



**MEDICARE-MEDICAID COORDINATION OFFICE**

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**DATE:** July 21, 2015

**TO:** Medicare-Medicaid Plans in Texas

**FROM:** Sharon Donovan  
Director, Program Alignment Group

**SUBJECT:** Texas MMPs: Release of Final Contract Year 2016 Marketing Guidance for Medicare-Medicaid Plans

Attached to this memorandum is the final Contract Year (CY) 2016 marketing guidance for Medicare-Medicaid Plans (MMPs) operating in the Texas Capitated Financial Alignment Demonstration. This guidance has been jointly updated by CMS and Texas as summarized below and will be applicable to all marketing done for CY 2016 benefits.

We remind MMPs that this guidance document provides information only about those sections of the MMG that are not applicable or that are modified for MMPs in Texas; therefore, this guidance document should be considered an addendum to the CY 2016 MMG. MMPs should carefully review the recently released CY 2016 MMG (see <http://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/Downloads/2016-Medicare-Marketing-Guidelines-Updated.pdf>), in conjunction with this guidance document, as the requirements of the MMG that are not otherwise modified by this document apply to MMPs in Texas.

Following is a summary of the changes to the CY 2016 marketing guidance for Texas MMPs:

- General updates and streamlining:
  - Edits to section numbers, titles, and references, consistent with changes to the CY 2016 MMG.
  - Updates of lists of model marketing materials and links.
  - Streamlining of the language throughout the document to ensure greater consistency across state guidance documents.
- **Section 10 (Introduction):** Clarifies that flexible benefits and rewards and incentives materials, as well as MMP apps that are not health related, are subject to review by the State; includes a mailbox for submission of provider materials for State review.

- **Section 30.5 (Requirements Pertaining to Non-English Speaking Populations):** Addition of: (1) the notice alerting enrollees how to access or receive the Provider and Pharmacy Directory; and (2) notices of appeals decisions to the list of required documents for translation. The first document was added to the list for consistency with the updates to section 60.4 of the CY 2016 MMG, and the second for consistency with the provisions of the three-way contract.
- **Section 30.5 (Requirements Pertaining to Non-English Speaking Populations), Section 30.7 (Required Materials for New and Renewing Enrollees at Time of Enrollment and Thereafter), Section 60.4 (Directories), and Section 60.7 (Annual Notice of Change (ANOC) and Evidence of Coverage (EOC) (Member Handbook)):** Updates in terminology regarding the notice alerting enrollees how to access or receive the Provider and Pharmacy Directory, consistent with the changes to the CY 2016 MMG.
- **Section 30.6 (Required Materials with an Enrollment Form):** Clarifies that the responsibility for sending enrollment and disenrollment notices to enrollees will be delegated to the State's administrative services contractor, with the exception of any notices delegated to MMPs, as described in Appendix 5 of the MMP Enrollment and Disenrollment Guidance.
- **Section 30.7 (Required Materials for New and Renewing Enrollees at Time of Enrollment and Thereafter) and Section 60.7 (Annual Notice of Change (ANOC) and Evidence of Coverage (EOC) (Member Handbook)):** Clarifies that additional informational materials related to benefits or plan operations may be included in these required mailings to new and current enrollees – both at the time of enrollment and annually thereafter – consistent with the requirements of section 60.3 of the MMG.
- **Section 40.10 (Standardization of Plan Name Type):** Clarifies that the State refers to MMPs in Texas as STAR+PLUS MMPs.
- **Section 50.1 (Federal and State Contracting Disclaimer):** Clarifies that, in addition to the exceptions noted in the introduction to section 50 of the MMG, radio and television ads do not need to include the Federal and State contracting disclaimer, consistent with the changes to section 50.1 of the CY 2016 MMG.
- **Section 50.2 (Disclaimers When Benefits Are Mentioned):** Modifies one of the required benefits disclaimers consistent with changes to the CY 2016 MMG.
- **Section 50.4 (Disclaimer on Availability of Non-English Translations):** Clarifies that radio ads are only required to include this disclaimer in the same language as the ad, consistent with changes to the CY 2016 MMG.
- **Section 50.15 (Pharmacy/Provider Directory and Formulary Disclaimers):** Adds a new required disclaimer for inclusion in materials whenever the formulary (List of Covered Drugs) or provider and pharmacy networks are mentioned, consistent with changes to the CY 2016 MMG.

- **Section 60.4 (Directories):** Clarifies that certain portions of 60.4 of the MMG are now applicable to MMPs given the new flexibilities afforded to all plan types in the CY 2016 MMG to send a notice alerting the enrollees how to access or receive the Provider and Pharmacy Directory rather than a hard copy of the complete directory. This flexibility was previously provided only to MMPs. Section 60.4 of the MMG contains the detailed requirements regarding this separate notice, and we clarify that these requirements regarding the separate notice apply to MMPs.
- **Section 60.7 (Annual Notice of Change (ANOC) and Evidence of Coverage (EOC) (Member Handbook)) and Introduction:**
  - Consistent with the changes to section 60.7 of the MMG, clarifies the actual mail date requirements.
  - Clarifies that MMPs must use an errata notice to notify enrollees of any errors in their original mailings and that MMPs should work with their Contract Management Team on developing an errata notice when errors are identified. Also clarifies that while the errata model at <http://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/MarketngModelsStandardDocumentsandEducationMaterial.html> may be helpful to MMPs in creating their own errata notices, the terminology in that notice is not specific to MMPs (for example, references to the Evidence of Coverage should also include the MMP Member Handbook) and must be modified accordingly.
- **Section 70.2 (Marketing of Rewards and Incentives Programs):** Clarifies that MMPs may offer rewards and incentives to current enrollees, as provided in section 70.2 of the MMG, Chapter 4 of the Medicare Managed Care Manual, and CMS' December 4, 2014 HPMS guidance memorandum, "Rewards and Incentives Program Guidance."
- **Section 70.6 (Telephonic Contact):**
  - Clarifies that, consistent with section 70.6 of the MMG, organizations that offer non-MMP and MMP products may call their current non-MMP enrollees (for example, those in Medicaid managed care products), including individuals who have previously opted out of passive enrollment into an MMP, to promote their MMP offerings.
  - Clarifies that calls made by an MMP to a current member of a non-MMP plan offered by the MMP's parent company are not considered unsolicited calls. Plans may use reasonable efforts to contact current non-MMP enrollees who are eligible for MMP enrollment to provide information about their MMP products.

- **Section 70.8 (Prospective Enrollee Educational Events):** Adds a requirement that MMPs inform CMS and the State of educational events via HPMS, consistent with the guidance for marketing events in section 70.9.1 of the MMG.
- **Section 80.1 (Customer Service Call Center Requirements):**
  - Clarifies the requirements of this section consistent with changes to this section in the CY 2016 MMG.
  - Adds a requirement that MMPs must use customer service representatives, rather than alternate technologies, on New Year's Day.
  - Includes several additional State-specific call center requirements from the three-way contract.
- **Section 100 (Plan/Part D Sponsor Websites and Social/Electronic Media):** Realigns the content of some of the subsections in Section 100 with changes to section 100 and its subsections in the CY 2016 MMG. However, except as detailed below, the revised MMP marketing guidance makes no substantive changes to the previous MMP requirements.
- **Section 100.1 (General Website Requirements):** Clarifies that, in addition to the other documents required to be posted to plan websites by September 30, MMPs must also post the Summary of Benefits for the upcoming contract year to their website by September 30.
- **Section 100.6 (Social Media):** Clarifies that MMP use of electronic media is permitted. For Texas MMPs, electronic media refers to television, radio, and MMP-specific apps. MMPs may use both social and electronic media to disseminate health-related material, but MMPs may not use social media to disseminate plan or program-specific information.
- **Section 100.7 (Mobile Applications):** Clarifies that MMPs must notify CMS and the State of any intent to implement an MMP-specific app. Any apps that are not health related, regardless of whether they are targeted to current or potential enrollees, must be submitted as state-only marketing materials in HPMS (see section 10 of the guidance)
- **Section 120 (Marketing and Sales Oversight and Responsibilities):** Clarifies that MMP staff conducting marketing activity of any kind – including marketing events, marketing appointments, and direct comparisons of MMPs and non-MMPs – must be licensed in the State (and, when required, appointed) as an insurance broker/agent.

The attached guidance will also be posted to the Financial Alignment Initiative website at <http://cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/InformationandGuidanceforPlans.html>.

For any questions about the contents of this memorandum, please contact your Contract Management Team, or the Medicare-Medicaid Coordination Office at [mmcocapsmodel@cms.hhs.gov](mailto:mmcocapsmodel@cms.hhs.gov).