

**Office of Health Insurance Programs**

**Division of Long Term Care**

**MLTC Policy 13.06: Marketing Guidelines for Managed Long Term Care Plans and Medical Service Providers**

**Date of Issuance: March 13, 2013**

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This policy clarifies the marketing guidelines for Managed Long Term Care Plans and Medical Service Providers Statewide:

**Definitions:**

- a) “Providers or Referral Sources” shall mean (hospitals, clinics, diagnostic & treatment centers, physician group practices, home care providers, personal care agencies, nursing homes) and any other licensed health care provider or non-licensed entity such as social day care or home-delivered meals provider that contracts with one or more Managed Long Term Care Plans.
- b) “Marketing” shall mean all forms of communication, written or oral, used to encourage or induce Medicaid recipients to enroll in a Managed Long Term Care (MLTC) Plan.

**Appropriateness of Marketing Materials:**

- a) Providers shall not engage in marketing practices, nor distribute any marketing materials, that mislead, confuse or defraud eligible persons, the public or any government agency. Providers may not misrepresent the Medicaid program, the Medicaid managed long term care program or policy requirements of the State or its agents (counties).  
**REMINDER: Medicaid recipients may never be told by their provider that they have to join a Plan now. Recipients have to make a selection when they receive their official notice from the State or its designee or are seeking community based long term care services in mandatory counties.**
- b) Marketing materials must accurately reflect general information, which is applicable to the average consumer such as which plans the provider has contracts with.
- c) Only marketing materials approved by NYSDOH for Plans may be used and distributed by such Plans.

**Permitted/Impermissible Marketing Activities:**

- a) Marketing activities may not discriminate on the basis of a potential member’s health status, prior health service use, or need for future health care services.
- b) Plans/Providers may not conduct “cold call” telephone solicitations. Door to door solicitation is also prohibited.

- c) Providers may not provide mailing lists of their patients to Plans. Providers may not disseminate any information regarding mandatory enrollment requirements.
- d) Providers may give permission to Plan marketing representatives to conduct marketing activities at their facility. Plans at these activities must prominently display a list of all other Plans operating in the county or borough.
- e) Neither the provider nor Plan marketing representative may market in hospital emergency rooms, treatment rooms, hospital patient rooms, medical professional offices, Nursing Home or Adult Care Facility resident rooms, Adult Day Health Care Programs (ADHCP) and Social Day Care sites.
- f) Plans may not require providers to distribute Plan-prepared communications to their patients.
- g) In the event a Provider is no longer affiliated with a particular Plan but remains affiliated with other participant Plans, the Provider may notify his/her patients of the new status and the impact of such change for the patient.
- h) All marketing activities shall be conducted in an orderly, non-disruptive manner and shall not interfere with the privacy of potential enrollees or the general community.
- i) An approved Plan may begin to market to referral sources when the Plan has received its Certificate of Authority and the State Contract has been executed and completed internal Department of Health clearance.
- j) Plans are not permitted to market to potential enrollees nor conduct any assessments for potential enrollment until such time as the Plan receives written Department approval.

**Required Information for Potential Enrollees:**

- a) Plans must provide any potential enrollee not referred by New York Medicaid Choice (NYMC) with information describing managed long term care, a list of available Plans and information on how to reach NYMC. Plans must utilize managed long term care information and plan lists provided by the Department of Health's website.

**Inducements to Enroll:**

- a) Providers and Plans may not offer material or financial gain to Medicaid beneficiaries as an inducement to enroll. Specifically Providers and Plans may only: 1) make reference in marketing materials and activities to benefits/services offered under the program; and

2) offer only nominal gifts, with a fair market value of no more than \$5.00, with such gifts being offered regardless of beneficiary's intent to enroll.

- b) Providers shall not pay any individual, or accept in payment from a Plan, any commission, bonus, or similar compensation that uses numbers or Medicaid eligible persons enrolled in the managed long term care plan as a factor in determining compensations.