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**New York State  
Department of  
Health Medicaid  
Marketing  
Guidelines**

The purpose of these guidelines is to provide an operational framework for localities and Medicaid managed care organizations (MCOs) in the development of MCO marketing plans, materials, and activities and to describe SDOH's marketing rules, MCO marketing requirements, and prohibited practices.

The guidelines are consistent with those issued to all states by the Health Care Financing Administration (HCFA), U.S. Department of Health and Human Services (DHHS) in August 1994. These guidelines are consistent with the requirements of New York State.

**Marketing Plan**

1. The MCO shall develop a marketing plan that meets SDOH guidelines and any local requirements as approved by the State Department of Health (SDOH).

2. The LDSS is responsible for the review and approval of MCO marketing plans, using a SDOH approved checklist.

3. Approved marketing plans set forth the allowable terms and conditions and the proposed activities that the MCO intends to undertake during the contract period. Locally determined variations, as specified in Section E of the NYS Medicaid Contract Appendix, must be described in the MCO's specific marketing plan for each LDSS the MCO contracts with.

4. The MCO must have on file with the SDOH and each LDSS with which it will contract, an approved marketing plan, prior to the contract award date or before marketing and enrollment begin, whichever is sooner. Subsequent changes to the plan must be submitted to the LDSS or SDOH for approval at least sixty days before implementation.

5. The plan shall include: a stated marketing goal and strategies; marketing activities; and staff training, development and responsibilities. The following must be included in the plan's description of materials to be used: distribution methods, primary marketing locations, and a listing of the kinds of community service events the MCO anticipates sponsoring and/or participating in, during which

it will provide information and/or distribute marketing materials.

6. The MCO must describe how it is able to meet the informational needs, related to marketing, for the physical and cultural diversity of its potential membership. This may include, but not be limited to, a description of the MCO's other-than English language provisions, interpreter services, alternate communication mechanisms, including sign language, Braille, audio tapes, and/or Telecommunications Device for the Deaf (TDD/TYY) services.

7. The MCO shall describe measures for monitoring and enforcing compliance with the guidelines by its marketing representatives and its providers including: the prohibition of door-to-door solicitation and cold-call telephoning; a description of the development of pre-enrollee mailing lists, that maintains client confidentiality and that honors the client's express request for direct contact by the MCO; the selection and distribution of pre-enrollment gifts and incentives to consumers; and a description of the training, compensation, and supervision of its marketing representatives.

**Marketing  
Material  
Definitions**

1. Marketing materials generally include the concepts of advertising, public service announcements, printed publications, and other broadcast or electronic messages designed to increase awareness and interest in Medicaid managed care and/or a MCO's Medicaid managed care product. The target audience for these marketing materials is Medicaid-eligible persons who are not enrolled in a Medicaid managed care plan, and who are living in a defined service area.

2. Marketing materials include any information that references the Medicaid managed care program, is intended for general distribution, and is produced in a variety of print, broadcast, and direct marketing mediums. These generally include: radio, television, billboards, newspapers, leaflets, informational brochures, videos, telephone book yellow page ads, letters, and posters.

Additional materials requiring marketing approval include a listing of items to be provided as nominal gifts or incentives.

**Marketing  
Material  
Requirements**

1. Marketing materials must be written in prose that is understood at a fourth-to-sixth-grade reading level and must be printed in at least ten-point type.

2. The Contractor must make available written marketing materials and other information materials (e.g., member handbooks), in languages other than English, whenever at least five (5%) percent of the potential Enrollees of the Contractor in any county of the service area speak a language other than English as a first language. SDOH will inform the LDSS and LDSS will inform the Contractor when the five (5%) threshold has been reached. Marketing materials to be translated include those key materials, such as informational brochures, that are produced for routine distribution, and which are included with the MCO's marketing plan. SDOH will determine the need for other than English translations based on county specific census data or other available measures.

3. Alternate forms of communication must be provided for persons with visual, hearing, speech, physical, or developmental disabilities. These alternate forms include Braille or audiotapes for the visually impaired, TTY access for those with certified speech or hearing disabilities, and use of American Sign Language and/or integrative technologies.

4. The plan name, mailing address (and location, if different), and toll-free phone number must be prominently displayed on the cover of all multi-paged marketing materials.

5. Marketing materials must not contain false, misleading, or ambiguous information—such as “You have been pre-approved for the XYZ Health Plan,” or “If you do not choose a plan you will lose your Medicaid coverage,” or “You get free, unlimited visits”. Materials must not use broad, sweeping statements—for example, “If you are eligible for Medicaid, you are eligible for Medicaid Managed Care and/or the XYZ Health Plan.”

6. The material must accurately reflect general information, which is applicable to the average consumer of Medicaid managed care.

7. The Contractor may not use logos or wording used by government agencies, if such use could imply or cause confusion about a connection between a governmental agency and the Contractor.

8. Marketing materials may not make reference to incentives that may be available to Enrollees after they join a plan, such as “If you join the XYZ Plan, you will receive a free baby carriage after you complete eight prenatal visits.”

9. Marketing materials that are prepared for distribution or presentation by the LDSS or enrollment broker must be provided in a manner that is easily understood and appropriate to the target audience. The material covered must include sufficient information to assist the individual in making an informed choice of an MCO.

10. The MCO shall advise potential Enrollees, in written materials related to enrollment, to verify with the medical services providers they prefer, or have an existing relationship with, that such medical services providers participate in the selected managed care provider’s network and are available to serve the participant.

### **Prior Approvals**

1. The SDOH will review and approve MCO marketing videos, materials for broadcast (radio, television, or electronic), billboards, mass transit (bus, subway or other livery) and statewide/regional print advertising materials. These materials must be submitted to the SDOH for review. A copy must be simultaneously provided to the LDSS.

2. The LDSS will review and approve the following marketing materials:

- a) MCO marketing plans;
- b) Scripts or outlines of presentations and materials

used at health fairs and other LDSS approved events and locations;

- c) All pre-enrollment written marketing materials – written marketing materials include brochures and leaflets, and presentation materials used by marketing representatives;
- d) County-specific MCO informational brochures to be included in LDSS enrollment packets; and
- e) All direct mailings from MCOs targeted to the Medicaid market.

3. Both SDOH and LDSS will adhere to a sixty day “file and use” policy, whereby materials submitted by the MCO must be reviewed and commented on within sixty days of submission or the MCO may assume the materials have been approved if the reviewer has not submitted any written comment.

4. The Contractor shall submit all subcontracts, procedures, and materials related to Marketing to Eligible Persons to the SDOH and/or LDSS for prior written approval. The Contractor shall not enter into any subcontracts or use any marketing subcontractors, procedures, or materials that the SDOH and/or LDSS have not approved.

**Dissemination of LDSS**

The Contractor shall provide to the LDSS and/or Enrollment Broker upon request, a marketing/ informational brochure or alternative informational document, that describes coverage in the county-specific service area.

**Marketing Activity Definitions**

The Contractor shall, upon request, submit to the LDSS or Enrollment Broker, a current provider directory, together with information that describes how to determine whether a provider is presently available.

- 1. Marketing activities are occasions during which marketing information and material regarding Medicaid managed care and information about a particular MCO’s

affiliated products are presented. Typically, such information is presented both in verbal exchanges and through the distribution of written materials, together with the giving away of nominal gifts. The informal nature of the marketing activity requires MCOs to be forthright in their presentations to allow potential Enrollees the exercise of informed choice and localities must provide the best assurances that marketing practices are consistent with established guidelines.

Any exchange of verbal marketing information must include the following:

- a. if the plan is not capitated for family planning services, the representative must tell potential Enrollees that:
  - i. certain family planning and reproductive health services (such as abortion, sterilization birth control) are not covered by the Contractor;
  - ii. whenever needed, such services may be obtained through fee-for-service Medicaid from any provider who accepts Medicaid;
  - iii. no referral is needed for such services;
  - iv. there will be no cost to the enrollee for such services.

2. With prior local approval MCO's may engage in marketing activities that include community-sponsored social gatherings, provider-hosted informational sessions, or MCO-sponsored events. Events may include such activities as health fairs, workshops on health promotion, holiday parties, after-school programs, raffles, etc. These events must not be restricted to Medicaid Recipients only.

3. Media campaigns are the distribution of information materials regarding the Medicaid managed care program and/or a specific MCO for the purpose of encouraging Medicaid recipients to join a managed care plan. All

mediums—including television, radio, billboards, subway and bus posters, and electronic messages—must be pre-approved by the SDOH at least thirty days prior to the campaign. A copy must be simultaneously submitted to the SDOH and the LDSS.

**Marketing Sites**

1. With prior LDSS approval, MCOs may distribute approved marketing material in such places as: income support maintenance centers, community centers (if the center agrees and allows all MCOs to use the center), markets, pharmacies, hospitals and other provider sites, schools, health fairs, resource centers established by the LDSS or the enrollment counseling contractor, and other areas where potential Enrollees are likely to gather.

2. MCOs are PROHIBITED from door-to-door solicitation of potential Enrollees, or distribution of material, and may not engage in “cold calling” inquiries or solicitation.

3. MCOs are PROHIBITED from direct marketing or distribution of material in hospital emergency rooms including emergency room waiting areas. Marketing may not take place in patient rooms or treatment areas (except for waiting areas), or other prohibited sites unless requested by the individual. LDSS may not allow MCOs to market in individual homes without permission of the individual.

4. MCOs may not require their Participating Providers to distribute plan-prepared communications to their patients.

5. Participating Providers may display the marketing materials of their contracting MCOs provided that appropriate notice is conspicuously posted for all other MCOs with whom the Provider has a contract.

6. Participating Providers are encouraged to communicate with their patients about managed care options and to advise their patients in determining the MCO that best meets the *health needs* of the patient and his/her family. Such advice, whether presented verbally or in writing, must

be individually based and not merely a promotion of one plan over another. Providers who wish to let their patients know of their affiliation with one or more MCOs must list each MCO with whom they hold contracts. In the event marketing material is included with such communication, the material, together with the intended communication, must be pre-approved by the LDSS before distribution.

7. In the event a provider is no longer affiliated with a particular MCO but remains affiliated with other participant MCOs, the provider may notify his/her patients of the new status and the impact of such change on the patient.

**Restricted Marketing Activities**

1. MCOs are PROHIBITED from misrepresenting the Medicaid program, the Medicaid managed care program, or the program or policy requirements of the LDSS or the SDOH.

2. MCOs are PROHIBITED from purchasing or otherwise acquiring or using mailing lists of Medicaid recipients from third party vendors, including providers and LDSS offices.

3. MCOs are PROHIBITED from using raffle tickets and event attendance or sign-in sheets to develop mailing lists of potential Enrollees.

4. MCOs may not discriminate against a potential Enrollee based on his/her current health status or anticipated need for future health care. The MCO may not discriminate on the basis of disability or perceived disability of an Enrollee or their family member. Health assessments may not be performed by MCOs prior to enrollment. MCOs may inquire about existing primary care relationships of the applicant and explain whether and how such relationships may be maintained. Upon request, each potential Enrollee shall be provided with a listing of all Participating Providers including the specialists and facilities in the MCO's network. The MCO may respond to a potential Enrollee's question about whether a particular specialist is in the network. However, MCOs are prohibited from inquiring about the types of specialists utilized by the potential Enrollee.

5. MCOs may not offer incentives of any kind to Medicaid recipients to join a health plan. “Incentives” are defined as any type of inducement whose receipt is contingent upon the recipients joining the plan.

6. MCOs are responsible for ensuring that their marketing representatives engage in professional and courteous behavior in their interactions with LDSS staff, staff from other health plans, and Medicaid clients. Examples of inappropriate behavior include interfering with other health plan presentations, talking negatively about another health plan, and participating with Medicaid clients during the verification interview with LDSS staff.

7. MCOs may offer nominal gifts of not more than \$5.00 in fair-market value as part of a health fair or other marketing activity to stimulate interest in managed care and/or the MCO. Such gifts must be pre-approved by the LDSS, and offered without regard to enrollment. The MCO must submit a listing of intended items to be distributed at marketing activities as nominal gifts. The submission of actual samples or photographs of nominal gifts will not be routinely required, but must be made available upon request by the state or local reviewer. Listings of item donors or co-sponsors must be submitted along with the description of items.

8. MCOs may offer its Enrollees rewards for completing a health goal, such as finishing all prenatal visits, participating in a smoking cessation session, attending initial orientation sessions upon enrollment, and timely completion of immunizations or other health related programs. Such rewards may not exceed \$50.00 in fair-market value per Enrollee over a twelve month period, and must be related to a health goal. MCOs may not make reference to these rewards in their preenrollment marketing materials or discussions and all such rewards must be approved by the LDSS.

9. MCOs may not offer financial or other kinds of incentives to marketing representatives that use the number of Enrollees as a factor in compensation. MCOs may reward representatives based on the achievement of health goals by the Enrollee. For example, a MCO may offer an

incentive to a marketing representative who has enrolled a child who subsequently completes all recommended immunizations in a year.

10. Individuals employed by MCOs as marketing representatives, and employees of marketing subcontractors must have successfully completed a training program about the basic concepts of managed care and Medicaid recipients' rights and responsibilities relating to membership in managed care. MCOs must submit a copy of the training curriculum for their marketing representatives to SDOH and the LDSS as part of the marketing plan. The MCO shall be responsible for the activities of its marketing representatives and the activities of any subcontractor or management entity. A marketing representative means any individual or entity engaged by the Contractor to market on behalf of the Contractor.

**Marketing  
Infractions**

1. Infractions of the marketing guidelines may result in the following actions being taken by the LDSS to protect the interests of the program and its clients. These actions shall be taken at the sole discretion of the LDSS.

- a. If an MCO or its representative commits a first-time infraction of marketing guidelines and the LDSS deems the infraction to be minor or unintentional in nature, the LDSS may issue a warning letter to the MCO.
- b. For subsequent or more serious infractions, the LDSS may impose liquidated damages of \$2,000.00, or other appropriate non-monetary sanctions for each infraction.
- c. The LDSS may require the MCO to prepare a corrective action plan with a specified deadline for implementation.
- d. If the MCO commits further infractions, fails to pay liquidated damages within the specified timeframe or fails to implement a corrective action plan in a timely manner or commits an egregious first-time infraction, the LDSS may:

- (i) prohibit the plan from conducting any marketing activities for a period up to the end of the contract period;
- (ii) suspend new enrollments, other than newborns, for a period up to the remainder of the contract; or
- (iii) terminate the contract pursuant to termination procedures described therein.

**New York City  
Marketing  
Guidelines**

One of the most important factors in determining whether consumers choose the best health plan for their medical needs is their understanding of provider participation. For that reason, CDOH encourages health care providers to prominently display all their health plan affiliations.

Providers who are affiliated with one or more Medicaid health plans are bound by the terms of the NYC Marketing Guidelines. The guidelines contain certain rules concerning enrollment solicitations to patients, such as letters and handouts, which require preauthorization by CDOH. In order to help providers inform their patients of their health plan affiliation, the Division of Health Care Access and Improvement has drafted a sample letter that providers can use in mailings to their patients. Providers who receive training from HCA receive a sample letter, along with other training material. Providers can also print out a copy of the sample letter from CDOH's website at [www.nyc.gov/health](http://www.nyc.gov/health) or may e-mail the office at [dnapoleo@health.nyc.gov](mailto:dnapoleo@health.nyc.gov) and request a copy.

**Definitions**

1. "Providers" shall mean all physicians or medical facilities (hospitals, clinics, diagnostic & treatment centers, physician group practices) that contract with one or more Medicaid managed care organizations in New York City.
2. "Marketing" shall mean all forms of communication, written or oral, used to encourage or induce Medicaid recipients to enroll in a managed care plan.

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**Marketing Schedules**

1. WellCare shall submit to HCA a weekly schedule all marketing activities in a format prescribed by HCA, including the date, time and location of all marketing activities, number of marketing representatives attending, and a brief description of the activity. Such list shall be received by HCA by 5 p.m. on the Monday one week prior to the scheduled marketing activities, and may be faxed to HCA, Fax No. 212-619-5091. The marketing schedule format is incorporation herein as Appendix D-1. HCA may modify the time frames for submitting the marketing schedule upon written notification to the Contractor.
2. Contractor shall submit to HCA a monthly calendar of events by the last Monday of the preceding month, identifying major anticipated marketing events.

**Marketing Materials**

1. Marketing materials must be pre-approved by SDOH or the LDSS prior to distribution.
2. 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 or policy requirements of the LDSS or the SDOH.

**REMINDER: Medicaid recipients may never be told by their provider that they have to join a plan now. They will never have to make a selection until they receive their official notice from the city.**

3. Marketing materials must accurately reflect general information, which is applicable to the average consumer of Medicaid managed care. Marketing materials must provide as much information as possible to allow consumers to choose the plan that best meets their needs.
4. Providers may not use any federal, state or local government logos in their material. Care should be taken to avoid the format and colors used in informational materials by these entities to ensure there is no confusion about their source.

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5. Multi-page brochures should contain the following:

- a) The Contractor's name, mailing address, tollfree telephone number;
- b) A general description of the plan, of managed care concepts and of the role of PCPs;
- c) Instructions on how to enroll, and a contract telephone number for MAXIMUS;
- d) Optional services not covered in the benefit package but available on a fee-for-service basis (e.g., family planning, dental); describe how to obtain these carved out services; and
- e) The following information:
  - i) Participation in the Medicaid managed care program is voluntary unless the potential members lives in a zip code in which enrollment is mandatory and has received an official notice from New York Medicaid CHOICE that he/she must enroll in a health plan;
  - ii) The potential enrollee has a choice among several alternative managed care plans in their neighborhood;
  - iii) The potential enrollee will have a choice among at least three primary care providers';
  - iv) Upon enrollment in a managed care plan, the enrollee will be required to use his/her primary care provider and other plan providers, exclusively for medical care, except in certain limited circumstances;
  - v) Upon enrollment in a managed care plan, the enrollee will have 90 days to disenroll without cause, and thereafter will not be allowed to disenroll or transfer without good cause for the next nine months;

vi) All members of a family who enroll must enroll in the same plan except in special cases;

vii) Newborns will automatically be enrolled in the mother's health plan.

6. One-page marketing flyers should contain the following:

a. Contractor's name and toll-free telephone number

b. General description of the plan

c. Instructions on how to enroll and a contact telephone number for MAXIMUS

7. Foreign language translations of marketing materials need not be independently reviewed by HCA if the Contractor uses a translation service authorized by HCA, and submits a letter by the Service attesting that it has used its best efforts to accurately translate the marketing material into the specified languages.

## **Marketing Encounters**

1. 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.

2. Providers may not conduct "cold call" telephone solicitations.

3. Providers may not provide mailing lists of their patients to managed care organizations.

4. Providers may give permission to MCO marketing representatives to conduct marketing activities at their facility. If providers are in multiple plans and allow on plan to market in their facilities or want to let their patients know of their affiliation with one or more MCOs, they must prominently display a list of managed care plans operating in the county or borough *with whom they are contracted*.

5. Physicians may speak to their patients about their MCO

affiliation, and should encourage the patient to make their choice of plan based on the health needs of the patient and his/her family. Such advice, whether presented verbally or in writing, must be individually based and not merely a promotion of one plan over another.

6. Neither the provider nor the MCO marketing representative may market in emergency room facilities, treatment rooms, or hospital patient rooms.

7. MCOs may not require providers to distribute plan prepared communications to their patients.

8. In the event a provider is no longer affiliated with a particular MCO but remains affiliated with other participant MCOs, the provider may notify his/her patients of the new status and the impact of such change for the patient.

9. 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.

10. Providers shall not target individuals and families who are already enrolled in managed care plans.

11. Providers may not offer material or financial gain to Medicaid beneficiaries as an inducement to enroll. Specifically, Providers may only:

- a) make reference in marketing materials and activities to benefits/services offered under the program; and
- b) offer 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.

12. Providers shall not pay any individual, or accept in payment from a Medicaid MCO, any commission, bonus, or similar compensation that uses numbers of Medicaid eligible persons enrolled in the managed care plan as a factor in determining compensation.

13. Marketing encounters must clearly inform potential enrollees of the Partnership Plan policies described in

Sections E-2(a)(v) (1) through (7) of the New York State Medicaid Contract.

14. Marketing representatives must give a copy of the document, "What Managed Care Plans are Available in my Neighborhood" to prospective enrollees in each marketing encounter.

**Marketing in  
HRA Facilities**

1. Contractor may conduct marketing activities within HRA Income Support Centers with the prior approval of NYC HRA and must adhere to HRA procedures. HRA shall give Contractor an allotted number of allowable marketing representatives at each Income Support Center, and Contractor shall not exceed this allotment. No other marketing representatives for Contractor may market within a two block perimeter of an Income Support Center. At no time may a contractor representative have access to HRA computer systems. Marketing representatives are expected to adhere to LDSS policy concerning confidentiality of all communications and information relating to person surveyed by HRA.

2. Marketing managers and/or supervisors will be allowed to monitor their staff at Income Support Centers subject to reasonable limitations specified by HRA. Manager/supervisors must wear visible identification and are prohibited from actively marketing to clients.

**Marketing Site**

1. The Contractor may not market at sites which were not reported on its weekly marketing schedule to HCA.

2. The Contractor shall not market in homeless shelters.

3. The Contractor shall not market in low income housing projects unless permission is requested by your plan for a special event in the public areas of the project, and approval is received in writing from the facility, and a copy sent to HCA with the weekly marketing schedule.

4. The Contractor shall not market within a two block perimeter of an income support center or low income housing project.

5. The Contractor may not market in the same room or immediate proximity of MAXIMUS presentations.

6. 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.

**Marketing Representatives**

1. The Contractor's marketing representatives must attend marketing training sessions provided by HCA, upon request from HCA.

2. Marketing representatives must wear visible badges with the name of the plan and the representative's name during all marketing activities.

**HRA Marketing Guidelines**

1. Plan representatives are required to wear visible Plan photo IDs.

2. HRA staff cannot and may not issue client information to Plan representatives. This includes giving access to Client Information with the use of security passwords. Plans are prohibited from making requests for client demographic information (e.g., Client Identification Numbers (CINs), Social Security Numbers (SSN), Addresses, etc.).

3. MCOs may only market at the approved HRA facilities listed on the HRA marketing schedule. Making special arrangements with HRA offices other than CMU is prohibited.

4. The HRA marketing schedule may only be negotiated with CMU. MCOs are required to market at approved sites on scheduled days, and may not switch or swap days/sites with each other. Marketing activities must be coordinated through HRA/CMU.

5. Plan representatives are required to sign in at all HRA facilities.

6. Plan representatives are not permitted to use HRA equipment (i.e., photocopiers, terminals).

7. MCOs are restricted to one fully-trained Plan representative, per day, for each assigned HRA facility.

8. Plan representatives may only market in the designated areas of assigned floors at approved HRA sites. Marketing outside of the designated areas is prohibited.

9. In multi-service centers, Plans are restricted to the specified facility to which they are assigned. There are posted signs that clearly distinguish each HRA site. The signage will assist you in ensuring that Plan representatives identify their assigned facility. If your representatives are still unsure, ask HRA security for assistance.

10. MCOs that do not regularly market at specific facilities, on the days and times allocated for them, will be removed from the marketing schedule for that site. MCOs removed from the marketing schedule must submit a written request to HRA for reconsideration.

11. MCOs are required to cooperate with CMU monitors. CMU monitors are authorized to monitor and evaluate Plan representatives at HRA facilities.

12. Marketing representatives must always be prepared to market Medicaid managed care in all HRA facilities before any other product.

13. Plan representatives shall not conduct marketing in languages not understood by the consumer. Failure to clearly articulate and inform potential enrollees is a marketing infraction. Plans will be prohibited from marketing at sites where representatives are deployed who lack the requisite language skills needed to market at a particular HRA facility.

14. MCOs must utilize HRA's marketing schedule when developing a marketing outreach plan that includes HRA facilities. This FINAL bi-weekly schedule should be submitted directly to DOHMH/Health Care Access and Improvement. HRA facilities must be grouped together and separate from all other marketing outreach activities.

15. Plan representatives and MAXIMUS Field Enrollment counselors are not permitted to conduct outreach/market to consumers at an HRA facility on the same day and at the same time. We ask that both the Plan and MAXIMUS representative leave the facility and contact HRA/CMU immediately to resolve any schedule discrepancies.

**Guidelines for Promotional Activities****General Guidelines About Promotional Activities**

Promotional activities (including provider promotional activities) must conform to the requirements of §§1128A(a)(5) and 1128B(b) of the Act. Section 1128A(a)(5) of the Act provides for a civil monetary penalty against a person or entity that offers or transfers remuneration to a Medicaid eligible individual that the person or entity knows or should know is likely to influence such eligible individual to receive or order services from a particular provider. Section 1128B(b) of the Act, the Medicaid anti-kickback statute, prohibits the offering or giving of remuneration to induce the referral of a Medicaid beneficiary, or to induce a person to purchase, or arrange for, or recommend the purchase or ordering of an item or service paid in whole or in part by the Medicaid programs. Additional prohibitions on the offering of monetary rebates or inducements of any sort to enrollees are contained in §1854(d) of the Act.