



**MEDICARE-MEDICAID COORDINATION OFFICE**

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**DATE:** August 18, 2016

**TO:** Medicare-Medicaid Plans

**FROM:** Lindsay P. Barnette  
Director, Models, Demonstrations, and Analysis Group

**SUBJECT:** New York MMPs: Release of Final Contract Year 2017 State's Specific Marketing Guidance for Medicare-Medicaid Plans

Attached to this memorandum is the final Contract Year (CY) 2017 State's specific Marketing Guidance for Medicare-Medicaid Plans (MMPs) operating in the New York Fully-Integrated Duals Advantage (FIDA) capitated financial alignment model demonstration. The State's specific Marketing Guidance has been jointly updated by CMS and New York as summarized below and will be applicable to all marketing done for CY 2017 benefits.

We remind FIDA Plans that the State's specific Marketing Guidance provides information only about those sections of the MMG that are not applicable or that are modified for FIDA Plans in New York; therefore, this guidance document should be considered an addendum to the CY 2017 MMG. FIDA Plans should carefully review the recently released CY 2017 MMG (see <https://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/FinalPartCMarketingGuidelines.html>), in conjunction with the State's specific Marketing Guidance, as the requirements of the MMG that are not otherwise modified by this document apply to FIDA Plans in New York.

Following is a summary of the changes to the CY 2017 State's specific Marketing Guidance for New York FIDA Plans:

- General updates and streamlining:
  - Edits to section numbers, titles, and references, consistent with changes to the CY 2017 MMG.
  - Updates of lists of model marketing materials and links.
  - Streamlining of the language throughout the document to ensure greater consistency across each State's specific Marketing Guidance.
  - Updates required disclaimer language consistent with changes made to disclaimer language in CY 2017 model marketing materials.

- Updated language regarding Star Ratings requirements given that the Medicare-Medicaid Coordination Office (MMCO) is in the process of developing a Star Ratings system for MMP performance. Current Star Ratings requirements will continue to be inapplicable to FIDA Plans.
- **Provider and Pharmacy Directory Requirements:** Moves the previous guidance on the Provider and Pharmacy Directory from section 60.4 of the CY 2016 State's specific Marketing Guidance to the Introduction section of the CY 2017 State's specific Marketing Guidance. References the requirements in Chapter 4 of the Medicare Managed Care Manual and Chapter 5 of the Prescription Drug Benefit Manual and includes previous modifications and clarifications to the Medicare Advantage and Part D requirements for FIDA Plan Provider and Pharmacy Directories. Clarifies that the FIDA Plan Provider and Pharmacy Directory is considered a marketing material and must be submitted in the HPMS marketing module consistent with the specific review parameters and timeframes for the Provider and Pharmacy Directory under the New York FIDA capitated financial alignment model demonstration in the Marketing Code Look-up functionality in the HPMS marketing module. Clarifies that FIDA Plans must submit directory updates and/or addenda pages in HPMS consistent with the parameters for review for the FIDA Plan Provider and Pharmacy Directory.
- **Compliance with Section 1557 of the Affordable Care Act of 2010:** References the August 8, 2016 HPMS memorandum on this topic and clarifies operational flexibilities regarding the inclusion of and required Notices/Statement and tagline information for CY 2017.
- **Section 10 (Introduction):** Establishes a date for submission of the annual marketing plan for CY 2017.
- **Section 20 (Materials not Subject to Marketing Review):** Modifies the requirements of section 20 of the MMG with respect to the FIDA Plan Provider and Pharmacy Directory.
- **Section 30.5 (Requirements Pertaining to Non-English Speaking Populations):** Clarifies that FIDA Plans must have a process for ensuring that enrollees can make a standing request to receive the materials identified in this section, in alternate formats and in all non-English languages identified in this section and in the HPMS Marketing Module, at the time of request and on an ongoing basis thereafter.
- **Section 30.5.1 (Multi-Language Insert):** References the August 8, 2016 HPMS memorandum on implementation of Section 1557 of the ACA and the revised guidance in section 30.5.1 of the MMG included in that memorandum.
- **Section 30.7 (Required Materials for New and Renewing Enrollees at Time of Enrollment and Thereafter):** Adds the dates by which required materials must be posted to plan websites to Table 3.

- **Section 50.4 (Disclaimer on Availability of Non-English Translations):** Modifies required disclaimer language consistent with changes made to CY 2017 model materials.
- **Section 50.19 (Disclaimer on Participant Ombudsman):** Modifies required disclaimer language consistent with changes made to CY 2017 model materials.
- **Section 60.6 (Annual Notice of Change (ANOC) and Evidence of Coverage (EOC) (Member Handbook)):** Clarifies when FIDA Plans must use errata notices versus when they must follow the guidance in section 60.7 of the MMG and the State's specific Marketing Guidance regarding other mid-year changes requiring enrollee notification.
- **Section 70.5 (Marketing Through Unsolicited Contacts):** Reiterates that marketing via conventional mail and other print media (e.g., advertisements, direct mail) is not considered unsolicited contact and, therefore, is permissible. Clarifies that, under the MMG, FIDA Plans are already permitted to send direct mail about the FIDA Plan to enrollees who have opted out, regardless of whether they remain members of other non-FIDA products once they opt out of the FIDA Plan.
- **Section 80.2 (Informational Scripts):** Clarifies that FIDA Plans should refer to section 120.6 of the State's specific Marketing Guidance, as well as section 120.6 of the MMG, for clarification of the types of activities conducted by a plan customer service representative that do not require the use of State-licensed marketing representatives. Clarifies that FIDA Plans must use a State-licensed (and, when required, appointed) marketing agent for any activity that meets the definition of marketing in Appendix 1 of the MMG.
- **Section 80.3 (Enrollment Scripts/Calls):** Clarifies that this section of the MMG does not apply to FIDA Plans because enrollment requests must be transferred to New York's enrollment broker.
- **Section 90.2.1 (Submission of Non-English and Alternate Format Materials):** Notes that FIDA Plans should use state-specific MMP errata codes.
- **Section 90.6 (File & Use Process):** Clarifies that the File & Use certification for the FIDA Plan is included in the three-way contract.
- **Section 100.1 (General Website Requirements):** Removes this section from the CY 2017 State's specific Marketing Guidance because the modifications made in the CY 2016 State's specific Marketing Guidance regarding the required date by which FIDA Plans must post their Summary of Benefits to their plan website are now incorporated into section 100.2.2 of the MMG.

For any questions about the contents of this memorandum, please contact your Contract Management Team or the Medicare-Medicaid Coordination Office at [mmcocapsmodel@cms.hhs.gov](mailto:mmcocapsmodel@cms.hhs.gov).