

Medical Care Advisory Committee: Marketing Material Review Update

Agency Staff Update

Susan McPhee

July 29, 2014



Federal Definition

42 CFR §438.104(a)

Marketing means any communication, from an MCO, PIHP, PAHP, or PCCM to a Medicaid beneficiary who is not enrolled in that entity, that can reasonably be interpreted as intended to influence the beneficiary to enroll in that particular MCO's, PIHP's, PAHP's, or PCCM's Medicaid product, or either to not enroll in, or to disenroll from, another MCO's, PIHP's, PAHP's, or PCCM's Medicaid product.

Marketing materials means materials that—

- (1) Are produced in any medium, by or on behalf of an MCO, PIHP, PAHP, or PCCM; and
- (2) Can reasonably be interpreted as intended to market to potential enrollees.

Marketing

- Marketing is defined in the Statewide Medicaid Managed Care (SMMC) Contract, Attachment II, Core Contract provisions, Section 1.A.:
 - Any activity or communication conducted by or on behalf of any Managed Care Plan with a Medicaid recipient who is not enrolled with the Managed Care Plan or an individual potentially eligible for Medicaid that can reasonably be interpreted as intended to influence such individual to enroll in the particular Managed Care Plan.



Other Federal Requirements

- MCPs are prohibited from distributing marketing materials without prior approval of the state [42 C.F.R. § 438.104(b)(1)(i)].
- Marketing materials may not contain false or materially misleading information [42 C.F.R. § 438.104(b)(2)].
- MCPs are required to distribute marketing materials throughout their contractually-specified service area [42 C.F.R. § 438.104(b)(1)(ii)].
- MCPs are prohibited from directly or indirectly engaging in door-to-door, telephone or other types of “cold-call” marketing activities [42 C.F.R. § 438.104(b)(1)(iv)].
 - *Cold-call marketing* is defined as any unsolicited personal contact by the plan for the purposes of marketing [42 C.F.R. § 438.104(a)].
- MCPs must also ensure that prior to enrollment individuals receive sufficient information, in a language and format that is easily understood, to make an informed decision regarding whether to enroll in a particular MCP [42 C.F.R. .§ 438.104(b)(1)(iii); 42 C.F.R. § 438.10].



Marketing Materials Definitions

- **Branding** - Marketing through mass communication in some form of print media such as newspapers, magazines, billboards, etc. with the purpose of influencing a prospective enrollee to enroll and to contact the Managed Care Plan for more information.
- **Written Materials** - Printed informational material targeted to individual recipients which promote the Managed Care Plan including, but not limited to brochures, flyers, leaflets or other printed information about the Managed Care Plan. Written material includes materials for circulation by physicians, other providers, or third parties.



Marketing Materials

Definitions

- **Marketing Scripts** - Standardized text used by Managed Care Plan staff in verbal interactions with potential enrollees designed to provide information and/or to respond to questions and requests are intended to influence such individual to enroll in the Managed Care Plan. Marketing scripts include any text included in interactive voice recognition (IVR) and on-hold messages.
- **Broadcast Scripts** - Written text of messages transferred or transmitted to a large group of people by Managed Care Plan staff through a form of mass communication media such as television, radio or social networking designed to promote the Managed Care Plan and influence individuals to enroll in the Managed Care Plan.



Marketing Materials Definitions

- **Promotional Activities** - Drawings, prizes, giveaways or any promise of a free gift accompanying the provision of marketing materials or conduct of a marketing event to Medicaid recipient. Promotional activities cannot be structured with the intent to give recipients or enrollees items totaling more than fifty dollars (\$50) per year, and there can be no obligation to enroll in the Managed Care Plan associated with such activities.
- **Nominal Gifts** - Items used to attract the attention of potential enrollees and are permissible as long as the gifts are of nominal value and provided regardless of enrollment. Nominal value is defined as an individual item/service worth fifteen dollars (\$15) or less (based on the retail value of the item).



Marketing Definitions

- **Formal Events** - typically structured in an audience/presenter style with the Managed Care Plan formally providing specific Managed Care Plan information via a presentation on the products being offered. All personal/individual appointments with recipients are considered marketing events.
- **Informal Events** - conducted with a less structured presentation or in a less formal environment. They typically utilize a table, kiosk or a recreational vehicle (RV) that is staffed by a representative of the Managed Care Plan who can discuss the merits of the Managed Care Plan.



Marketing Definitions

- **Personal/Individual Appointments** - one-on-one appointments that typically take place in the recipient's home; however, these appointments can also take place in other venues such as a library or coffee shop. All personal/individual appointments with recipients are considered marketing events and must be limited to discussion of products that were agreed to by the recipient and may not include marketing of any related product beyond the scope agreed upon by the recipient, and documented by the Managed Care Plan, prior to the appointment.
- **Scope of Appointment (SOA)** - A structured format for documenting the scope of a personal/individual appointment agreed upon by the recipient.



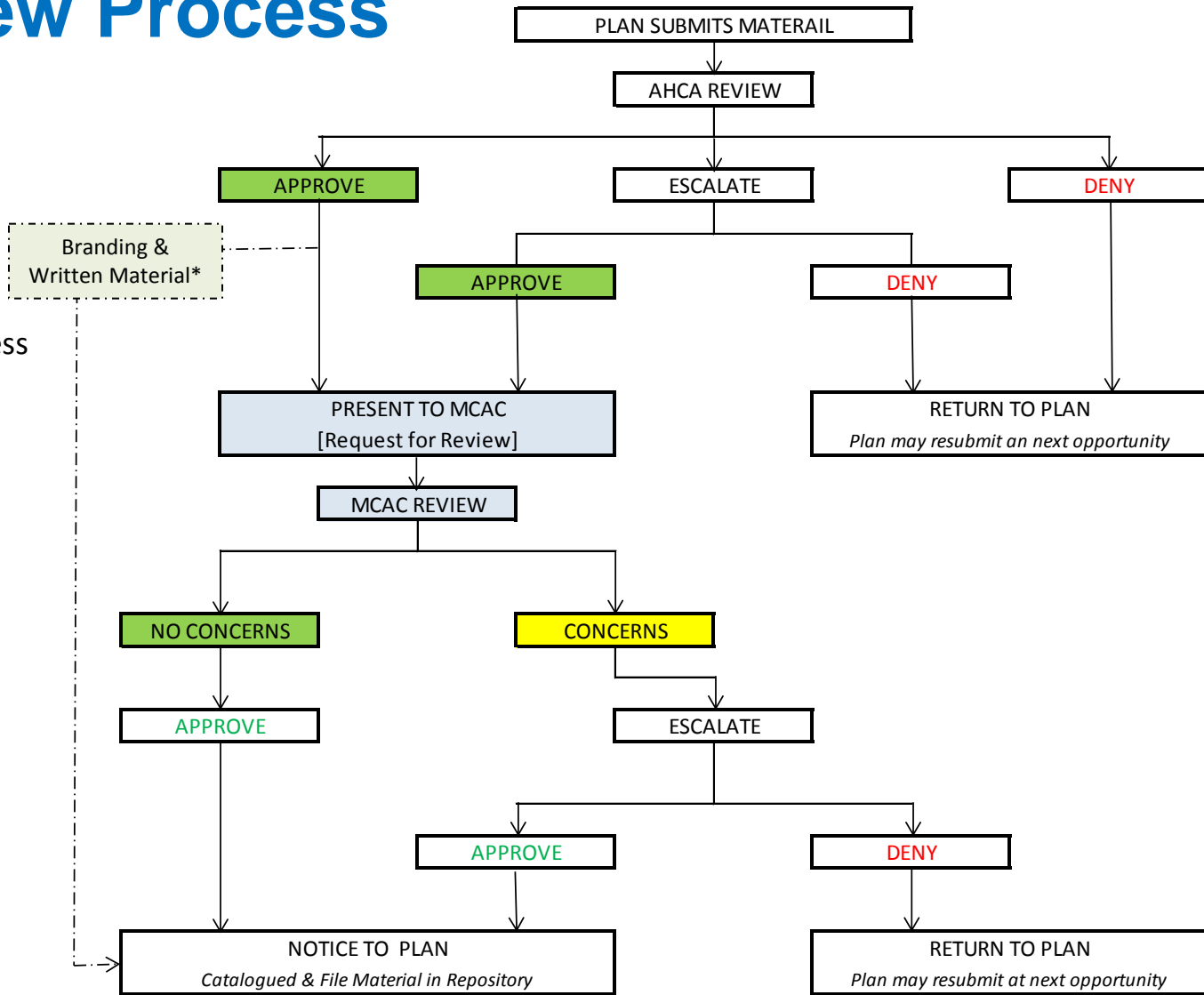
Field-Based Plan Management Marketing Materials Review Timeline

Month	Action
April 2014	<ul style="list-style-type: none"> • Initial Agency review of Branding Advertisements and Written Materials <ul style="list-style-type: none"> ▪ Agency Approval letters to MMA plans • Medical Care Advisory Committee review of materials
May 2014	<ul style="list-style-type: none"> • MCAC feedback/changes shared with MMA plans <ul style="list-style-type: none"> ▪ Requested changes sent to plans • MMA Plan Resubmission of Denied Branding materials <ul style="list-style-type: none"> ▪ Agency approval and denial letters to MMA plans
June 2014	<ul style="list-style-type: none"> • MMA Plan Resubmission of Denied Written Materials <ul style="list-style-type: none"> ▪ Agency approval and denial letters to MMA plans
July 2014	<ul style="list-style-type: none"> • MCAC review of branding and written material resubmissions <ul style="list-style-type: none"> ▪ MCAC feedback and requested changes to be sent to MMA plans



Review Process Flow

*Interim process



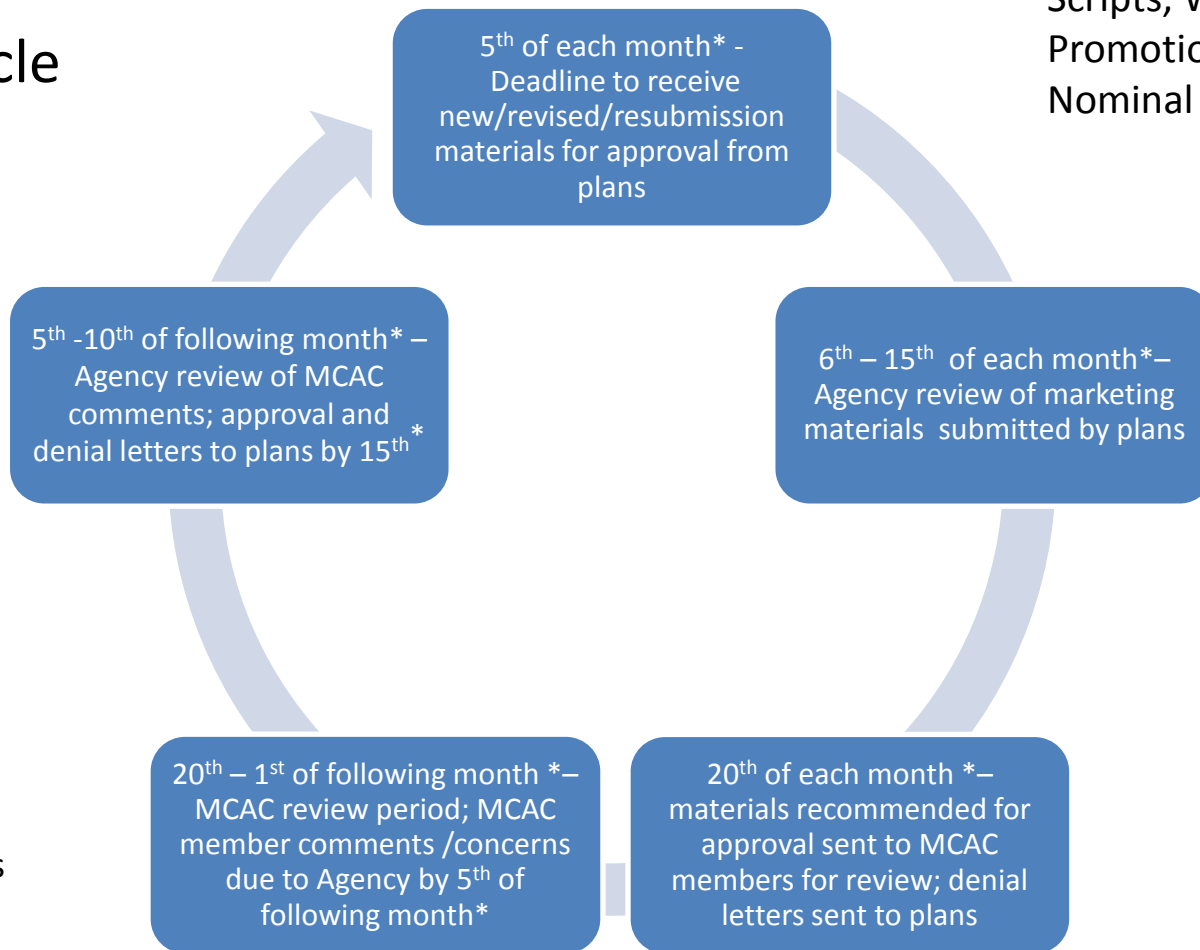
Marketing Review Cycle

- **Objective** – establish a regular marketing review cycle to allow plans to submit new or changed materials on a regular basis and provide for review and consultation from MCAC members
- Establish time frames for review and approval or denial of marketing materials

Proposed SMMC Marketing Review Cycle

Six week review cycle

Applies to Branding, Scripts, Written Materials, Promotional Items, and Nominal Gifts



* Or next business day if weekend or holiday

Next Steps

- Complete Branding and Written Material resubmission review with MCAC feedback
- Develop review tools and provide staff training on marketing events and related materials
- Implement SMMC Marketing Review Cycle for review and approval of marketing materials
- Develop Secret Shopper program

Send Feedback, Comments or Questions to:

Sue McPhee

Susan.McPhee@ahca.myflorida.com

