

A red-tinted image showing the top of the Statue of Liberty and the cables of a bridge, likely the Manhattan Bridge, in the background.

Redesign Medicaid in New York State

FIDA Plan Meeting - Marketing

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Presentation Overview

- ❑ The marketing requirements we will discuss are contained in the following documents:
 - ❑ Section 2.15 of the three-way contract;
 - ❑ The Federal Medicare Marketing Guidelines, which can be found at: www.cms.gov/Medicare/HealthPlans/ManagedCareMarketing/FinalPartCMarketingGuidelines.html;
 - ❑ The State Specific Marketing Guidance; and
 - ❑ The State and Federal Marketing Regulations for Medicaid including 18 CRR-NY 360-10.9 and 42 CFR 438.104.

General CMS Marketing Requirements Overview

- ❑ Medicare Statutory Requirements:

- ❑ Social Security Act:

- ❑ Section 1852(c) – Medicare Advantage Disclosure Requirements
 - ❑ Section 1860D-4 – Part D Dissemination of Information Requirements
 - ❑ Section 1851(h) – Approval of Marketing Material and Application Forms
 - ❑ Section 1851(j) – Marketing Prohibitions and Limitations

Medicare Regulations

- ❑ Applicable Medicare Regulations:
 - ❑ 42 CFR 422.111 - Medicare Disclosure Requirements
 - ❑ 42 CFR 422 Subpart V - Medicare Marketing Requirements
 - ❑ 42 CFR 423.128 - Dissemination of Part D Plan Information
 - ❑ 42 CFR 423 Subpart V - Part D Marketing Requirements
 - ❑ 42 CFR 422.2260 and 423.2260 – Definition of Marketing Materials

Marketing Definition

- ❑ Marketing, Outreach, and Participant Communication is defined in the three-way contract as:
 - ❑ Any informational materials targeted to Participants or Potential Participants that include:
 - ❑ choosing a managed care organization, selecting a primary care provider, participant handbooks, and any information or notices distributed or required to be distributed to eligible individuals, Potential Participants, or Participants;
 - ❑ the Medicare Marketing Guidelines; and
 - ❑ activities identified in the marketing plan that the FIDA Plan is required to submit for NYSDOH approval.

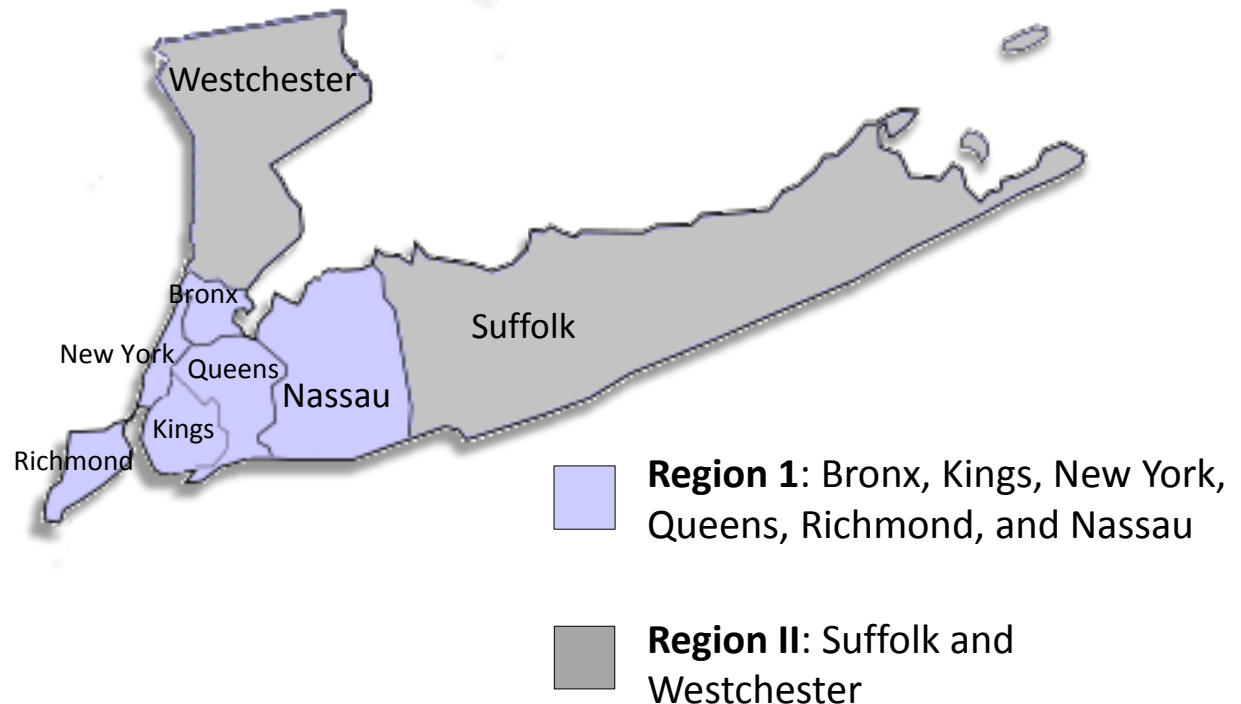
Medicare Marketing Guiding Principles

- ❑ Defines marketing as “the act of steering, or attempting to steer, a potential enrollee towards a plan or limited number of plans, or promoting a plan or a number of plans.”
- ❑ FIDA Plan responsibilities:
 - ❑ ensuring compliance with current marketing regulations and guidance – including monitoring and overseeing the activities of their subcontractors, downstream entities, and/or delegated entities
 - ❑ full disclosure when providing information about plan benefits, policies, and procedures
 - ❑ documenting compliance with all applicable marketing requirements

Marketing Requirements

- ❑ The FIDA Plan must develop an annual marketing plan and have an approved plan on file with CMS and NYSDOH for its contracted service area.

- ❑ Plans can begin marketing on December 1, 2014 for Region I and March 1, 2015 for Region II.



Marketing Requirements

- ❑ The annual marketing plan must include:
 - ❑ A description of materials and formats to be used;
 - ❑ Distribution methods;
 - ❑ Primary types of marketing locations (such as, but not limited to, senior centers, nursing facilities, health fairs, etc.); and
 - ❑ A listing of the kinds of community service events the FIDA Plan anticipates sponsoring or participating in, during which it will provide information or distribute FIDA Plan marketing materials.

Marketing Requirements

- ❑ The FIDA Plan must make available to CMS and NYSDOH current schedules of all educational events conducted by the FIDA Plan.
- ❑ All educational and marketing events must be convened at sites within the Plan's service area that are physically accessible to all Participants or Potential Participants, including persons with disabilities and persons using public transportation.
- ❑ FIDA Plans may not offer financial or other incentives of any kind to induce potential Participants to enroll with the Plan or to refer a friend, neighbor, or other person. This includes promotional items and nominal gifts provided targeted events.

Marketing Requirements

- ❑ FIDA Plans may not begin marketing activities to new eligible individuals or Participants more than 90 days prior to the effective date of enrollment for the following contract year (Note: Not earlier than December 1, 2014.)
- ❑ All enrollment transactions must be processed by the Enrollment Broker, NY Medicaid Choice.
- ❑ The use of independent agents and brokers is not permitted.
- ❑ FIDA Plans must refer Participants and Potential Participants who inquire about enrollment to NY Medicaid Choice.
- ❑ FIDA Plans may provide Participants and Potential Participants with factual information about their Plan and its benefits prior to referring a request to NY Medicaid Choice.

Marketing Requirements

- ❑ All marketing documents and marketing activities must reasonably accommodate persons with physical or communications-related disabilities, including individuals with cognitive, learning, and psychiatric disabilities.
- ❑ The FIDA Plan may participate in group marketing events and provide general audience materials (such as general circulation brochures and media and billboard advertisements).
- ❑ Staff in health care settings such as long-term care facilities, day care settings, and chronic and psychiatric hospitals for dual eligible individuals (post-stabilization) may provide residents meeting eligibility criteria with an explanatory brochure for each FIDA Plan with which the facility contracts.
- ❑ FIDA Plans are prohibited from conducting marketing/outreach in emergency rooms, including waiting areas.

Marketing Requirements

❑ The FIDA Plan:

- ❑ May not market directly to Participants or Potential Participants on a one-on-one basis, including door-to-door, telephone, or other unsolicited contacts.
- ❑ Must have a process to mitigate Participant shifting from the FIDA Plan to other plans operated by the same parent company, which includes but is not limited to, counseling by 1-800-Medicare and the Enrollment Broker about the cost and other implications of making the change.
- ❑ May not use any materials that contain any statement (written or oral) that:
 - ❑ The Participant or Potential Participant must enroll in the FIDA Plan in order to obtain benefits or in order not to lose benefits; or
 - ❑ The FIDA Plan is endorsed by CMS, NYSDOH, Medicare, Medicaid, the Federal government, New York, or similar entity.

Marketing Requirements

- ❑ FIDA Plans may not call or send marketing materials to their current FIDA Participants about other Medicare products they offer, and may not ask for the Participants' authorization to receive such materials.
- ❑ Information about other Medicare products can only be provided at the express request of a current FIDA Plan Participant.
- ❑ FIDA Plans will not be permitted to distribute materials developed by a non-benefit/non-health service providing third-party entity that is not affiliated or contracted with the FIDA Plan.

Marketing Website Requirements

□ Websites are required to include:

- All required disclaimers
- A customer service number
- Hours of operation
- A TTY number
- A physical address or post office box
- A date stamp at bottom of each page when last updated
- Notification when leaving the MMP section of a site (Ex: A pop-up warning)
- Clearly labeled links
- Links that lead to actual marketing materials and include a marketing ID, rather than copying content.
- A summary of benefits (SB), formulary, pharmacy/provider directory
- A post of all required translations
- A post of all required content and documents (Section 100.2, 100.2.1, 100.2.2)
- An online provider directory (Section 100.4)
- A formulary and utilization management requirements (Section 100.5)

Marketing Website Requirements

- ❑ A site may be public during the review period, as long as it is labeled as “**pending.**”
- ❑ Sites must be maintained through December 31 of each year.
- ❑ The web address must link directly to the FIDA Plan.
- ❑ A separate section of the website must be maintained for the FIDA Plan.

Marketing Materials

- ❑ Marketing Materials must be:
 - ❑ Updated consistent with the State Specific Marketing Guidelines and the Medicare-Medicaid Marketing Guidance;
 - ❑ Translated into the following Prevalent Languages: Spanish, Chinese, Russian, Italian, Haitian-Creole, and Korean;
 - ❑ Sent in the appropriate Prevalent Language to any Participant whose primary language is known to be one of the Prevalent Languages; and
 - ❑ Mailed with a multi-language insert that indicates that the Participant can access free interpreter services to answer any questions about the FIDA Plan.

Marketing Materials

- ❑ The FIDA Plan must ensure that all information provided to Participants and Potential Participants (and families or caregivers when appropriate) is provided in a manner and format that is easily understood and that is:
 - ❑ Available in Alternative Formats, including Braille, oral interpretation services in non-English languages, audiotape, American Sign Language video clips, and other alternative media, as requested;
 - ❑ Provided in a manner, format, and language that may be easily understood by persons with limited English proficiency, or for Individuals with Intellectual Disabilities or cognitive impairments;
 - ❑ Written with cultural sensitivity and at a fourth- to sixth-grade reading level; and
 - ❑ Distributed to the FIDA Plan's entire Service Area, as permissible, given the different start dates of the two regions.

Marketing Materials

- ❑ Materials that must be translated into the Prevalent Languages:
 - ❑ Summary of Benefits (SB);
 - ❑ Annual Notice of Change (ANOC);
 - ❑ Evidence of Coverage (i.e., EOC / Participant Handbook);
 - ❑ Formulary;
 - ❑ Provider and Pharmacy Directory;
 - ❑ Part D Transition Letter;
 - ❑ NYSDOH Approved Assessment;
 - ❑ Person-Centered Service Plan; and
 - ❑ Ad-hoc communications regarding payments / reimbursements.

Marketing Materials

- ❑ Materials that must be provided to Participants at the time of enrollment and annually thereafter:
 - ❑ A Welcome Letter
 - ❑ An Annual Notice of Change (ANOC)/Evidence of Coverage (EOC), or simply an EOC
 - ❑ A comprehensive integrated formulary (List of Covered Drugs) that includes Medicare and Medicaid outpatient prescription drugs and over-the-counter pharmacy drugs or products provided under the FIDA Plan
 - ❑ A combined provider and pharmacy directory that includes all providers of Medicare, Medicaid, and additional benefits
 - ❑ A single ID card for accessing all covered services
 - ❑ A summary of benefits for individuals passively enrolled

Marketing Materials

- ❑ The FIDA Plan must provide Participants:
 - ❑ An ANOC that summarizes all major changes to the FIDA Plan's covered benefits from one contract year to the next.
 - ❑ As-needed to replace old versions or upon a Participant's request, a single identification (ID) card for accessing all Covered Items and Services provided by the FIDA Plan.
 - ❑ With at least 60 days advance notice regarding changes to the comprehensive, integrated formulary.
 - ❑ At least 60-day advance notice to Part D formulary changes for outpatient prescription or over-the-counter drugs or products covered under Medicaid or as additional benefits.

Provider and Pharmacy Directory

- ❑ The FIDA Plan must:
 - ❑ Maintain a combined Provider and Pharmacy Directory that includes all Participating Providers of Medicare, Medicaid, and additional benefits.
 - ❑ Ensure an up-to-date copy is available on the FIDA Plan's website.
 - ❑ **Beginning in Demonstration Year 2, regularly, but not less than monthly, update the Provider and Pharmacy Directory on the FIDA Plan's website to account for any changes in Participating Provider ADA accessibility.**
 - ❑ Provide a paper copy of the directory to:
 - ❑ All new Participants at the time of enrollment and, upon request, to both new and continuing Participants, and
 - ❑ A revised directory reflecting participating provider ADA accessibility for the second year.

Summary of Benefits

- ❑ A Summary of Benefits (SB) contains a concise description of the important aspects of enrolling in the FIDA Plan, as well as the benefits offered, applicable conditions and limitations, and any other conditions associated with receipt or use of benefits.
- ❑ For new Participants, the SB is required only for Participants enrolled through Passive Enrollment.
- ❑ For current Participants, the SB must be sent with the Annual Notice of Change (ANOC) as described in the Medicare-Medicaid Marketing Guidance.
- ❑ Plans must use the SB template provided by the State.

Marketing Materials

- ❑ FIDA Plans must include on all materials and websites a disclaimer that the State has created a Participant Ombudsman Program to provide free, confidential assistance on any services offered by the Plan and must include how the Participant Ombudsman may be reached.

Provider Marketing Activities

- ❑ Plans are responsible for all marketing materials used by their subcontractors.
- ❑ Plans must submit subcontractor marketing materials for review and approval.
- ❑ Plans will be held accountable for subcontractor failure to comply with marketing guidelines.

Provider Marketing Activities

❑ Participating Providers:

- ❑ May provide objective and neutral information to Participants and Potential Participants and assistance with Enrollment to the extent allowed by Medicare Marketing Guidelines and Enrollment Guidance.
- ❑ May make available or distribute FIDA Plan marketing materials.
- ❑ May announce a new affiliation once through direct communication to Participants or Potential Participants – such as direct mail, e-mail, or by phone – and multiple times if done through advertising or if the communication includes all of the FIDA Plans that Participating Provider has contracts with, pending CMS approval of all marketing materials.

Provider Marketing Activities

- ❑ FIDA Plans with continuing affiliations may continue to use Participating Providers to distribute written materials only if the contracted Providers includes a list of all Plans with which the Provider contracts.
- ❑ Providers may answer direct questions from patients asking what FIDA Plans they are associated with.
- ❑ Provider marketing responsibilities:
 - ❑ make sure that their information is current with each of the plans.
 - ❑ make sure their activities are within the parameters of what is permissible under the marketing rules.
 - ❑ are encouraged to report any marketing activity they believe is in conflict with the requirements; their identity will be kept confidential.

Marketing Enforcement

- ❑ The FIDA Plan must have:
 - ❑ Measures for monitoring and enforcing compliance with the guidelines by its marketing representatives, including the prohibition of door-to-door solicitation and telephonic or electronic solicitation;
 - ❑ The development of pre-enrollee mailing lists that maintains client confidentiality and honors the client's express request for direct contact by the FIDA Plan; and
 - ❑ The training, compensation and supervision of its dedicated marketing representatives.

Marketing Enforcement

- ❑ The FIDA Plan must receive Prior Approval of all marketing materials that CMS and NYSDOH require to be prospectively reviewed prior to distributing materials.
- ❑ CMS and NYSDOH will have a surveillance team to monitor Plans and Providers.
- ❑ Surveillance will focus on compliance with applicable marketing and enrollment laws, regulations, and policies, for the purposes of identifying any inappropriate or illegal marketing practices and marketplace trends.

Marketing Enforcement

- ❑ CMS and NYSDOH may conduct additional types surveillance of the FIDA Plan's Marketing activities, including, but not limited to:
 - ❑ Review of on-site marketing facilities, products, and activities during regularly scheduled contract compliance monitoring visits.
 - ❑ Random review of actual marketing pieces as they are used in the marketplace.
 - ❑ “For cause” review of materials and activities when complaints are made by any source, and CMS or NYSDOH determines it is appropriate to investigate.
 - ❑ A clipping service to review advertisements in the marketplace.
 - ❑ “Secret shopper” activities where CMS or NYSDOH attend marketing events or request the FIDA Plan's Marketing materials.

Marketing Enforcement

- ❑ CMS and NYSDOH will monitor any unusual shifts in enrollment of individuals identified for Passive Enrollment. If these shifts appear to be due to any inappropriate or illegal marketing, CMS and NYSDOH may discontinue further enrollment.
- ❑ If the State terminates or suspends enrollment into a FIDA plan or other Medicaid Managed Care product, marketing activities related to FIDA are not permitted until the issue is resolved, or the Plan risks being disqualified as a FIDA Plan.

Marketing Enforcement

- ❑ Any FIDA Plan under sanction will not be permitted to conduct enrollment or marketing activities related to the FIDA Plan until it is no longer under such sanction.
- ❑ In addition to termination, CMS and NYSDOH may impose any or all sanctions outlined in the contract.
- ❑ Sanctions, including penalties and suspension of marketing, may be imposed if the FIDA Plan violates restrictions or other marketing requirements.

Next Steps

- ❑ Discuss the questions submitted
- ❑ Additional questions?