11. Marketing

11.1. General Information

This policy establishes guidelines and restrictions for all MCOs awarded a contract and subcontractors of the MCO, or under contract with HCA to deliver health care services, for marketing and outreach activities referencing the managed care program.

Definitions

Health Education: Programs, services or promotions designed or intended to advise or inform the MCO's enrolled members about issues related to healthy lifestyles, situations that affect or influence health status, behaviors that affect or influence health status or methods of medical treatment.

Health Educational Materials: Materials designed, intended, or used for health education or outreach to the MCO's enrolled members. Health education materials include, but are not limited to: condition specific brochures, letters or phone calls, Member newsletters, posters and Member handbooks.

Incentives: Items used to encourage behavior changes in the MCO's enrolled members or health promotion incentives used to motivate members to adopt a healthy lifestyle and/or obtain specific health care services. These may include but are not limited to:

- Infant car seats or baby item giveaways;
- Gift cards;
- Manufacturer or coupons for savings on products; or
- Services or any other objects designed or intended to be used in health education or outreach.

Incentives may not be used in conjunction with the distribution of alcohol or tobacco products, or firearms.

Marketing: Any medium of communication that is written, audio/oral, personal face-to-face, or electronic, including any promotional activities, intended to increase the MCO's or subcontractor's membership or to "brand" an MCO's or subcontractor's name or organization.

Marketing Materials: General audience materials such as general circulation of brochures, flyers, newspaper, phone book advertisements, websites and/or any other materials designed, intended, or used for increasing the MCO's or subcontractor's membership or establishing a brand. Such marketing materials may include but are not limited to scripts, provider directories, leaflets, posters, billboards, or any material that is distributed or circulated by the MCOs and subcontractors, including providers (e.g., personal care providers).

Outreach: Any means of educating or informing the MCO's enrolled members about health issues. See also Health Education.

Outreach Materials: Materials designed, intended, or used for health education or outreach purposes only for the MCO's enrolled members. See also Health Education.

Event Promotion: Any activity in which any approved marketing materials are given away or displayed with the intent to provide health education and/or outreach.

Provider: A hospital/hospital staff, physician/physician staff, pharmacy/pharmacist, ancillary service providers and their staff, personal care/homemaker providers and their staff.

Policy

Marketing is information intended for the general public about the existence of the MCO and its subcontractors and the availability of the MCO as an enrollment option for people deemed eligible for services through Turquoise Care.

Outreach is communication with enrolled members for the purpose of Member retention and improving the health status of enrolled members. Retention efforts must be directed to currently enrolled members who are determined to be at risk for attrition or be based on analysis of membership trends such as decreased utilization of preventive services.

The MCO must submit marketing, outreach, retention activities and materials to HCA for review and prior approval. In addition, the MCO must provide HCA with an electronic copy of the approved materials, advertising copy or publication in which the ad will be placed. All Member materials must be mailed to members unless the Member requests the material in an alternative format.

Marketing Material Approval

The MCO shall submit electronic versions of all written materials that will be distributed to members (referred to as Member materials) to HCA's, Communication and Education Bureau's Marketing Coordinator and copy the HCA contract manager for review and approval. This includes but is not limited to Member handbooks, provider directories, Member newsletters, Member identification cards and, upon request, any other additional, but not required, materials and information provided to members designed to promote health and/or educate members.

- All Member materials must be submitted to HCA in electronic file media, in the format prescribed by HCA. The MCO shall submit the reading level and the methodology used to measure it concurrent with all submissions of Member materials and include a plan that describes the MCO's intent for the use of the Member materials.

- The HCA Marketing Committee will attempt to approve or deny marketing requests within 15 business days of the receipt of the complete request. The 15 business day timeframe for approval or denial shall only apply to the specific date of the initial submission. Modifications of any type would need to be resubmitted, which may delay approval.
- Prior to modifying approved Member materials, the MCO shall submit to HCA for prior written approval a detailed description of the proposed modifications in accordance with this section of the Manual.
- The use of any material, including those that pertain to incentives, marketing, outreach, and promotions must have prior approval from the HCA Marketing Committee.
- Materials that have been previously approved but will be included in a specific activity must also be included in the MCO's submission for review and approval by HCA.
- MCOs shall review all material on a regular basis and revise materials as necessary. Any revised or updated material previously approved must be submitted to HCA for approval.

- **HCA Review of MCO Materials**

The MCO shall ensure all materials submitted to HCA for review meet the following criteria:

- All materials shall include information that describes what the submission is, its purpose and what population (if applicable) it will target. This information may be submitted in form of a cover letter, MCO Contractor plan form, or in the body of an email;
- All materials consisting of two or more pages must be numbered;
- All materials must be 6th grade reading level or lower and each submission must provide the reading level with and without, proper names, medical terminology, etc.;
- All materials must indicate if a translated version will be made available to the Member or how the Member can request a translated version;
- All materials must be submitted timely and at least 30 calendar days prior to use allowing the HCA Marketing Committee at least 15 business days to review. If an "expedited" review is needed, please submit and allow at least five business days for review and approval or request special accommodations for unique circumstances;
- All materials used for any type of Medicaid or managed care training purposes must be submitted for review and approval before training occurs (i.e., handouts, PowerPoint presentations, etc.). If MCOs are collaborating and conducting one training using the same

PowerPoint presentation, one MCO should be designated to submit the material on behalf of all MCOs (e.g. Annual Tribal Meetings);

- All materials shall identify the MCO as an HCA/MAD managed care provider and are consistent with all the requirements for information to members described in the Agreement, regulations and the Manual;
- All materials shall specify "Such services are funded in part with the State of New Mexico";
- All related materials should be submitted to HCA for review together, in lieu of separate submissions;
- All approved materials shall be provided in electronic format to the HCA marketing coordinator in the English and translated Spanish version (if applicable); and
- Outreach material may not include the words: "free", "join", "enroll", "sign up" or similar verbiage unless approved by the HCA Marketing Committee. If the MCO intends on using such language in any of the materials, the request for approval must include how the message is related to an Outreach goal.

- **Events**

MCOs may participate in health-related marketing and outreach events. Events must be health-related or have health education components. MCO participation in these events must be substantive; an unmanned booth(s) with handouts is not acceptable.

The MCO shall submit to the HCA Marketing Committee all marketing outreach events in which the MCO participated. Participation includes, but is not limited to, having a manned booth at the event, financially contributing to the event, and/or having a presence at the event.

- **Marketing and Outreach Plan**

The MCO shall submit an annual Marketing and Outreach Plan as well as a quarterly report which outlines the MCO's activities.

- **MCO Health Plan Name and Logos**

MCO Name and Logos can be included on event flyers or websites that are produced by hosting organizations without prior approval. MCO must monitor their MCO name and logo use to prevent misuse. Small giveaway items such as, but not limited to, pens, pencils, balls, toys, etc. that are only identified by the addition of the MCO's logo do not need prior approval from HCA.

Any items that include the MCO's logo as well as any reference to Turquoise Care or the State Medicaid program must be approved by HCA through the Marketing approval process.

- **Restrictions**

The following restrictions apply to all marketing, outreach and retention activities. The following shall not be allowed:

- Incentive items such as t-shirts, buttons, balloons, key chains, etc. unless the intent of such a giveaway is outreach in nature (i.e., for educating members about benefits of safety, immunizations, well-care, or as a "reward/incentive" for Member accessing care as part of an approved incentive program);
- Solicitation of any individual face-to-face, door-to-door or cold call telemarketing, including that of the MCO's subcontractors;
- Any reference to competing plans;
- Promotional materials, incentives, or any other activity to influence enrollment in conjunction with the sale or offering of any private insurance;
- Unsolicited direct mail advertising, including that of the MCO's subcontractors;
- Marketing of non-covered services;
- Reference to the word "free" for any covered service;
- Use of HCA/MAD logo;
- Inaccurate, misleading, confusing, or negative information about HCA, or statements designed to recruit potential members, including that of the MCO's subcontractors;
- Discriminatory marketing practices; and/or
- The MCO may not encourage or persuade the Member to select a particular MCO plan or subcontracted provider when completing specific applications or forms. The MCO or its subcontractor may not complete any portion of the application forms on behalf of the potential enrollee. The prohibition covers all situations, whether sponsored by the MCO, its parent company, or any other entity.

HCA reserves the right to impose additional restrictions at any time.

- **Sanctions/Penalties**

Any violation of this policy may result in the sanctions as described in 7.3 of the Agreement.

The MCO shall ensure subcontractors are advised that they must comply with this policy. All materials must be submitted by all subcontractors to the MCO for review and approval based on the MCO specific policies and procedures for marketing.

Failure of a subcontracted provider to adhere to this policy may result in sanctions/penalties to the contractor contracted with such a provider.

Subcontractors may only advertise the services they provide and may not make any reference to HCA/MAD programs, Medicaid or services the MCO provides.

- Temporary Sanctions/Penalties

  Any activities or materials found in violation of this policy will be subject to sanction regardless of previous approval or terms in contractual agreements. The MCO contractor will be placed on "Moratorium" status and will not be allowed to advertise via the following:

  - Television advertising;
  - Internet advertising;
  - Print advertising;
  - Radio advertising;
  - Billboards; and
  - Bus wraps (including bus stops).

The MCO will monitor its subcontractors found in violation of this policy and impose sanctions for marketing or advertising of the subcontractor's services and/or business.

The HCA Marketing Review Committee will review the "Moratorium" status on an annual basis, or at HCA's discretion, to determine if the MCO or its subcontractor is deemed compliant.

- **References**
  - 42 CFR 438.104, 42 CFR 438.10, 42 CFR 431.12, 42 CFR 431.307
  - HCA/MAD Medicaid Managed Care Services Agreement