vendor must disclose specific details of the receipt, use, restrictions, and limitations of such giveaway or incentive in marketing materials that promote the giveaway or incentive.
7. Vendors may not us Spam or engage in any kind of Spamming.