

10. MARKETING

Overview

This chapter describes the marketing activities, strategies, and restrictions that apply to all managed care organizations participating in The Partnership Plan, including partial cap plans authorized by the State. The chapter is organized in the following sections:

- State Marketing Guidelines
- Required Information
- Monitoring Activities
- Corrective Actions and Sanctions

Marketing Guidelines

The MCO marketing guidelines developed by the State, in consultation with participating counties, are for use by managed care plans in development of their marketing materials. The guidelines incorporate the marketing requirements in Federal regulation; however, in some areas they are more restrictive. The Division of Managed Care and Program Evaluation consulted with the State Medical Care Advisory Committee about the process used to review and approve marketing materials.

MCOs must make marketing and other informational materials available in languages other than English when at least five percent of the potential Partnership Plan enrollees in the service area speak a language other than English as a first language. The State uses Census Bureau data to approximate the proportion of households in an area where there is no adult resident who speaks English as a first language and informs the MCOs and the LDSS in a service area when the threshold has been reached and materials must be printed in a foreign language. The State identifies other languages spoken and race through the eligibility and enrollment processes and provides this information to MCOs.

It is the States intent that these guidelines create a uniform standard for all MCOs participating in The Partnership Plan.

Marketing guidelines are available as Appendix D of the MMC/FHPlus Model Contract at www.nyhealth.gov/health_care/providers/index.htm.

Required Information

Written material must be available that explains the Medicaid managed care program.

Educational materials must include the following:

- a description of the program
- who will be required to select an MCO, who may enroll with an MCO voluntarily, and who is excluded from participation
- how to obtain an exemption or exclusion from participation

- a listing of available MCOs
- time frames for MCO selection, enrollment, and disenrollment
- a phone number to call to obtain additional information
- a summary listing of benefits covered, cost sharing, if any, service area, and the names, locations, telephone numbers of, non-English language spoken by providers participating in each MCO,
- a description of the benefits not covered, but available through Medicaid fee-for-service (e.g. family planning, FQHC, etc.) and how to access them
- a statement advising enrollees about the availability of oral interpretation services and how to access those services
- a statement about the availability of materials in alternative formats and other languages
- including a statement advising potential enrollees to verify with their preferred provider(s) that the provider(s) participate(s) in the chosen MCO and is (are) available to serve the potential enrollee.

Monitoring

The State in consultation with the local districts conducts comprehensive monitoring of MCO marketing activities. Monitoring activities may include review and approval of all direct marketing materials to be used by MCOs; routine field observations by local district staff; random audits and undercover field monitoring; and monitoring of complaints and grievances. Each of these activities is discussed in more detail below.

Review and Approval of Direct Marketing Materials

The State has the responsibility for reviewing and approving the marketing plans required by the model contract; however the LDSSs are given an opportunity to review the marketing plans. The State works with the LDSSs and health plans to resolve any issues related to the marketing plans. The State also reviews and approves multi-county marketing materials. Materials that are specific to a particular county are also reviewed by that county LDSS. In New York City, CDOHMH also shares the responsibility for review and approval of any materials used in New York City.

Materials reviewed include:

- MCO marketing plans
- Scripts or outlines of presentations and materials used at health fairs and other LDSS approved events and locations
- All pre-enrollment written marketing materials - written marketing materials include brochures and leaflets and presentation materials used by marketing representatives
- County specific MCO informational brochures to be included in LDSS enrollment packets
- All direct mailings from MCOs targeted to the Medicaid market

All new or revised MCO marketing materials must be reviewed and approved prior to use. The SDOH will adhere to a sixty (60) day “file and use” policy, whereby materials submitted by the MCO must be reviewed and commented on within sixty (60) days of submission or the Contractor may assume the materials have been approved if the reviewer has not submitted any written comment.

The requirement for prior approval of all marketing materials is included in all MCO contracts. The LDSS is responsible for giving prior approval to where the MCO will market, and the MCO must comply with LDSS written requirements regarding scheduling, staffing, and on-site procedures when marketing at LDSS sites.

Plan-Assisted Enrollment

The LDSS approves the locations at which contracted MCOs may meet with potential enrollees and assist them in completing enrollment forms. The LDSS may allow MCOs to conduct these activities at any of the following sites:

- An Income Support/Maintenance Center
- Any other DSS office or location
- Primary care provider offices, or health centers
- A community center (if the center agrees and allows all MCOs to use the center)
- A resource center established by the local district or the enrollment counseling contractor
- Other appropriate sites approved by the LDSS in accordance with the marketing guidelines

Local districts (or the enrollment broker where contracted) are responsible for providing educational materials and counseling (if provided) for all Partnership Plan participants. MCOs may not assist recipients with the completion of enrollment materials until they have been provided general educational information by the District. Official enrollment forms, along with other educational information, may be included in the enrollment kits sent or given to recipients by the local districts. Therefore, if a recipient in a district served by the enrollment broker is in possession of a pre-printed form, MCOs may assume they have been provided with general educational materials. Outside of those districts, if local districts do not use pre-printed forms with individual client information then the district office personnel will identify the enrollment form for targeted enrollees in other ways indicating that educational materials have been provided. Enrollment forms may be separately mailed to the client once they have been found eligible or their case has been re-certified rather than being included in the overall enrollment kit. All enrollment forms include an attestation by the beneficiary that they have received basic information about their rights and responsibilities under managed care, including their choices of plans and primary care providers.

Routine Field Observations

Each local district approves sites at which MCOs will be permitted to market to and assist Medicaid recipients in completing enrollment forms. Periodically, staff from the local district and/or the State Department of Health’s Regional Office(s) staff visit marketing sites to observe

MCO marketers, and to informally query Medicaid recipients regarding their encounters with these individuals. Routine visits are conducted at each designated site on at least a quarterly basis.

Local districts may choose to designate those sites where local district enrollment staff are located (i.e. eligibility offices) as a site where MCOs will be permitted to market. In these cases, enrollment staff will routinely observe the marketing activities of MCO staff.

Random Audits

The SDOH Regional Offices work with local districts to conduct unannounced, undercover audits of MCO marketing activities. During these unannounced visits, the audit team will observe MCO representatives; obtain and review copies of all printed materials being distributed; monitor compliance with restrictions on promotional gifts; and informally survey individuals who have been marketed to in order to determine their reactions to the process and the type of information they received. When possible, these audits will be conducted undercover, with members of the audit team posing as Medicaid clients and participating in marketing activities.

Findings from the random audits may result in issuance of a Statement of Deficiency or a warning letter, imposition of fines or sanctions or suspension of enrollment, or may lead to further audits and investigations to determine the scope of problems and appropriate corrective actions. The State coordinates with the local districts to determine appropriate steps to correct any problems identified during these random audits.

Member Surveys

During the first two years of the waiver the State conducted at least one member survey related to marketing and enrollment in each implementation phase. The surveys were conducted after at least two months of enrollment occurred.

The surveys covered the following topics:

- process for enrollment (how the member enrolled in the MCO)
- who assisted in the enrollment (county staff, enrollment broker, MCO representative)
- member understanding of managed care
- member satisfaction with the enrollment process

Responses were analyzed to identify any potential problems or areas for improvement in the enrollment process. The results were consistently positive; therefore the new member survey was discontinued.

Corrective Actions

The State has a wide range of remedies available in the event that marketing abuses are documented, including warnings issued to the MCO, statements of deficiency, monetary

penalties as permitted by law, suspension of enrollment, and termination of contracts. Additionally, members enrolled in any MCO that is found to have engaged in deceptive marketing are permitted to transfer to another MCO upon request effective the next calendar month.

Section 11.5 of the MMC/FHPlus model contract describes actions that may be taken in response to marketing infractions.

10. MARKETING IN FHPlus

Marketing Guidelines and Monitoring are similar under FHPlus. The SDOH is responsible for enforcement and sanctions resulting from marketing activity infractions, as specified in the contract with the MCO.

In addition, the SDOH has issued the following guidelines to both lead agencies and MCOs that will be providing facilitated enrollment services. These guidelines communicate the Department's policies on the marketing of facilitated enrollment services and the use of funds for that purpose.

FHPlus Facilitated Enrollment Marketing Guidelines and Monitoring

MCOs and lead agencies that are approved for facilitated enrollment are only permitted to assist applicants in approved locations. An emergency room is not considered an approved location. MCOs and lead agencies are also prohibited from telephone cold-calling, door-to-door solicitations at the homes of prospective enrollees, and offering incentives of any kind to join an MCO.

FHPlus/MA facilitators are responsible for local publicity regarding locations and hours of operation of facilitated enrollment sites. MCOs and lead agencies use only information approved by SDOH, but can tailor materials to the needs of individual communities. SDOH approves all subcontract arrangements and all proposed publicity and educational materials in order to assure that enrollment information is comprehensive.

MCOs and lead agencies are allowed to use FHPlus/MA facilitated enrollment funds only for functions related to providing applicants/enrollees with general information about the facilitated enrollment process or for information regarding FHPlus/MA facilitated enrollment locations and hours. MCOs are strictly prohibited from using these funds for any purpose related to self-promotion and marketing.

SDOH retains responsibility for ensuring that the facilitator's policies and procedures related to enrollment and marketing are appropriate to meet the needs of applicants and in accordance with State and Federal laws, regulations, policies, and procedures (see Appendix P of the Model Contract for more detail).

Only MCOs that also provide facilitated enrollment services are able to do plan-assisted enrollment since the eligibility application process is linked to the enrollment process.