Oversight of Marketing Materials

Effective Date: 7/28/2014 Draft/Review Date: 8/18/2014

Policy

A. It is the policy of the ACO to ensure that direct and online Marketing Materials and Activities used to educate, solicit, notify, and/or contact Beneficiaries or Providers/Suppliers adhere to CMS regulations. The ACO will also ensure that education, engagement materials, outreach, and websites adhere to ACO rules and regulations as well as the use of "plain writing" in accordance with the Plain Writing Act of 2010.

Applicability

This policy and procedure applies to all Participants, Providers/Suppliers, and other individuals or entities performing functions or services related to the ACO's activities.

Procedure

A. Marketing Materials and Activities (hereinafter referred to as "Materials") shall be developed in compliance with CMS regulations.

B. All requests for Materials used by ACO Participants and Providers/Suppliers and/or for Beneficiaries shall be sent to the Executive Directors (EDs).

    1. Upon request from an ED, Collaborative Health Systems (CHS) Marketing and Communications departments will create the appropriate Materials.

    2. All Materials must go through the CHS Marketing, Brand, and Compliance review and approval process to ensure that all CMS regulations, federal laws, and organizational guidelines, are met.

C. Where available, all Materials must use CMS developed template language.

D. If no CMS developed template language is available, to the extent possible, plain language that adheres to Federal Plain Language Guidelines will be used for Materials.

E. Materials will be clear, concise, well organized, and follow best practices appropriate to the subject or field and intended audience.

F. Materials will not be inaccurate, misleading, or discriminatory.

G. Materials will not be used in a discriminatory manner or for a discriminatory purpose (e.g., to avoid at-risk Beneficiaries).

H. All Materials must be reviewed and approved by Compliance prior to use.

I. Materials used to educate, solicit, notify, or contact Beneficiaries or Providers/Suppliers must, if applicable, be reviewed and filed with CMS per the five (5) day file & use approval submission requirements.

1. Determination of applicability of CMS file & use requirements will be made by Compliance and Compliance will be responsible for submitting any Materials to CMS.
2. Materials submitted to CMS are deemed approved after the expiration of the initial five (5) day review period.
3. CMS may disapprove Materials at any time, including after the expiration of the initial five (5) day review period.
4. If a Material that was deemed approved is later disapproved by CMS, the ACO must discontinue use of the Material and submit a revised version of the Material which adheres to CMS requirements. At that point, the five (5) day file & use clock will restart.

J. Materials will not offer gifts, cash, or other remuneration as inducements for:

1. Receiving items or services from an ACO, Participant, or Provider/Supplier; or,
2. Remaining in an ACO or with a Participant or Providers/Suppliers in a particular ACO.

K. Materials may provide in-kind items to Beneficiaries (i.e., may provide items for free or below market value) to encourage care coordination and Beneficiary health awareness as long as this provision is approved by the Compliance Officer and meets all regulatory requirements.

1. If the ACO wishes to provide such in-kind items, it must notify the ED, who must then submit the request to the Compliance Officer.
2. The Compliance Officer will work collaboratively with the ED and ACO to provide the in-kind item or similar benefit which achieves the same goal and complies with all regulatory requirements.

Reporting

A. N/A

Related Documentation

A. 42 CFR §425.20, §425.304, §425.310

B. 45 CFR §164.501 and §164.508(a)(3)(I)

C. For more information on Federal Plain Language Guidelines, go to: www.plainlanguage.gov