

Marketing Guidance for New York’s Fully Integrated Duals Advantage for Individuals with Intellectual and Developmental Disabilities (FIDA-IDD) Medicare-Medicaid Plan

Contract Year (CY) 2023

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Table of Contents

Introduction	3
Additional Guidance for the New York FIDA-IDD Plan	4
Annual marketing plan.....	4
Formulary and formulary change notice requirements	4
Informational and enrollment calls and scripts	5
Disclosure Requirements, Provision of Specific Information, Call Centers.....	5
Reward and Incentive Programs.....	6
Definitions	6
Submission, Review, and Distribution of Materials	6
General requirements.....	6
CMS review of marketing materials and election forms	7
Resubmitting previously disapproved pieces	7
General Communications Materials and Activities Requirements	8
Standardized Material Identification (SMID).....	8
General Marketing Requirements	8
Nominal gifts.....	9
Star Ratings.....	9
Beneficiary Contact.....	9
Unsolicited contact	9
Events with beneficiaries	9
Educational events, Marketing or sales events	9
Personal marketing appointments	9
Websites	10

Required content	10
Required posted materials	10
Activities with Healthcare Providers or in the Healthcare Setting	10
Where marketing is prohibited, where marketing is permitted, MA organization/Part D sponsor activities in the healthcare setting.....	10
Required Materials and Content	11
Standards for required materials and content	11
Model materials	12
CMS required materials and content.....	13
Required Materials for New FIDA-IDD Plan Participants	29
State-specific FIDA-IDD Plan Disclaimers.....	29
Agent, Broker, and Other Third Party Requirements	32
Appendix 1. Standardized Pre-Enrollment Checklist	33
Appendix 2. Model Summary of Benefit Instructions	33
Appendix 3. Employer/Union Group Health Plans	33
Appendix 4. Use of Medicare Mark for Part D Sponsors	33

Introduction

All Medicare Advantage-Prescription Drug (MA-PD) plan sponsor requirements in 42 CFR Parts 422 and 423 as well as all Medicare Advantage and Prescription Drug (MA-PD) plan sponsor requirements in the Medicare Communications and Marketing Guidelines (MCMG), posted at www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/FinalPartCMarketingGuidelines apply to the Fully Integrated Duals Advantage for Individuals with Intellectual and Developmental Disabilities Medicare-Medicaid Plan (FIDA-IDD Plan) participating in the New York Fully Integrated Duals Advantage for Individuals with Intellectual and Developmental Disabilities capitated financial alignment model demonstration, except as clarified or modified in this guidance document.¹ In addition, the Centers for Medicare and Medicaid Services (CMS) recently codified guidance on May 9, 2022,² which also applies to the FIDA-IDD Plan except as clarified in this document.

As defined in 42 CFR 422.2260 and 423.2260 prior to the implementation of the CMS-4182-F,³ CMS continues to consider all Contract Year (CY) 2023 FIDA-IDD Plan materials to be marketing materials, including those that promote the organization; inform beneficiaries that they may enroll or remain enrolled in the FIDA-IDD Plan offered by the organization; explain the benefits of enrollment in the FIDA-IDD Plan, or rules that apply to Participants; and/or explain how services are covered under the FIDA-IDD Plan, including conditions that apply to such coverage.

This document provides information only about those sections or subsections of the regulations and MCMG that are not applicable or that are different for the FIDA-IDD Plan in New York. Information in this document is applicable to all marketing done for CY 2023 benefits.

The FIDA-IDD Plan is also required to follow all applicable New York State and federal regulations regarding marketing, including 18 CRR-NY 360-10.9 and 42 CFR 438.104. For purposes of this document, we refer to the MMP operating in FIDA-IDD as the FIDA-IDD Plan, though we note that CMS uses the term Medicare-Medicaid Plan (MMP) to refer to all plans in all states participating in capitated financial alignment model demonstrations. We also clarify that the FIDA-IDD Plan may not distribute any marketing materials that require state approval without first obtaining state approval.

¹ Note that any requirements for Special Needs Plans (SNPs), Private Fee-for-Service (PFFS) plans, Preferred Provider Organizations (PPOs), and Section 1876 Cost-Based Plans (cost plans) do not apply unless specifically noted in this guidance.

² Refer to Contract Year 2023 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency; Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency, which may be found in the Final Rule published on May 9, 2022 (<https://www.federalregister.gov/documents/2022/05/09/2022-09375/medicare-program-contract-year-2023-policy-aupdatend-technical-changes-to-the-medicare-advantage-and>).

³ Refer to CMS-4182-F, Contract Year 2019 Policy and Technical Changes to the Medicare Advantage, Medicare Cost Plan, Medicare Fee-for-Service, the Medicare Prescription Drug Benefit Programs, and the PACE program, which may be found in the Final Rule published April 16, 2018 (www.federalregister.gov/documents/2018/04/16/2018-07179/medicare-program-contract-year-2019-policy-and-technical-changes-to-the-medicare-advantage-medicare, p. 16625).

Additional Guidance for the New York FIDA-IDD Plan

The following are additional New York FIDA-IDD Plan-specific modifications to the marketing regulations and MCMG:

Annual marketing plan

The FIDA-IDD Plan must submit a plan of marketing activities to the state that sets forth the terms and conditions and proposed activities of the FIDA-IDD Plan dedicated staff during the contract period. The following must be included in the marketing plan:

- A description of materials and formats to be used;
- Distribution methods;
- Primary types of marketing locations (such as, but not limited to, IDD program locations, other provider and community locations, health fairs, etc.); and
- A listing of the kinds of community service events the FIDA-IDD Plan anticipates sponsoring and/or participating in during which it will provide information and/or distribute FIDA-IDD Plan marketing materials.

An approved annual marketing plan must be on file with the state for its contracted service area prior to the FIDA-IDD Plan engaging in the FIDA-IDD Plan-specific marketing activities. The marketing plan may be submitted by September 30, 2022, or following the issuance of this guidance.

The marketing plan must include: (1) stated marketing goals and strategies; (2) a description of marketing activities, and the training, development and responsibilities of dedicated marketing staff; (3) a staffing plan, including personnel qualifications, training content and compensation methodology and levels; (4) a description of the FIDA-IDD Plan's monitoring activities to ensure compliance with this section; and (5) identification of the primary marketing locations at which marketing will be conducted. The FIDA-IDD Plan must describe how it will meet the informational needs related to marketing for the physical and cultural diversity of its potential membership. This includes, but is not limited to, a description of the FIDA-IDD Plan's non-English language provisions; interpreter services; and alternate communication mechanisms, including sign language, braille, audio, and/or use of teletypewriter (TTY) services. The FIDA-IDD Plan must describe measures for monitoring and enforcing compliance with these guidelines by its marketing representatives, including the prohibition of door-to-door solicitation and unsolicited telephonic or electronic contact; a description of the development of pre-enrollee mailing lists that maintains client confidentiality and honors the client's express request for direct contact by the FIDA-IDD Plan; and a description of the training, compensation, and supervision of its FIDA-IDD Plan dedicated marketing representatives.

Formulary and formulary change notice requirements

The FIDA-IDD Plan should refer to the November 1, 2018, HPMS guidance memorandum, "Part D Communication Materials," for guidance on formulary and formulary change notice requirements. As noted in that memorandum, additional updates to reflect changes related to 42 CFR 423.120(b)(5), regarding notice of mid-year formulary changes and changes to the definition of an approved month's supply, will be incorporated into the

Medicare Prescription Drug Benefit Manual in a future release. In addition, we note that the FIDA-IDD Plan is required to adhere to all new regulatory provisions and requirements.

The requirements of the November 1, 2018, HPMS guidance memorandum apply with the following modifications:

- Formulary change notices must be sent for any negative formulary change (as described in Chapter 6 of the Prescription Drug Benefit Manual), regardless of whether or not the negative formulary change applies to an item covered under Medicare or Medicaid, or as an additional drug benefit under the FIDA-IDD Plan.
- Formulary change notices applicable to all formulary changes (not just Part D drug changes) must be maintained on the FIDA-IDD Plan website.

Informational and enrollment calls and scripts

We clarify that the FIDA-IDD Plan's customer service representatives may conduct activities that do not require the use of state-licensed marketing representatives. We also clarify that informational calls to the FIDA-IDD Plan call center that become marketing discussions may only be conducted by FIDA-IDD Plan staff who comply with state licensure requirements for marketing activity.

Calls that become enrollment requests must be transferred to New York's enrollment broker. Before transferring an informational call to New York's enrollment broker, the FIDA-IDD Plan representative must inform the caller they are being transferred. The FIDA-IDD Plan representative may remain on the line during an enrollment call to New York's enrollment broker.

The FIDA-IDD Plan must use state-licensed (and, when required, appointed) marketing agents for any activity that meets the definition of marketing in 42 CFR 422.2260 and 423.2260.

Additionally, we clarify that, to provide more than factual information, FIDA-IDD Plan outbound callers must be state-licensed (and, when required, appointed) marketing agents.

We further clarify that telesales scripts are considered marketing, and the FIDA-IDD Plan must submit such scripts in the HPMS Marketing Review Module.

Disclosure Requirements, Provision of Specific Information, Call Centers

422.111, 422.111(h)

We clarify that hold time messages that include marketing content must be submitted in HPMS Marketing Review Module.

We clarify that the FIDA-IDD Plan must operate a toll-free call center during usual business hours. In light of the scope and nature of the services and benefits provided by MMPs, CMS interprets usual business hours for customer service call centers for both current and prospective FIDA-IDD Plan Participants as meaning at least the following: seven (7) days a week, at least from 8 a.m. to 8 p.m. ET, except as provided below. Customer service call center hours and days must be the same for all individuals regardless of whether they speak English, a non-English language, or use assistive devices for communication.

During this time period, current and prospective FIDA-IDD Plan Participants must be able to speak with a live customer service representative. The FIDA-IDD Plan may use alternative technologies on Saturdays, Sundays, and federal and/or state holidays (except New Year's Day) in lieu of having live customer service representatives. For example, the FIDA-IDD Plan may use an interactive voice response (IVR) system or similar technologies to provide required information and allow individuals to leave a message (messages must be returned within one (1) business day). We also clarify that the remainder of 422.111(h) applies to the FIDA-IDD Plan.

Reward and Incentive Programs

422.134

The FIDA-IDD Plan may market rewards and incentives to current FIDA-IDD Plan Participants, consistent with the regulation.

Definitions

422.2260, 423.2260

The FIDA-IDD Plan is generally subject to marketing and beneficiary communications applicable to Medicare Advantage plans in 42 CFR Parts 422 and 423, as well as those applicable to Medicaid managed care organizations in 42 CFR Part 438. We clarify that the definitions of communications and marketing as described in these sections of the regulations are not applicable to the FIDA-IDD Plan. CMS continues to consider all CY 2023 FIDA-IDD Plan materials to be marketing materials as stated in the "Introduction" in this document. For any other references to communications throughout 42 CFR Parts 422 and 423, the definition of marketing materials applies, and we provide additional details about materials in the CMS Required Materials and Content (422.2267(e)) section of this document.

Submission, Review, and Distribution of Materials

422.2261, 423.2261

General requirements

422.2261(a), 423.2261(a)

We clarify that the FIDA-IDD plan is required to submit all plan websites for review, including those that are limited to content required under 422.2265 using the process described in the Submission of Required Websites section of the MCMG.

Additionally, we clarify that the FIDA-IDD plan should submit its website via links on a document. State reviewers should be able to review the information as it will be displayed on the website. The link may provide access to a live website or a test website, provided that the test site displays information as it will appear to the beneficiary/consumer. Submitting screen shots or text on a document is not acceptable. If the option to view online is not feasible, the MMP should contact its marketing reviewers prior to submission to receive permission to submit information in a manner other than a live link.

Once the FIDA-IDD Plan's website is reviewed and approved in its entirety, the Plan may update specific pages of the same website by submitting only the pages to be changed via links on a document in HPMS. Any updates to pages should be submitted with their own

unique material ID and date stamped accordingly. The FIDA-IDD Plan must resubmit webpages for review when changes are made to plan benefits, premiums, or cost-sharing.

The FIDA-IDD Plan may make the website available for public use during the state review period; however, the Plan must indicate that the website is pending review until the state has either approved or disapproved the website. If the website or portions of the website are disapproved, the Plan must submit the revision to HPMS within 20 days.

The FIDA-IDD Plan is not required to resubmit materials that have received prior approval for posting on its website. Any documents that require submission to HPMS should not be posted on the website until they are approved by the state.

CMS developed a Joint Review Process (JRP) for MMP materials under each Financial Alignment Initiative capitated model demonstration that combines state and CMS review requirements and parameters. Any references herein to CMS in its role in reviewing marketing materials are also references to the state for purposes of FIDA-IDD Plan marketing material review.

We also clarify that the multi-plan submission process is intended for third parties that submit materials for multiple organizations and is not applicable to the FIDA-IDD Plan.

CMS review of marketing materials and election forms

422.2261(b), 423.2261(b)

We clarify that, for purposes of FIDA-IDD Plan materials, there is no “deeming” of materials requiring either a dual review by CMS and the state or a one-sided state review, and materials remain in a “pending” status until the state and CMS reviewer dispositions match. Materials in a “pending” status are not approved for use in the market. However, CMS and state marketing reviewers have standard operating procedures for ensuring materials are reviewed in a timely manner and differences in dispositions are resolved expeditiously. Materials that require a CMS-only review deem after the respective ten (10) or forty-five (45) day review period. The FIDA-IDD Plan may obtain more information about the specific review parameters and timeframes for marketing materials under the New York FIDA-IDD capitated financial alignment model demonstration in the HPMS Marketing Module and User Guide.

In addition to the guidance in this section, if the FIDA-IDD Plan submits modifications to a previously approved marketing material, it must submit a cover document that precisely lists all proposed wording changes to the previously approved marketing material. This will expedite the review and approval process.

We further clarify that if the FIDA-IDD Plan resubmits a previously disapproved marketing material, it must also submit a cover document. To expedite the re-review and approval process, the cover document must precisely list all proposed wording changes to the previously disapproved material.

We clarify that the File and Use certification for the FIDA-IDD Plan is included in the three-way contract.

Resubmitting previously disapproved pieces

In addition to the requirements of this section, and in order to expedite the re-review and approval process, if the FIDA-IDD Plan resubmits previously disapproved pieces, it must

submit a cover document that precisely lists all proposed wording changes to the previously disapproved materials.

General Communications Materials and Activities Requirements

422.2262, 423.2262

We clarify that an MMP is a “comparable plan as determined by the Secretary” as described in 422.2262(a) and is available only to, designed for, and marketing to beneficiaries who are dually eligible for Medicare and Medicaid.

As is the case for other Medicare health plans, the FIDA-IDD Plan is required to include the plan type in the plan’s name using standard terminology consistent with the guidance provided in this section. CMS created the standardized plan type label “Medicare-Medicaid Plan” to refer generically to all plans participating in a Financial Alignment Initiative capitated model demonstration. The FIDA-IDD Plan must include the “Medicare-Medicaid Plan” plan type terminology at the end of its plan name at least once on the front page or at the beginning of each marketing piece, excluding envelopes. In addition, New York requires the FIDA-IDD Plan to use the term “Fully-Integrated Duals Advantage for individuals with Intellectual and Developmental Disabilities” (FIDA-IDD) Plan to refer to itself. Thus, we clarify that the FIDA-IDD Plan must only use the CMS standardized plan type “(Medicare- Medicaid Plan)” following its plan name once in its materials but can then use the FIDA-IDD Plan terminology thereafter.

In addition, the state also expects the FIDA-IDD Plan to use the term FIDA-IDD in its plan name, as entered in HPMS and included in its marketing materials. For example, the FIDA-IDD Plan would use “Acme Duals FIDA-IDD Plan” as its plan marketing name in all Participant materials.

Standardized Material Identification (SMID)

422.2262(d), 423.2262(d)

The provisions in these subsections of the regulations are modified as follows for the FIDA-IDD Plan:

The material SMID is made up of two (2) parts: (1) MMP contract number, (i.e., H number) followed by an underscore; and (2) any series of alphanumeric characters chosen at the discretion of the FIDA-IDD Plan. Use of the material ID on marketing materials must be immediately followed by the status of either approved or accepted (e.g., H1234_drugx38 Approved). Note that the FIDA-IDD Plan should include an approved status only after the material is approved and not when submitting the material for review.

We clarify that multi-plan materials are not applicable to the FIDA-IDD Plan. In addition, when a third party, such as a pharmacy benefit manager (PBM), creates and distributes member-specific materials on behalf of multiple organizations, it is not acceptable to use the material ID for another organization for materials the third party provides to MMP enrollees. The material must be submitted in HPMS using a separate material ID number for the MMP, and that material ID number must be included on the material. Non-English and alternate format materials based on previously created materials may have the same material ID as the material on which they are based.

General Marketing Requirements

422.2263, 423.2263

Nominal gifts

422.2263(b)(2), 423.2263(b)(2)

Under the FIDA-IDD demonstration, the FIDA-IDD Plan may not offer financial or other incentives of any kind to induce potential FIDA-IDD Plan Participants to enroll with the FIDA-IDD Plan or to refer a friend, neighbor, or other person to enroll with the plan. This includes nominal gifts provided at FIDA-IDD Plan-targeted events. However, nominal gifts may be offered to potential FIDA-IDD Plan Participants.

Star Ratings

422.2263(c), 423.2263(c)

The FIDA-IDD Plan is not subject to the Star Ratings requirements. Therefore, this section does not apply to the FIDA-IDD Plan.

Beneficiary Contact

422.2264, 423.2264

Unsolicited contact

422.2264(a), 423.2264(a)

We reiterate that marketing via conventional mail and other print media (e.g., advertisements, direct mail) is not considered unsolicited contact and is, therefore, permissible. The FIDA-IDD Plan is already permitted to send direct mail about the FIDA-IDD Plan to Participants who have opted out. The FIDA-IDD Plan is reminded of its obligations under state and local law with respect to the privacy of individuals, and must not disclose information to unauthorized parties or sell FIDA-IDD Plan Participant lists to other entities.

Events with beneficiaries

422.2264(c), 423.2264(c)

Educational events, Marketing or sales events

422.2264(c)(1), 423.2264(c)(1), 422.2264(c)(2), 423.2264(c)(2)

We clarify that the FIDA-IDD Plan must convene all educational and marketing events at sites within the plan's contracted service area that are physically accessible to all Participants or potential FIDA-IDD Plan Participants, including individuals with disabilities and individuals using public transportation.

Personal marketing appointments

422.2264(c)(3), 423.2264(c)(3)

We clarify that home and other one-on-one visits by non-sales plan employees for purposes related to care coordination are not considered individual marketing appointments. We note that such non-sales plan employees should never conduct marketing activity, but we clarify that they may provide factual information about the FIDA-IDD Plan and its benefits if the FIDA-IDD Plan Participant requests it in the course of care coordination activities.

Websites

422.2265, 423.2265

Required content

422.2265(b), 423.2265(b)

In addition to the requirements outlined in this section, the FIDA-IDD Plan must also include on its website a direct link to New York's enrollment broker. The FIDA-IDD Plan must also include information on the potential for contract termination (as required under 42 CFR 422.111(f)(4)), and information that materials are published in alternate formats (e.g., large print, braille, audio). The FIDA-IDD Plan website must be 508 compliant, and the FIDA-IDD Plan must attest that it complies with all applicable requirements when it submits its website for review in the HPMS Marketing Review Module.

We clarify that the FIDA-IDD Plan is not be required to post the Low Income Subsidy (LIS) Premium Summary Chart, as this document is not applicable to MMPs.

We further clarify that the FIDA-IDD Plan must also include a disclaimer, as provided in the State-Specific FIDA-IDD Plan Disclaimers section of this guidance, on all marketing materials and on its website specifying the availability of the Participant Ombudsman to provide Participants with free assistance in handling any issues related to accessing services. The FIDA-IDD Plan must include the toll-free number and the website for the Participant Ombudsman.

Required posted materials

422.2265(c), 423.2265(c)

The provisions of these subsections of the regulations apply with a modification. As indicated in 422.2263(c) and 423.2263(c) in the "Star Ratings" subsection of this document, the FIDA-IDD Plan is not subject to Star Ratings requirements and, therefore, is not required to post a CMS Star Ratings document on its website.

Activities with Healthcare Providers or in the Healthcare Setting

422.2266, 423.2266

Where marketing is prohibited, where marketing is permitted, MA organization/Part D sponsor activities in the healthcare setting

422.2266(a), 423.2266(a), 422.2266(b), 423.2266(b), 422.2266(c), 423.2266(c)
422.2266(d), 423.2266(d), 422.2266(e), 423.2266(e)

We clarify that staff in health care settings such as, but not limited to, long-term care facilities, day care settings, and chronic and psychiatric hospitals for FIDA-IDD Plan-eligible individuals (post-stabilization) may provide residents meeting FIDA-IDD Plan eligibility criteria with an explanatory brochure about the FIDA-IDD Plan. The FIDA-IDD Plan may also not require providers to distribute Plan-prepared communications to their patients.

We clarify that the guidance in this section referring patients to other sources of information such as the "State Medicaid office" also applies to materials produced and/or distributed by New York's enrollment broker. We also note that providers may not provide mailing lists of their patients to the FIDA-IDD Plan.

Required Materials and Content

422.2267, 423.2267

We clarify that, unless otherwise modified and/or specifically indicated in this section of the document, these sections of the regulations, and all of their subsections, apply to the FIDA-IDD Plan.

Standards for required materials and content

422.2267(a)(2), 423.2267(a)(2)

The provisions of these subsections of the regulations apply with the modifications and clarifications included in this document. The standard articulated for translation of marketing materials into non-English languages is superseded to the extent that New York's standard for translation of marketing materials is more stringent. The New York translation standard - which requires translation of materials into a language that is the primary language of at least five percent (5%) of the FIDA-IDD Plan's enrolled population or fifty (50) Participants, whichever is less - exceeds the Medicare standard for translation in the New York FIDA-IDD Plan service areas. Guidance on the translation requirements for all plans, including the FIDA-IDD Plan, is released via HPMS annually each fall. Required languages for translation for the FIDA-IDD Plan are also updated annually, as needed, in the HPMS Marketing Review Module.

CMS and the state have designated materials that are vital and, therefore, must be translated into the non-English languages.⁴ This information is located in the CMS Required Materials and Content (422.2267(e)) section of this document.

In addition, the FIDA-IDD Plan must translate ad hoc enrollee communication materials regarding payments and reimbursements in accordance with the standard described above. We note that ad hoc enrollee communication materials are not considered marketing materials and are not submitted in the HPMS Marketing Review Module for review. The process should include how the MMP will keep a record of the Participant's information and utilize it as an ongoing standing request so the Participant doesn't need to make a separate request for each material and how a Participant can change a standing request for preferred language and/or format.

The FIDA-IDD Plan must have a process to simply describe how they will request a Participant's preferred language and/or format for receiving the materials identified in this section and will keep the information as a standing request for future mailings and communications. The FIDA-IDD Plan must also describe how a Participant can change a standing request for preferred language and/or format. Standing requests pertain to alternate formats and all non-English languages identified in this section and in the HPMS Marketing Review Module.

⁴ CMS makes available Spanish translations of the New York FIDA-IDD Plan Summary of Benefits (SB), Formulary (List of Covered Drugs), Provider and Pharmacy Network Directory, and ANOC/EOC (Participant Handbook). These are posted at www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/MMPInformationandGuidance/MMPMarketingInformationandResources.

Model materials

422.2267(c), 423.2267(c)

We modify these subsections of the regulations, in addition to 42 CFR Parts 417 and 438, with the following guidance about model materials.

We clarify that marketing documents and marketing activities must reasonably accommodate individuals with physical or communications-related disabilities, including individuals with cognitive, learning, and psychiatric disabilities. Language related to this requirement is incorporated throughout this guidance.

We note that materials the FIDA-IDD Plan creates should take into account the average reading level requirements established in the three-way contract. Available FIDA-IDD Plan-specific model materials reflect acceptable reading levels. Current Part D models are acceptable for use as currently provided, and the FIDA-IDD Plan must add required disclaimers in the State-Specific FIDA-IDD Disclaimers section of this guidance, as appropriate. Adding required FIDA-IDD Plan disclaimers to Part D models does not render the documents non-model when submitted for review or accepted as File & Use materials.

We refer the FIDA-IDD Plan to the following available model materials:

- FIDA-IDD Plan-specific model materials, including, but not limited to, an Annual Notice of Change (ANOC); a Summary of Benefits (SB); Evidence of Coverage (EOC) (Participant Handbook); Comprehensive Integrated Formulary (List of Covered Drugs); combined Provider and Pharmacy Directory; single Participant ID Card; the Integrated Coverage Determination Notice (ICDN) and other appeals and grievances notices; welcome letters and other plan-delegated enrollment notices; and FIDA-IDD specific Prescription Drug Explanation of Benefits (EOB), Transition Notice, Prescription Transfer Notice, and Excluded Provider Notice: www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/MMPInformationandGuidance/MMPMarketingInformationandResources.
- Part D appeals and grievances models (including those in the Parts C & D Enrollee Grievances, Organization/Coverage Determinations and Appeals Guidance): www.cms.gov/Medicare/Appeals-and-Grievances/MedPrescriptDrugApplGriev/index.html and www.cms.gov/Medicare/Appeals-and-Grievances/MedPrescriptDrugApplGriev/Forms.
- Part C appeals and grievances notices and models (including those in the Parts C & D Enrollee Grievances, Organization/Coverage Determinations and Appeals Guidance): www.cms.gov/Medicare/Appeals-and-Grievances/MMCAG and www.cms.gov/Medicare/Appeals-and-Grievances/MMCAG/Notices-and-Forms
- MMP-specific ANOC/EOC (Participant Handbook) errata model: www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/MMPInformationandGuidance/MMPMarketingInformationandResources.

CMS required materials and content

422.2267(e), 423.2267(e)

We clarify that required materials and instructions for the FIDA-IDD Plan are included below and replace the requirements in 422.2267(e) and 423.2267(e) unless otherwise specifically indicated. We further clarify that the Pre-Enrollment Checklist referenced in 422.2267(e)(4) and 423.2267(e)(4), including Appendix 1, is not applicable to MMPs since the state's enrollment broker submits all enrollments. As stated in the "Introduction" in this document, CMS continues to consider all CY 2023 MMP materials to be marketing materials. As a result, MMPs submit all materials in HPMS.

The FIDA-IDD Plan may enclose additional benefit and plan operation materials with required materials, unless specifically prohibited in instructions or prohibited as noted for each material. Additional materials must be distinct from required materials and must be related to the FIDA-IDD Plan in which the Participant enrolled.

Annual Notice of Changes (ANOC)	
<i>To Whom Required:</i>	Must be provided to current plan Participants, including those with October 1, November 1, and December 1 effective dates.
<i>Timing:</i>	<ul style="list-style-type: none"> The FIDA-IDD Plan must send for Participant receipt no later than September 30 of each year. (Note: The ANOC must be posted on the FIDA-IDD Plan website by October 15.) Plan Participants with October 1, November 1, and December 1 enrollment effective dates must receive the ANOC for the upcoming year by one (1) month after the effective date of enrollment but not later than December 15.
<i>Method of Delivery:</i>	Hard copy, or electronically, if Participant has opted into receiving electronic version as permitted.
<i>HPMS Timing and Submission:</i>	<ul style="list-style-type: none"> Must be submitted prior to mailing ANOCs. Refer to the HPMS Marketing Review Module and User Guide.
<i>Format Specification:</i>	<ul style="list-style-type: none"> New York FIDA-IDD MMP model required for current CY. Standardized model; a non-model document is not permitted.
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> Actual Mail Dates (AMDs) and number of recipients (not the number of ANOCs mailed) must be entered into HPMS within fifteen (15) calendar days of mailing. This includes mail dates for alternate materials. MMPs that mail in waves should enter the AMD for each wave. MMPs may enter up to ten (10) waves of mailings. For instructions on meeting this requirement, refer to the "Manager Material AMD/Beneficiary Information" section of the HPMS Marketing Review Module and User Guide Note: For a single mailing to multiple recipients, the MMP should enter an AMD that reflects the number of recipients, not the number of ANOC/EOCs (Participant Handbooks), mailed. The plan may include the following with the ANOC: <ul style="list-style-type: none"> Summary of Benefits (SB) Provider and Pharmacy Directory EOC (Participant Handbook) Formulary (List of Covered Drugs) Notification of Electronic Documents No additional plan communications unless otherwise directed.
<i>Translation Required:</i>	Yes.

ANOC and EOC (Participant Handbook) Errata	
<i>To Whom Required:</i>	Must be provided when plan errors are found in the ANOC or EOC (Participant Handbook) and sent to current Participants.
<i>Timing:</i>	Must send to Participants immediately following CMS approval.
<i>Method of Delivery:</i>	Hard copy, or electronically, if Participant has opted into receiving electronic version.
<i>HPMS Timing and Submission:</i>	<ul style="list-style-type: none"> • Refer to the HPMS Marketing Review Module and User Guide. • ANOC errata must be submitted by October 15. • EOC (Participant Handbook) errata must be submitted by November 15.
<i>Format Specification:</i>	Standardized model; a non-model document is not permitted.
<i>Guidance and Other Needed Information:</i>	<p>The FIDA-IDD Plan must use an errata notice to notify Participants of plan errors in their original documents. We clarify that errata notices should only be used to notify Participants of plan errors in plan materials.</p> <p>Note: Any mid-year changes, including, but not limited to, mid-year legislative benefit additions or removals and changes in enrollment policies, should be communicated to current Participants consistent with the “Mid-Year Change Notification” guidance in this section. The HPMS errata submission process should not be used for mid-year changes to materials that are not due to plan error. Instead the plan should use the HPMS Marketing Module replacement function for these changes.</p> <p>Refer to the annual Health Plan Management System memo “Issuance of Contract Year Model Materials” and “Contract Year Annual Notice of Change and Evidence of Coverage Submission Requirements and Yearly Assessment” memos.</p>
<i>Translation Required:</i>	Yes.

Comprehensive Medication Review Summary	
<i>To Whom Required:</i>	Provided to enrollees in a plan's Medication Therapy Management (MTM) program after receiving a comprehensive medication review (CMR)
<i>Timing:</i>	May be provided to enrollee immediately following a CMR, or if distributed separately, materials should be sent out within 14 calendar days.
<i>Method of Delivery:</i>	Hard copy, or electronically if enrollee has opted into receiving electronic version as permitted in 423.2267(d).
<i>HPMS Timing and Submission:</i>	Not applicable.
<i>Format Specification:</i>	<p>Standardized OMB-approved Format (Form CMS-10396, OMB Control Number 0938-1154).</p> <p>The Format cannot be modified, but the specific content to populate the Format must be tailored to address issues unique to the individual enrollee and may be customized for the Part D plan and MTM program.</p>
<i>Guidance and Other Needed Information:</i>	<p>See https://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/MTM for CMR Standardized Format and detailed implementation instructions and Annual MTM Program Submission Instructions memo.</p> <p>Note: MTM program materials should not include any marketing or promotional messages.</p>
<i>Translation Required:</i>	Yes.

Coverage/Organization Determination, Discharge, Appeals and Grievance Notices	
<i>To Whom Required:</i>	<ul style="list-style-type: none"> • Must be provided to Participants who have requested an appeal or have had an appeal requested on their behalf. • Grievances may be responded to electronically, orally, or in writing.
<i>Timing:</i>	Provided to Participants (generally by mail) on an ad hoc basis, based on required timeframes in three-way contract.
<i>Method of Delivery:</i>	Hard copy, or electronically, if Participant has opted into receiving electronic version as permitted.
<i>HPMS Timing and Submission:</i>	Refer to the HPMS Marketing Review Module and User Guide.
<i>Format Specification:</i>	<ul style="list-style-type: none"> • New York FIDA-IDD MMP models - standardized model; a non-model document is not permitted. • Other CMS models - modifications permitted.
<i>Guidance and Other Needed Information:</i>	Three-way contract, Parts C & D Enrollee Grievances, Organization/Coverage Determinations, and Appeals Guidance.
<i>Translation Required:</i>	Yes.

Evidence of Coverage (EOC) / Participant Handbook	
<i>To Whom Required:</i>	Must be provided to all plan Participants.
<i>Timing:</i>	<ul style="list-style-type: none"> • Must send to current plan Participants for receipt by October 15 of each year. Must be posted on plan website by October 15 of each year. • Must send to Participants who opt in to the FIDA-IDD Plan for receipt no later than eight (8) calendar days from receipt of CMS confirmation of enrollment or by last day of the month prior to the effective date, whichever is later. • New Participants with an effective date of October 1, November 1, or December 1 should receive both an EOC (Participant Handbook) for the current contract year, as well as an EOC (Participant Handbook) document for the upcoming contract year. We clarify that, for these Participants, the ANOC may be included in the EOC (Participant Handbook) or provided separately, as well as the Formulary (List of Covered Drugs) (or a distinct and separate notice alerting Participants how to access or receive the Formulary), and the Provider and Pharmacy Directory (or a distinct and separate notice alerting Participants how to access or receive the directory) for the upcoming year, must be received by one (1) month after the effective date of enrollment, but not later than December 15.
<i>Method of Delivery:</i>	Hard copy EOC (Participant Handbook) or via Notification of Electronic Documents electronically, if Participant has opted into receiving electronic version as permitted.
<i>HPMS Timing and Submission:</i>	<ul style="list-style-type: none"> • Refer to the HPMS Marketing Review Module and User Guide. • Submitted prior to October 15 of each year.
<i>Format Specification:</i>	<ul style="list-style-type: none"> • New York FIDA-IDD MMP model required for current CY. • Standardized model; a non-model document is not permitted.
<i>Guidance and Other Needed Information:</i>	No additional information.
<i>Translation Required:</i>	Yes.

Excluded Provider Letter	
<i>To Whom Required:</i>	Provided to Participants when a sponsor has excluded a prescriber or pharmacy participating in the Medicare program based on an Office of Inspector General (OIG) exclusion.
<i>Timing:</i>	Provided to Participants on an ad hoc basis.
<i>Method of Delivery:</i>	Hard copy, or electronically, if Participant has opted into receiving electronic version as permitted.
<i>HPMS Timing and Submission:</i>	Refer to the HPMS Marketing Review Module and User Guide.
<i>Format Specification</i>	Model provided; modifications permitted.
<i>Guidance and Other Needed Information:</i>	oig.hhs.gov/exclusions/index.asp
<i>Translation Required:</i>	Yes.

Explanation of Benefits (EOB) – Part D	
<i>To Whom Required:</i>	Must be provided anytime a Participant utilizes their prescription drug benefit.
<i>Timing:</i>	Sent at the end of the month following the month when the benefit was utilized.
<i>Method of Delivery:</i>	Hard copy, or electronically, if Participant has opted into receiving electronic version as permitted.
<i>HPMS Timing and Submission:</i>	Refer to the HPMS Marketing Review Module and User Guide.
<i>Format Specification:</i>	New York FIDA-IDD MMP Rx-only EOB model - standardized model; a non-model document is not permitted.
<i>Guidance and Other Needed Information:</i>	Three-way contract and 423.2267(e)(2)
<i>Translation Required:</i>	Yes.

Formulary (List of Covered Drugs)	
<i>To Whom Required:</i>	Must be provided to all plan Participants.
<i>Timing:</i>	<ul style="list-style-type: none"> • Must be sent to current plan Participants for receipt by October 15 of each year. Must be posted on plan website by October 15 of each year. • Must send to Participants who opt in to the FIDA-IDD Plan for receipt no later than 8 (eight) calendar days from receipt of CMS confirmation of enrollment or by last day of the month prior to the effective date, whichever is later.
<i>Method of Delivery:</i>	Hard copy, or via Notification of Electronic Documents or electronically, if the Participant has opted into receiving electronic version as permitted.
<i>HPMS Timing and Submission:</i>	Refer to the HPMS Marketing Review Module and User Guide.
<i>Format Specification:</i>	Standardized model; a non-model document is not permitted.
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> • The FIDA-IDD Plan must make available a comprehensive integrated Formulary (List of Covered Drugs) that includes Medicare and Medicaid outpatient prescription drugs and pharmacy products provided under the FIDA-IDD Plan. • Over-the-Counter (OTC) items and/or supplemental benefits that are in excess of Medicaid requirements may not be included in this document. • The FIDA-IDD Plan is only permitted to make available a comprehensive, not abridged, Formulary (List of Covered Drugs).
<i>Translation Required:</i>	Yes.

Integrated Denial Notice	
<i>To Whom Required:</i>	Any Participant with an adverse benefit determination.
<i>Timing:</i>	Provided to Participants (generally by mail) on an ad hoc basis, at least 15 (fifteen) business days in advance of any adverse benefit determination.
<i>Method of Delivery:</i>	Hard copy, or electronically, if Participant has opted into receiving electronic version as permitted.
<i>HPMS Timing and Submission:</i>	Refer to the HPMS Marketing Review Module and User Guide.
<i>Format Specification:</i>	<ul style="list-style-type: none"> • New York FIDA-IDD MMP model required for current CY. • Standardized model; a non-model document is not permitted.
<i>Guidance and Other Needed Information:</i>	Three-way contract.
<i>Translation Required:</i>	Yes.

Mid-Year Change Notification to Enrollees	
<i>To Whom Required:</i>	Must be provided to all applicable Participants when there is a mid-year change in benefits, plan rules, formulary, provider network, or pharmacy network.
<i>Timing:</i>	Ad hoc, based on specific requirements for each issue as defined in 422.2267(e)(9).
<i>Method of Delivery:</i>	Hard copy, or electronically, if Participant has opted into receiving electronic version as permitted. If the mid-year change affects a document that the MMP has not sent to the Participant in hard copy (e.g., the EOC (Participant Handbook) the MMP is not required to send a hard copy mid-year change notification.
<i>HPMS Timing and Submission:</i>	Refer to the HPMS Marketing Review Module and User Guide.
<i>Format Specification:</i>	Model not available; must include required content.
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> • Notices of changes in MMP rules unless otherwise addressed in a regulation must be provided 30 days in advance. • National Coverage Determination (NCD) changes announced or finalized less than 30 days before effective date, notification required as soon as possible. • Mid-year NCD or legislative changes must be published no later than 30 days after the NCD is announced. MMPs may include change in the next plan mass mailing (e.g., newsletter), provided it is within 30 days and must be reflected on their website. • Medicare Managed Care Manual - Chapter 4. • Medicare Prescription Drug Benefit Manual - Chapter 6 and forthcoming guidance effectuating 423.120(b)(5) on formulary changes and required notice to beneficiaries and other entities. • National Coverage Determination website.
<i>Translation Required:</i>	Yes.

Non-Renewal and Termination Notices	
<i>To Whom Required:</i>	Must be provided to each affected enrollee after MMP decides to non-renew or reduce its plan's service area or before the termination effective date.
<i>Timing:</i>	At least 90 days before the end of the current contract period.
<i>Method of Delivery:</i>	Notices must be hard copy and sent via U.S. mail. First class postage is recommended.
<i>HPMS Timing and Submission:</i>	Refer to the HPMS Marketing Review Module and User Guide.
<i>Format Specification:</i>	<ul style="list-style-type: none"> • New York FIDA IDD MMP Model required for current CY. • Modifications permitted per instructions
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> • Information about non-renewals or service area reductions may not be released to the public, including current enrollees, until notice is received from CMS and the state. • MMPs may elect to share Non-Renewal and Service Area Reduction (NR/SAR) information only with first tier, downstream, and related entities (FDRs) or anyone that the MMP does business with (i.e., contracted providers). • MMPs must provide a NR/SAR notice to beneficiaries who enroll in a non-renewing plan on October 1, November 1, or December 1 of the current contract year (e.g., less than 90 days before the effective date of the non-renewal). • Additional NR/SAR notice information can be found in the annual CMS memorandum, "Non-Renewal and Service Area Reduction Guidance and Enrollee Notification Models". • For terminations, relevant notice requirements are provided in 42 CFR 422.506, 422.508, and 422.512.
<i>Translation Required:</i>	Yes.

Part D Transition Letter	
<i>To Whom Required:</i>	Must be provided when a Participant receives a transition fill for a non-formulary drug.
<i>Timing:</i>	Must be sent within three (3) business days of adjudication of temporary transition fill.
<i>Method of Delivery:</i>	Hard copy.
<i>HPMS Timing and Submission:</i>	Refer to the HPMS Marketing Review Module and User Guide.
<i>Format Specification:</i>	Model provided; modifications permitted.
<i>Guidance and Other Needed Information:</i>	Medicare Prescription Drug Benefit Manual, Chapter 6
<i>Translation Required:</i>	Yes.

Participant ID Card	
<i>To Whom Required:</i>	Must be provided to all plan Participants.
<i>Timing:</i>	<ul style="list-style-type: none"> • Must send to Participants who opt in to the FIDA-IDD Plan for receipt no later than eight (8) calendar days from receipt of CMS confirmation of enrollment or by last day of the month prior to the effective date, whichever is later. • Must also be provided to all Participants if information on existing card changes.
<i>Method of Delivery:</i>	Must be provided in hard copy. In addition to the hard copy, the plan may also provide a digital version (e.g., app).
<i>HPMS Timing and Submission:</i>	Refer to the HPMS Marketing Review Module and User Guide.
<i>Format Specification:</i>	Standardized model; a non-model document is not permitted.
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> • The FIDA-IDD Plan must issue a single Participant ID Card meeting these requirements for all services offered under the plan. • Separate pharmacy and health benefits ID cards are not permitted. • Must include MMP's website address, customer service number, and contract/plan benefit package number. • May not use social security number (SSN). • The front of the card must include the Medicare Prescription Drug Benefit Program Mark.
<i>Translation Required:</i>	No.

Plan-Delegated Enrollment and Disenrollment Notices	
<i>To Whom Required:</i>	Must be provided as outlined in National Enrollment/Disenrollment Guidance for States & MMPs.
<i>Timing:</i>	Varies; must follow required timeframes as outlined in National Enrollment/Disenrollment Guidance for States & MMPs.
<i>Method of Delivery:</i>	Hard copy, or electronically, if Participant has opted into receiving electronic version as permitted.
<i>HPMS Timing and Submission:</i>	Refer to the HPMS Marketing Review Module and User Guide.
<i>Format Specification:</i>	<ul style="list-style-type: none"> • New York FIDA-IDD MMP model required for current CY. • Standardized model; a non-model document is not permitted.
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> • New York FIDA-IDD Enrollment Guidance Appendix 5. • Refer to the Marketing Review Module and Users Guide, along with the National Enrollment/Disenrollment Guidance and New York Enrollment Guidance Appendix 5, to determine how to submit appropriately.
<i>Translation Required:</i>	Yes.

Prescription Transfer Letter	
<i>To Whom Required:</i>	When a Part D sponsor requests permission from a Participant to fill a prescription at a different network pharmacy than the one currently being used by the Participant.
<i>Timing:</i>	Ad hoc.
<i>Method of Delivery:</i>	Hard copy.
<i>HPMS Timing and Submission:</i>	Refer to the HPMS Marketing Review Module and User Guide.
<i>Format Specification:</i>	Model provided; modifications permitted.
<i>Guidance and Other Needed Information:</i>	The model notice should only be used when the transfer of the prescription is not initiated by the Participant (or someone on their behalf).
<i>Translation Required:</i>	Yes.

Provider and Pharmacy Directory	
<i>To Whom Required:</i>	Must be provided to all current plan Participants.
<i>Timing:</i>	<ul style="list-style-type: none"> • Must be sent to current plan Participants for receipt by October 15 of each year. Must be posted to plan website by October 15 of each year. • Must send to Participants who opt in to the FIDA-IDD Plan for receipt no later than eight (8) calendar days from receipt of CMS confirmation of enrollment or by last day of the month prior to the effective date, whichever is later. • Must be provided to current Participants upon request, within three (3) business days of the request. • Must update directory information any time they become aware of changes. All updates to the online Provider and Pharmacy Directory are expected to be completed within thirty (30) calendar days of receiving information. Updates to hard copy of the Provider and Pharmacy Directory must be completed within thirty (30) calendar days; however, a hard copy directory that includes separate updates via addenda is considered up-to-date.
<i>Method of Delivery:</i>	Hard copy or via Notice of Electronic Documents or electronically, if Participant has opted into receiving electronic version as permitted.
<i>HPMS Timing and Submission:</i>	Refer to the HPMS Marketing Review Module and User Guide.
<i>Format Specification:</i>	<ul style="list-style-type: none"> • New York FIDA-IDD MMP model required for current CY. • Standardized model; a non-model document is not permitted.

Provider and Pharmacy Directory	
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> • The FIDA-IDD Plan is required to make available a single combined Provider and Pharmacy Directory. Separate pharmacy and provider directories are not permitted. The FIDA-IDD Plan may print separate directories for primary care physicians (PCPs) and specialists provided both directories are made available to Participants at the time of enrollment. • The single combined Provider and Pharmacy Directory must include all network providers and pharmacies, regardless of whether they provide Medicare, Medicaid, or additional benefits. • For an MMP with multi-county service areas, the combined Provider and Pharmacy Directory may be provided for all providers by county, provided the directory includes a disclaimer that the directory only includes providers in that particular county (or counties), that a complete directory is available on the plan's website, and that the Participant may contact the plan's customer service call center to request assistance with locating providers in other counties or to request a complete hard copy Provider and Pharmacy Directory. • The New York FIDA-IDD Plan must submit directory updates and/or addenda pages in HPMS, and these documents are reviewed consistent with the parameters for the New York FIDA-IDD Plan Provider and Pharmacy Directory. • As applicable, refer to the language and guidelines issued in the CMS memorandum August 16, 2016, "Pharmacy Directories and Disclaimers" for the pharmacy portion of the combined directory.
<i>Translation Required:</i>	Yes.

Safe Disposal Information	
<i>To Whom Required:</i>	Provided to enrollees in a plan's MTM program as part of the CMR, targeted medication review, or other MTM correspondence or service.
<i>Timing:</i>	At least once annually beginning on January 1, 2022.
<i>Method of Delivery:</i>	Hard copy, or electronically if enrollee has opted into receiving electronic version as permitted in 422.2267(d) and 423.2267(d).
<i>HPMS Timing and Submission:</i>	Not applicable.
<i>Format Specification:</i>	No model required. This information must comply with all requirements of 422.111(j).
<i>Guidance and Other Needed Information:</i>	See www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/MTM for Annual MTM Program Submission Instructions memo.
<i>Translation Required:</i>	Yes.

Summary of Benefits (SB)	
<i>To Whom Required:</i>	Optional with the ANOC and as requested for other Participants.
<i>Timing:</i>	Must be available by October 15 of each year but can be released as early as October 1 of each year. Must be posted on plan website by October 15 of each year.
<i>Method of Delivery:</i>	Hard copy.
<i>HPMS Timing and Submission:</i>	<ul style="list-style-type: none"> Submitted prior to October 15 of each year. Refer to the HPMS Marketing Review Module and User Guide.
<i>Format Specification:</i>	<ul style="list-style-type: none"> New York FIDA-IDD Plan model required for current CY. Standardized model; a non-model document is not permitted.
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> The SB must contain a concise description of the important aspects of enrolling in the plan, as well as the benefits offered under the plan, including applicable conditions and limitations and any other conditions associated with receipt or use of benefits.
<i>Translation Required:</i>	Yes.

Welcome Letter	
<i>To Whom Required:</i>	Must be provided to all new Plan Participants.
<i>Timing:</i>	Must send to Participants who opt in to the FIDA-IDD Plan for receipt no later than eight (8) calendar days from receipt of CMS confirmation of enrollment or by last day of the month prior to the effective date, whichever is later.
<i>Method of Delivery:</i>	Hard copy.
<i>HPMS Timing and Submission:</i>	Refer to the HPMS Marketing Review Module and User Guide.
<i>Format Specification:</i>	New York FIDA-IDD Plan model required for CY.
<i>Guidance and Other Needed Information:</i>	<ul style="list-style-type: none"> Must contain 4Rx information consistent with the model. National Enrollment/Disenrollment Guidance for States & MMPs
<i>Translation Required:</i>	Yes.

Required Materials for New FIDA-IDD Plan Participants

The following table summarizes the required materials, and timing of receipt, for new FIDA-IDD Plan Participants.

Table 1. Required Materials for New Participants

Enrollment Mechanism	Required Materials for New Participants	Timing of Participant Receipt
Opt in enrollment (with enrollment confirmation received more than eight (8) calendar days before the end of the month) ⁵	<ul style="list-style-type: none">• Welcome letter• Formulary (List of Covered Drugs) (or a distinct and separate notice alerting Participants how to access or receive the Formulary)• Provider and Pharmacy Directory (or a distinct and separate notice alerting Participants how to access or receive the Directory)• Participant ID Card• EOC (Participant Handbook) (or a distinct and separate notice alerting Participants how to access or receive the EOC (Participant Handbook))	No later than the last day of the month prior to the effective date of enrollment.
Opt in enrollment (with enrollment confirmation received less than eight (8) calendar days before the end of the month) ⁵	<ul style="list-style-type: none">• Welcome letter• Formulary (List of Covered Drugs) (or a distinct and separate notice alerting Participants how to access or receive the Formulary)• Provider and Pharmacy Directory (or a distinct and separate notice alerting Participants how to access or receive the Directory)• Participant ID Card• EOC (Participant Handbook) (or a distinct and separate notice alerting Participants how to access or receive the EOC (Participant Handbook))	No later than eight (8) calendar days from receipt of the confirmation of enrollment.

State-specific FIDA-IDD Plan Disclaimers

We clarify that the FIDA-IDD Plan includes specific disclaimer language in the table below. We also clarify that, as applicable, the FIDA-IDD Plan includes additional disclaimers

⁵ The FIDA-IDD Plan should refer to the date of the Daily Transaction Reply Report (DTRR) that has the notification to identify the start of the eight (8) calendar-day timeframe.

contained in subsections 422.2267(e) and 423.2267(e) of the regulations. In addition, we clarify that MMPs are not required to include disclaimers on the following material types: Member or Participant ID Cards, call scripts not related to sales or enrollment, banners and banner-like ads, envelopes, outdoor advertising, text messages, and social media.

Disclaimer	Required MMP Disclaimer Language	MMP Disclaimer Instructions
Federal Contracting	<Plan’s legal or marketing name> is a managed care plan that contracts with Medicare and the New York State Department of Health (Medicaid) to provide benefits to Participants through the Fully Integrated Duals Advantage for Individuals with Intellectual and Developmental Disabilities (FIDA-IDD) Demonstration.	Required on materials except those specifically excluded above.
Benefits – “This is not a complete list...”	This is not a complete list. The benefit information is a brief summary, not a complete description of benefits. For more information contact the plan or read the <plan name> Participant Handbook.	Required on the SB and all materials with ten (10) or more benefits except the EOC (Participant Handbook).
Multi-language insert	ATTENTION: If you speak <language of disclaimer>, language assistance services, free of charge, are available to you. Call <Participant Services toll-free phone and TTY numbers, and days and hours of operation>. The call is free.	Per 422.2267(e)(31) required in Spanish, Chinese, Tagalog, French, Vietnamese, German, Korean, Russian, Arabic, Italian, Portuguese, French Creole, Polish, Hindi, and Japanese and applicable non-English languages on those model materials in the CMS Required Material and Content section for which the last row of the table indicates, “ <i>Translation required: Yes.</i> ”
Non-plan and Non-health Information	Neither Medicare nor New York Medicaid has reviewed or endorsed this information.	Required on non-plan and non-health related information once prior authorization from the Participant is granted to receive materials.

Disclaimer	Required MMP Disclaimer Language	MMP Disclaimer Instructions
Participant Ombudsman	The State of New York has created a Participant Ombudsman Program called the Independent Consumer Advocacy Network (ICAN) to provide Participants free, confidential assistance on any services offered by <plan name>. ICAN may be reached toll-free at 1-844-614-8800 (TTY users call 711, then follow the prompts to dial 844-614-8800) or online at icannys.org .	Required on all marketing materials (except radio ads) and required on the plan's website.

Note: For model materials, MMPs must continue to include disclaimers where they currently appear. For non-model materials, MMPs may include disclaimers as footnotes or incorporate them into the body of the material.

Agent, Broker, and Other Third Party Requirements

422.2274, 423.2274

We clarify that New York does not permit use of independent agents and brokers. The state's enrollment broker processes all FIDA-IDD Plan enrollments. We also clarify that CMS does not regulate compensation of employed agents. Employed FIDA-IDD Plan staff conducting marketing activity of any kind, as defined in this document, must be licensed in the state (and, when required, appointed) as an insurance agent or broker.

Additionally, we clarify reporting responsibilities for the FIDA-IDD Plan. Annually by the last Friday in July, the FIDA-IDD Plan must enter information in HPMS and attest to their intention to use agents or brokers in the upcoming plan year. The FIDA-IDD Plan must report their use of employed, captive, or independent agents or brokers in accordance with New York and CMS guidelines. For further instructions, refer to the "Agent/Broker Compensation" sections of the HPMS Marketing Review Module and User Guide. Following the reporting deadline, MMPs may not change their decisions related to agent or broker type until the next plan year.

The remainder of these sections of the regulations do not apply to the FIDA-IDD Plan.

Appendix 1. Standardized Pre-Enrollment Checklist

This appendix does not apply to the FIDA-IDD plan since all enrollments are submitted by the New York enrollment broker.

Appendix 2. Model Summary of Benefit Instructions

This appendix does not apply to the FIDA-IDD plan in New York since they are required to use the model developed for the demonstration.

Appendix 3. Employer/Union Group Health Plans

This appendix does not apply to the FIDA-IDD plan in New York.

Appendix 4. Use of Medicare Mark for Part D Sponsors

We clarify that the FIDA-IDD plan has been required to sign a licensing agreement to use the official Medicare Mark as part of the three-way contract rather than through the HPMS contracting module. All other guidance in Appendix 4 of the MCMG applies.