# Final CY 2016 Marketing Guidance for New York's Fully Integrated Duals Advantage for Individuals with Intellectual and Developmental Disabilities Medicare-Medicaid Plan

**Issued: November 24, 2015**

## Introduction

All Medicare Advantage-Prescription Drug (MA-PD) plan sponsor requirements in the CY 2016 Medicare Marketing Guidelines (MMG), posted at http://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/FinalPartCMarketingGuidelines.html, apply to the Medicare-Medicaid Plan (MMP) participating in New York's Capitated Financial Alignment Demonstration – also referred to as the Fully Integrated Duals Advantage for individuals with Intellectual and Developmental Disabilities (FIDA-IDD) Demonstration – except as noted or modified in this guidance document.[1] 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 MMP to refer to all plans in all states participating in Capitated Financial Alignment Demonstrations. We also clarify that the FIDA-IDD Plan may not distribute any marketing materials that require State approval without first obtaining State approval.

This guidance document provides information about those sections of the MMG that are not applicable or that would be different for the FIDA-IDD Plan in New York; therefore, this guidance document should be considered an addendum to the CY 2016 MMG. In addition, this guidance document further clarifies additional marketing rules specific to New York State Medicaid requirements, which apply to the FIDA-IDD Demonstration. This FIDA-IDD Plan guidance will be applicable to all marketing done for CY 2016 benefits. The table below summarizes those sections of the CY 2016 MMG that are clarified, modified, or replaced for the FIDA-IDD Plan in this guidance.

**Table 1: Summary of Clarifications, Modifications, or Replacements of MMG Guidance**

| Medicare Marketing Guidelines (MMG) Section | Change in this Guidance Document |
|---|---|
| Section 10 – Introduction | Specifies requirements for a Marketing Plan. |
| Section 30.5 – Requirements Pertaining to Non-English Speaking Populations | Clarifies the requirements of this section for the FIDA-IDD Plan. |
| Section 30.5.1 – Multi-Language Insert | Clarifies the requirements of this section for the FIDA-IDD Plan. |

[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) in the MMG do not apply unless specifically noted in this guidance.

| Medicare Marketing Guidelines (MMG) Section | Change in this Guidance Document |
|---|---|
| Section 30.6 – Required Materials with an Enrollment Form | Clarifies that the requirements of this section are not applicable to the FIDA-IDD Plan. |
| Section 30.7 – Required Materials for New and Renewing Enrollees at Time of Enrollment and Thereafter | Replaces current guidance in the MMG with new guidance for the FIDA-IDD Plan. |
| Section 30.9 – Star Ratings Information from CMS | Clarifies that the requirements of this section are not applicable to the FIDA-IDD Plan. |
| Section 30.9.1 – Referencing Star Ratings in Marketing Materials | Clarifies that the requirements of this section are not applicable to the FIDA-IDD Plan. |
| Section 30.9.2 – Plans with an Overall 5-Star Rating | Clarifies that the requirements of this section are not applicable to the FIDA-IDD Plan. |
| Section 40.6 – Hours of Operation Requirements for Marketing Materials | Adds new requirements for the FIDA-IDD Plan to current MMG requirements of this section. |
| Section 40.8.3 – Marketing Materials from Third Parties that Provide Non-Benefit/Non-Health Services | Clarifies that the requirements of this section do not apply to materials produced by the State and the State's enrollment broker. |
| Section 40.10 – Standardization of Plan Name Type | Clarifies the requirements of this section for the FIDA-IDD Plan. |
| Section 50.1 – Federal Contracting Disclaimer | Replaces current disclaimer in this section with a new Federal-State disclaimer for the FIDA-IDD Plan. |
| Section 50.2 – Disclaimers When Benefits Are Mentioned | Replaces current disclaimers in this section with new disclaimers for the FIDA-IDD Plan. |
| Section 50.3 – Disclaimers When Plan Premiums Are Mentioned | Clarifies that the requirements of this section are not applicable to the FIDA-IDD Plan. |
| Section 50.4 – Disclaimer on Availability of Non-English Translations | Replaces current disclaimer in this section with a new disclaimer for the FIDA-IDD Plan. |
| Section 50.5 – Disclaimer on SNP Materials | Clarifies that the FIDA-IDD Plan must include a disclaimer regarding the NCQA approval of its model of care and replaces current disclaimer in this section with a new disclaimer for the FIDA-IDD Plan. |

| Medicare Marketing Guidelines (MMG) Section | Change in this Guidance Document |
|---|---|
| Section 50.12 – Disclaimer for Plans Accepting Online Enrollment Requests | Clarifies that the requirements of this section are not applicable to the FIDA-IDD Plan. |
| Section 50.13 – Disclaimer When Using Third Party Materials | Clarifies that the requirements of this section are not applicable to the FIDA-IDD Plan. |
| Section 50.14 – Disclaimer When Referencing Star Ratings Information | Clarifies that the requirements of this section are not applicable to the FIDA-IDD Plan. |
| Section 50.15 – Pharmacy/Provider Directory and Formulary Disclaimers | Replaces current disclaimer in this section with a new disclaimer for the FIDA-IDD Plan. |
| Section 50.19 – Disclaimer on Participant Ombudsman | Adds a new disclaimer requirement for the FIDA-IDD Plan. |
| Section 60.1 – Summary of Benefits (SB) | Replaces current guidance in this section with new guidance for the FIDA-IDD Plan. |
| Section 60.2 – ID Card Requirements | Clarifies the requirements of this section for the FIDA-IDD Plan. |
| Section 60.4 – Directories | Clarifies the requirements of this section for the FIDA-IDD Plan. |
| Section 60.5 – Formulary and Formulary Change Notice Requirements | Clarifies the requirements of this section for the FIDA-IDD Plan. Extends the requirements for formulary change notifications to Medicaid-covered drugs. |
| Section 60.6 – Part D Explanation of Benefits | Clarifies the requirements of this section for the FIDA-IDD Plan. |
| Section 60.7 – Annual Notice of Change (ANOC) and Evidence of Coverage (EOC) | Replaces current guidance in this section with new guidance for the FIDA-IDD Plan. |
| Section 60.8 – Other Mid-Year Changes Requiring Participant Notification | Extends the requirements of this section to mid-year changes in Medicaid benefits. |
| Section 70.2 – Marketing of Rewards and Incentives Programs | Clarifies that the requirements of this section, as well as those in CMS guidance, apply to the FIDA-IDD Plan. |

| Medicare Marketing Guidelines (MMG) Section | Change in this Guidance Document |
|---|---|
| Section 70.5 – Marketing Through Unsolicited Contacts | Clarifies that, in addition to the requirements of this section, a disclaimer about the State's enrollment broker must be included on unsolicited marketing materials. |
| Section 70.7 – Outbound Enrollment and Verification Requirements | Clarifies that the requirements of this section are not applicable to the FIDA-IDD Plan. |
| Section 70.8 – Prospective Enrollee Educational Events | Adds new requirements for the FIDA-IDD Plan to current MMG requirements of this section. |
| Section 70.9 - Marketing/Sales Events and Appointments | Adds new requirements for the FIDA-IDD Plan to current MMG requirements of this section. |
| Section 70.9.2 – Personal/Individual Marketing Appointments | Clarifies the requirements of this section for the FIDA-IDD Plan. |
| Section 70.11 – Marketing in the Health Care Setting | Extends the flexibility for facilities to provide an explanatory brochure about the contracted FIDA-IDD Plan to day care settings and to chronic and psychiatric hospitals. |
| Section 70.11.5 – Comparative and Descriptive Plan Information Provided by a Non-Benefit/Non-Health Service-Providing Third Party | Clarifies that the requirements of this section vis-à-vis State agencies also apply to the State's enrollment broker. |
| Section 80.1 – Customer Service Call Center Requirements | Modifies the requirements in this section regarding permissible use of alternative call center technologies. |
| Section 80.2 – Informational Scripts | Clarifies requirements in this section for the FIDA-IDD Plan. |
| Section 90 – The Marketing Review Process | Clarifies that references in this section (and subsections) to CMS in its role in marketing reviews also apply to the State. |
| Section 90.2.3 – Submission of Multi-Plan Materials | Clarifies that the requirements of this section are not applicable to the FIDA-IDD Plan. |
| Section 90.3 – HPMS Material Statuses | Clarifies the requirements of this section with respect to the lack of "deeming" for jointly reviewed materials. |

| Medicare Marketing Guidelines (MMG) Section | Change in this Guidance Document |
|---|---|
| Section 90.3.1 – Approved | Adds new requirements for the FIDA-IDD Plan to current MMG requirements of this section. |
| Section 90.4 – Resubmitting Previously Disapproved Pieces | Adds new requirements for the FIDA-IDD Plan to current MMG requirements of this section. |
| Section 90.5 – Time Frames for Marketing Review | Clarifies the requirements of this section with respect to the lack of "deeming" for jointly reviewed materials. |
| Section 90.6.1 – Restriction on the Manual Review of File & Use Eligible Materials | Clarifies that the requirements of this section are not applicable to the FIDA-IDD Plan. |
| Section 100.1 – General Website Requirements | Adds new requirements for the FIDA-IDD Plan to current MMG requirements of this section. |
| Section 100.2 – Required Content | Adds new requirements for the FIDA-IDD Plan to current MMG requirements of this section. |
| Section 100.2.2 – Required Documents for All Plans/Part D Sponsors | Clarifies that some of the requirements of this section are not applicable to the FIDA-IDD Plan. |
| Section 100.3 – Electronic Enrollment | Clarifies that the requirements of this section are not applicable to the FIDA-IDD Plan. |
| Section 100.5 – Online Formulary, Utilization Management (UM), and Notice Requirements | Extends the formulary change notice requirements of this section to non-Part D drug formulary changes. |
| Section 120 – Marketing and Sales Oversight and Responsibilities | Clarifies that the requirements of this section (and subsections) are not applicable to the FIDA-IDD Plan with respect to independent agents and brokers. Also clarifies that the FIDA-IDD Plan staff conducting marketing activity of any kind must be licensed in the State (and, when required, appointed) as an insurance broker/agent. |
| Section 120.6 – Activities That Do Not Require the Use of State-Licensed Marketing Representatives | Clarifies the requirements of this section for the FIDA-IDD Plan. |
| Section 150 – Use of Medicare Mark for Part D Sponsors | Clarifies the requirements of this section for the FIDA-IDD Plan. |

| Medicare Marketing Guidelines (MMG) Section | Change in this Guidance Document |
|---|---|
| Section 160.4 – Sending Non-plan and Non-health Information Once Prior Authorization is Received | Replaces current disclaimer in this section with a new disclaimer for the FIDA-IDD Plan. |

In addition, we clarify that all requirements applicable to independent agents/brokers throughout the MMG will be inapplicable to the FIDA-IDD Plan in New York, because the use of independent agents/brokers will not be permitted and all FIDA-IDD Plan enrollment transactions must be processed by the State's enrollment broker.

We clarify that marketing documents and marketing activities must reasonably accommodate persons 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 created by the FIDA-IDD Plan should take into account the reading level requirements established in the three-way contract. Available MMP-specific model materials reflect acceptable reading levels. Current Part D models will be acceptable for use as currently provided, and the FIDA-IDD Plan must add required disclaimers in section 50 of this guidance, as appropriate. Adding required FIDA-IDD Plan disclaimers to Part D models will 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 model materials:

- FIDA-IDD Plan-specific model materials tailored to the FIDA-IDD Plan in New York, including, but not limited to, a Summary of Benefits; 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; and FIDA-IDD-specific prescription drug explanation of benefits (EOB), transition notice, prescription transfer notice, excluded provider notice, and welcome letters: http://cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialAlignmentInitiative/InformationandGuidanceforPlans.html.

  CY 2016 FIDA-IDD Plan-specific model materials will be added to the website above and will also be disseminated via the Health Plan Management System (HPMS).

- Part D appeals and grievances models in Chapter 18 of the Prescription Drug Benefit Manual: http://www.cms.gov/Medicare/Appeals-and-Grievances/MedPrescriptDrugApplGriev/Guidance.html and http://www.cms.gov/Medicare/Appeals-and-Grievances/MedPrescriptDrugApplGriev/PlanNoticesAndDocuments.html.

- Part C appeals and grievances models in Chapter 13 of the Medicare Managed Care Manual: http://www.cms.gov/Medicare/Appeals-and-Grievances/MMCAG/Guidance.html and http://www.cms.gov/Medicare/Appeals-and-Grievances/MMCAG/Notices.html.

- ANOC/EOC (Member Handbook) errata model: http://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/MarketngModelsStandardDocumentsandEducationalMaterial.html. We note that the errata model may be helpful to the FIDA-IDD Plan in creating its own errata notices but that terminology in that notice is not specific to the FIDA-IDD Plan (for example, references to the Evidence of Coverage should also include the FIDA-IDD Plan Participant Handbook) and must be modified accordingly.

- The CMS Multi-Language insert model: http://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/MarketngModelsStandardDocumentsandEducationalMaterial.html.

In addition, the FIDA-IDD Plan will be required to submit an annual marketing plan to the State for review and approval. More detail about this requirement is provided in section 10 of this document.

Following are the New York FIDA-IDD Plan-specific modifications to the MMG for CY 2016.

**Section 10 – Introduction**

For CY 2016, the FIDA-IDD Plan may begin marketing activity no sooner than: (1) March 1, 2016; or (2) once the FIDA-IDD Plan has entered into a three-way contract with CMS and the State of New York, Department of Health (State/NYSDOH) and the State of New York Office for People With Developmental Disabilities (State/OPWDD), has passed the CMS/State readiness review, and is connected to CMS enrollment and payment systems such that the FIDA-IDD Plan is able to receive payment and enrollments; whichever is later. Marketing activity for CY 2017 may begin no earlier than October 1, 2016 and must be consistent with the CY 2017 MMG (which will be issued in final in late spring or early summer of 2016), with the exceptions articulated in FIDA-IDD-specific marketing guidance as appropriate.

The FIDA-IDD Plan must submit a plan of FIDA-IDD Plan Marketing activities to CMS and the State that sets forth the terms and conditions and proposed activities of the FIDA-IDD Plan's 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, senior centers, nursing facilities, 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 anytime following the issuance of this guidance but no later than February 1, 2016. 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 other-than-English language provisions; interpreter services; and alternate communication mechanisms, including sign language, braille, audio tapes, and/or use of Telecommunications Devices for the Deaf (TDD) 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. We note that the FIDA-IDD Plan will still be required to submit marketing events in HPMS as provided in section 70.9.1 of the MMG. We also note that providers may not provide mailing lists of their patients to

the FIDA-IDD Plan. The FIDA-IDD Plan may also not require providers to distribute Plan-prepared communications to their patients.

**Section 30.5 – Requirements Pertaining to Non-English Speaking Populations**

The standard articulated in this section for translation of marketing materials into non-English language will be 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 the six most common non-English languages, as designated by the State (which are currently Spanish, Chinese, Russian, Italian, Haitian-Creole, and Korean), exceeds the Medicare standard for translation in New York FIDA Plan service areas for CY 2016. Guidance on the CY 2016 translation requirements for all plans, including the FIDA-IDD Plan, was released on September 17, 2015. For CY 2016, it is our expectation that the FIDA-IDD Plan will apply New York's standard regarding translation of required marketing materials into the six required languages in all service areas. Required materials are the Summary of Benefits (SB), EOC (Participant Handbook), formulary (List of Covered Drugs), provider/pharmacy directory (Provider and Pharmacy Directory), the notification providing information about accessing the Provider and Pharmacy Directory described in section 30.7 of this guidance and section 60.4 of the MMG, the Integrated Coverage Determination Notice, and the Part D transition letter. [2]

In addition, the FIDA-IDD Plan must translate ad hoc enrollee communication materials regarding payments and reimbursements into the six required languages. We note that ad hoc enrollee communication materials are not considered marketing materials and are not submitted in HPMS for marketing review.

**Section 30.5.1 – Multi-Language Insert**

We clarify that the FIDA-IDD Plan will need to include a Multi-Language Insert with its Demonstration-specific SB and ANOC/EOC (Participant Handbook) documents, as is the case for other plan sponsor types with their Medicare Advantage and Part D SBs and ANOC/EOC documents. The FIDA-IDD Plan must use the Multi-Language Insert posted at http://www.cms.gov/Medicare/Health-Plans/ManagedCareMarketing/MarketngModelsStandardDocumentsandEducationalMaterial.html. We clarify that we consider French Creole, which is a language included on the CMS multi-language insert, to be equivalent to Haitian Creole, which is required by New York to be included in the Multi-Language Insert. We also clarify that alternate format materials must be made available upon request.

**Section 30.6 – Required Materials with an Enrollment Form**

Because the FIDA-IDD Plan will be too new to measure under the CMS plan (star) rating system, it will not be required to include the Star Ratings Information document when a Participant is provided with pre-enrollment information. Except for some involuntary disenrollment notices, we further clarify that the responsibility for sending enrollment and disenrollment notices to Participants will be delegated to the State's enrollment broker for all Demonstration service areas.

[2] CMS will make available Spanish translations of the New York FIDA-IDD Plan Summary of Benefits (SB), formulary (List of Covered Drugs), provider/pharmacy directory (Provider and Pharmacy Directory), and ANOC/EOC (Participant Handbook).

**Section 30.7 – Required Materials for New and Renewing Enrollees at Time of Enrollment and Thereafter**

This section is replaced with the following revised guidance:

**Section 30.7 – Required Materials for New and Renewing Participants at Time of Enrollment and Thereafter**

42 CFR 422.111(c)(1), 423.128(c)(1), 422.2264(a), 423.2264(a)

The following materials must be provided to Participants at the time of enrollment and annually thereafter:

- Welcome Letter (at the time of enrollment)
- ANOC/EOC (Participant Handbook), or simply an EOC (Participant Handbook), as applicable and described in the replacement guidance below for section 60.7 of the MMG.
- A comprehensive integrated formulary (List of Covered Drugs) that includes Medicare and Medicaid outpatient prescription drugs and over-the-counter pharmacy drugs or products provided under the FIDA-IDD Plan.
- A combined Provider and Pharmacy Directory that includes all providers of Medicare, Medicaid, and additional benefits, or separate notice alerting enrollees how to access or receive the directory (required at the time of enrollment and annually thereafter).
- A single Participant identification (ID) card for accessing all covered services under the plan (required at the time of enrollment and as needed or required by the FIDA-IDD Plan post-enrollment).

The FIDA-IDD Plan must send Participants who opt into the Demonstration the following materials for receipt no later than eight (8) calendar days from receipt of confirmation of enrollment or by the last day of the month prior to the effective date, whichever occurs later. For late-month enrollment transactions (those for which confirmation of enrollment is received less than eight (8) calendar days before the end of the month prior to the effective date), the FIDA-IDD Plan must send these materials for Participant receipt no later than eight (8) calendar days from receipt of confirmation of enrollment. The FIDA-IDD Plan should refer to the date of the Enrollment E-file to identify the start of the eight (8) calendar-day timeframe.

- A welcome letter, which must contain 4Rx information, consistent with a model developed jointly by CMS and the State,
- A comprehensive integrated formulary (List of Covered Drugs)

- A combined Provider and Pharmacy Directory, or separate notice alerting enrollees how to access or receive the directory, consistent with section 60.4 of the MMG.

- An EOC (Participant Handbook)

- A single Participant ID card

After the time of initial enrollment, Participants who opt into the Demonstration must also receive the ANOC and EOC (Participant Handbook) annually, consistent with the replacement guidance below for section 60.7 of the MMG.

Additional informational materials related to benefits or plan operations may be included in these required mailings to new and current Participants – both at the time of enrollment and annually thereafter.

The following tables summarize the requirements of this section.

**Table 2: 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 8 calendar days before the end of the month) | • Welcome letter<br>• Formulary (List of Covered Drugs)<br>• Provider and Pharmacy Directory (or separate notice alerting enrollees how to access or receive the directory)<br>• Participant ID card<br>• EOC (Participant Handbook) | No later than the last day of the month prior to the effective date |
| Opt in enrollment (with enrollment confirmation received less than 8 calendar days before the end of the month) | • Welcome letter<br>• Formulary (List of Covered Drugs)<br>• Provider and Pharmacy Directory (or separate notice alerting enrollees how to access or receive the directory)<br>• Participant ID card<br>• EOC (Participant Handbook) | No later than 8 calendar days from receipt of the confirmation of enrollment |

**Table 3: Required Materials for Renewing Participants**

| Required Materials for Renewing Participants | Timing of Participant Receipt |
|---|---|
| • ANOC/EOC (Participant Handbook)<br>• Formulary (List of Covered Drugs)<br><br>OR<br><br>• ANOC<br>• SB<br>• Formulary (List of Covered Drugs) | September 30 |
| If only the ANOC, SB, and formulary (List of Covered Drugs) are sent by September 30:<br><br>• EOC (Participant Handbook) | December 31 |
| Participant ID card | As needed |
| Provider and Pharmacy Directory (or separate notice alerting enrollees how to access or receive the directory) | September 30. The plan website's directory must be kept up-to-date consistent with section 100.4. |

**Section 30.9 – Star Ratings Information from CMS**

Because the FIDA-IDD Plan will be too new to measure under the CMS plan (star) rating system, this section does not apply to the FIDA-IDD Plan.

**Section 30.9.1 – Referencing Star Ratings in Marketing Materials**

Because the FIDA-IDD Plan will be too new to measure under the CMS plan (star) rating system, this section does not apply to the FIDA-IDD Plan.

**Section 30.9.2 – Plans with an Overall 5-Star Rating**

Because the FIDA-IDD Plan will be too new to measure under the CMS plan (star) rating system, this section does not apply to the FIDA-IDD Plan.

**Section 40.6 – Hours of Operation Requirements for Marketing Materials**

In addition to the requirements of this section, the FIDA-IDD Plan must also provide the phone number and days and hours of operation information for the State's enrollment broker at least once in any marketing materials that are provided prior to or after the time of enrollment and where a customer service number is provided for current and potential FIDA-IDD Plan Participants to call.

**Section 40.8.3 – Marketing Materials from Third Parties that Provide Non-Benefit/Non-Health Services**

In addition to the guidance in this section, we clarify that materials produced by the State and/or the State's enrollment broker do not constitute non-benefit/non-health service-providing third party marketing materials. Therefore, such materials do not need to be submitted to the plan sponsor for review prior to their use. As indicated in the CMS "Announcement of Calendar Year (CY) 2013 Medicare Advantage Capitation Rates and Medicare Advantage and Part D Payment Policies and Final Call Letter" released on April 2, 2012, and section 20 of the MMG, the CMS MMG do not apply to communications by state governments, and materials created by the State do not need to be reviewed or submitted in HPMS. However, CMS and the State agree to work together in the development of these materials.

**Section 40.10 – Standardization of Plan Name Type**

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 Capitated Financial Alignment Demonstration. The FIDA-IDD Plan must use the "(Medicare-Medicaid Plan)" plan type terminology following its plan name at least once on the front page or beginning of each marketing piece, consistent with the requirements of section 40.10 of the MMG. 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.

**Section 50.1 – Federal Contracting Disclaimer**

This section is replaced with the following revised guidance:

> **Section 50.1 – Federal and State Contracting Disclaimer**
>
> 42 CFR 422.2264(c), 423.2264(c)
>
> All marketing materials must include the statement that the FIDA-IDD Plan contracts with both the Federal and the State government. The following statement must be used:
>
> > "<Plan's legal or marketing name> is a managed care plan that contracts with Medicare, the New York State Department of Health (Medicaid), and the Office for People With Developmental Disabilities to provide benefits to Participants through the Fully Integrated Duals Advantage for individuals with Intellectual and Developmental Disabilities (FIDA-IDD) Demonstration."
>
> NOTE: In addition to the exceptions noted in the introduction to section 50 of the MMG, radio and television ads do not need to include the Federal and State contracting disclaimer.

**Section 50.2 – Disclaimers When Benefits Are Mentioned**

This section is replaced with the following revised guidance:

> **Section 50.2 – Disclaimers When Benefits Are Mentioned**
>
> 42 CFR 422.111(a) and (b), 422.2264, 423.128(a) and (b), 423.2264
>
> The following disclaimers must be used when benefit information is included in marketing materials:
>
> > Only for summary documents like the SB: "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 Participant Handbook."
> >
> > "Limitations and restrictions may apply. For more information, call <plan name> Participant Services or read the <plan name> Participant Handbook."
> >
> > "Benefits may change on January 1 of each year."

**Section 50.3 – Disclaimers When Plan Premiums Are Mentioned**

This section does not apply to the FIDA-IDD Plan, as the FIDA-IDD Plan is not permitted to assess plan premiums, and the State will pay Medicare Part B premiums on behalf of Medicare-Medicaid Participants in the FIDA-IDD Plan.

**Section 50.4 – Disclaimer on Availability of Non-English Translations**

This section is replaced with the following revised guidance:

> **Section 50.4 – Disclaimer on Availability of Non-English Translations**
>
> 42 CFR 422.2264(e), 423.2264(e)
>
> If the FIDA-IDD Plan meets either: (1) Medicare's five (5) percent threshold for language translation (refer to section 30.5 of this guidance) or (2) the relevant Medicaid translation standard, it must place the following alternate language disclaimer on all the required materials identified in section 30.5 of this guidance:
>
> > "You can get this information for free in other languages. Call <toll-free number> and <TTY/TDD numbers> during <days and hours of operation>. The call is free."
>
> The alternate language disclaimer must be provided in the languages identified in section 30.5 of this guidance. The non-English disclaimer must be placed below the English version and in the same font size as the English version.

NOTE: Participant ID cards are excluded from this requirement. Radio ads are only required to include the disclaimer in the same language as the ad.

**Section 50.5 – Disclaimer on SNP Materials**

We clarify that the prohibition on discussion of numeric Special Needs Plan (SNP) approval scores in marketing materials or press releases also applies to the FIDA-IDD Plan. The FIDA-IDD Plan may only include the following information related to its National Committee for Quality Assurance (NCQA) Model of Care approval in materials that reference its Model of Care:

> "<Plan name> has a Model of Care approved by the National Committee for Quality Assurance (NCQA), the New York State Department of Health, and New York State Office for People With Developmental Disabilities until <last contract year of NCQA and State approval of Model of Care> based on a review of <plan name>'s Model of Care."

**Section 50.12 – Disclaimer for Plans Accepting Online Enrollment Requests**

This section does not apply to the FIDA-IDD Plan, as the Online Enrollment Center on the Medicare Plan Finder website is not available to the FIDA-IDD Plan.

**Section 50.13 – Disclaimer When Using Third Party Materials**

This section does not apply to the FIDA-IDD Plan because it is not permitted to distribute materials developed by a non-benefit/non-health service-providing third party entity that is not affiliated or contracted with the FIDA-IDD Plan.

**Section 50.14 – Disclaimer When Referencing Star Ratings Information**

Because the FIDA-IDD Plan is too new to measure under the CMS plan (star) rating system, this section does not apply to the FIDA-IDD Plan.

**Section 50.15 – Pharmacy/Provider Directory and Formulary Disclaimers**

This section is replaced with the following revised guidance:

> **Section 50.15 – Provider and Pharmacy Directory and Formulary (List of Covered Drugs) Disclaimers**
>
> 42 CFR 422.111(a) and (b), 423.128(a) and (b)
>
> The following disclaimer must be included on materials whenever the formulary (List of Covered Drugs) or provider and pharmacy networks are mentioned:
>
> > "The List of Covered Drugs and/or pharmacy and provider networks may change throughout the year. We will send you a notice before we make a change that affects you."

**Section 50.19 – Disclaimer on Participant Ombudsman**

As provided in section 100.2 of this guidance, the FIDA-IDD Plan must include on all marketing materials (except radio ads) and plan websites the following disclaimer:

> "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>. The Participant Ombudsman may be reached toll-free at 1-844-614-8800 (TTY users call 711) or online at icannys.org."

**Section 60.1 – Summary of Benefits (SB)**

This section is replaced with the following revised guidance:

> **Section 60.1 – Summary of Benefits (SB)**
>
> 42 CFR 422.111(b)(2) 423.128(b)(2)
>
> The FIDA-IDD Plan must use the SB model document provided by CMS and the State. 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 co-pays, applicable conditions and limitations, and any other conditions associated with receipt or use of benefits.
>
> The Multi-Language Insert must be included with the SB, and the SB must be sent in other languages, as required in section 30.5, if the Participant's primary language is known to be one of those languages.

**Section 60.2 – ID Card Requirements**

The FIDA-IDD Plan is required to meet the ID card content requirements in sections 60.2, 60.2.1, and 60.2.2 of the MMG. We clarify, however, that 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. The FIDA-IDD Plan must use the model Participant ID card document provided by CMS and the State.

**Section 60.4 – Directories**

We note that section 60.4 of the MMG contains new flexibilities for all plan types regarding the provision of access to the Provider and Pharmacy Directory, or separate notice alerting enrollees how to access or receive the directory, consistent with flexibilities previously afforded only to MMPs in state-specific marketing guidance. Section 60.4 of the MMG contains detailed requirements regarding this separate notice. In addition, the pharmacy and provider directory requirements in sections 60.4, 60.4.1, 60.4.1.1, and 60.4.2 of the MMG apply to the FIDA-IDD Plan with the following modifications:

- The FIDA-IDD Plan is required to make available a single, combined Provider and Pharmacy Directory. Separate pharmacy and provider directories are not permitted. However, as provided in section 60.4 of the MMG, plans may print separate directories for PCPs and specialists provided both directories are available to enrollees upon request.

- The combined Provider and Pharmacy Directory must include all network providers and pharmacies, regardless of whether they provide Medicare, Medicaid, or additional benefits.

- For the FIDA-IDD Plan 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) 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 Provider and Pharmacy Directory.

- The FIDA-IDD Plan may also provide radial directories to Participants upon request provided that a hard copy of the entire directory is also available upon request.

- The FIDA-IDD Plan must use the model Provider and Pharmacy Directory document provided by CMS and the State.

**Section 60.5 – Formulary and Formulary Change Notice Requirements**

The requirements of section 60.5, 60.5.1, 60.5.2, 60.5.3, 60.5.4, 60.5.5, and 60.5.6 of the MMG apply to the FIDA-IDD Plan with the following modifications:

- The FIDA-IDD Plan must provide a comprehensive integrated formulary (List of Covered Drugs) that includes Medicare and Medicaid outpatient prescription drugs and pharmacy products provided under the plan;

- The FIDA-IDD Plan is only permitted to provide a comprehensive, not abridged, formulary (List of Covered Drugs);

- The FIDA-IDD Plan must use the model formulary (List of Covered Drugs) document provided to the FIDA-IDD Plan by CMS and the State; and

Formulary change notices must be sent for any negative formulary change (as described in section 30.3.3, "Midyear Formulary Changes," and section 30.3.4, "Provision of Notice Regarding Formulary Changes," of Chapter 6 of the Prescription Drug Benefit Manual), regardless of whether the negative formulary change applies to an item covered under Medicare or Medicaid, or as an additional drug benefit under the plan. Consistent with the guidance in the MMG, this notice must be provided to affected Participants at least 60 calendar days prior to the change.

**Section 60.6 – Part D Explanation of Benefits**

The FIDA-IDD Plan is required to meet the Part D Explanation of Benefits (EOB) requirements in section 60.6 of the MMG. We clarify, however, that the FIDA-IDD Plan must meet this requirement by using the FIDA-IDD-specific Drug-Only EOB model provided by CMS and the State.

**Section 60.7 – Annual Notice of Change (ANOC) and Evidence of Coverage (EOC)**

This section is replaced with the following revised guidance:

> **Section 60.7 – Annual Notice of Change (ANOC) and Evidence of Coverage (EOC) (Participant Handbook)**
>
> 42 CFR 422.111(a)(3), 422.111(d)(2), 423.128(a)(3)
>
> The FIDA-IDD Plan is required to send the ANOC summarizing all major changes to the plan's covered benefits from one contract year to the next prior to the beginning of the second contract year of the Demonstration and annually thereafter. The FIDA-IDD Plan may send the ANOC and EOC (Participant Handbook) as a combined document or separately, as provided below.
>
> The FIDA-IDD Plan must send the ANOC for Participant receipt by September 30 each year. The EOC (Participant Handbook) may be sent as a standalone document as follows:
>
> - The FIDA-IDD Plan must send new Participants an EOC (Participant Handbook) for Participant receipt by the end of the month preceding the month the enrollment will take effect (e.g., the document must be received by a Participant by June 30 for a July 1 effective enrollment date). For late-month enrollment transactions (those for which confirmation of enrollment is received less than eight (8) calendar days before the end of the month prior to the effective date), the FIDA-IDD Plan must send these materials for Participant receipt no later than eight (8) calendar days from receipt of confirmation of enrollment. The FIDA-IDD Plan should refer to the date of the Enrollment E-file to identify the start of the eight (8) calendar-day timeframe.
>
> - After the time of initial enrollment, the FIDA-IDD Plan must annually send an EOC (Participant Handbook) for Participant receipt by December 31. If the FIDA-IDD Plan chooses this option (rather than a combined ANOC/EOC (Participant Handbook) by September 30), it must also send an SB with the ANOC.
>
> 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 a combined ANOC/EOC (Participant Handbook) document for the upcoming contract year. We clarify that, for these Participants, the combined ANOC/EOC (Participant Handbook) for the upcoming year, as well as the formulary (List of Covered Drugs), and Provider and Pharmacy Directory (or separate notice alerting enrollees how to access or receive the directory) for the upcoming year, must be received by one month after the effective date of enrollment, but not later than December 15th.
>
> Additional informational materials beyond the materials required to be sent with the ANOC/EOC (Participant Handbook) or ANOC and EOC (Participant Handbook) may be included with the ANOC, EOC (Participant Handbook), or ANOC/EOC (Participant Handbook) mailings consistent with the requirements of section 60.3 of the MMG.

To ensure that the FIDA-IDD Plan is mailing its annual ANOC/EOC (Participant Handbook) in a timely manner, the plan must indicate the actual mail date and the number of Participants who were mailed the documents in HPMS within fifteen (15) calendar days of mailing. This includes mail dates for alternate materials. If the FIDA-IDD Plan mails in waves, it should enter the actual mail date for each wave. The FIDA-IDD Plan may enter up to ten waves of mailings. For instructions on meeting this requirement, refer to the *Update Material Link/Function* section of the Marketing Review Users Guide in HPMS.

The FIDA-IDD Plan must use an errata notice to notify Participants of any errors in their original mailings. The FIDA-IDD Plan should work with its Contract Management Team on developing an errata notice when errors are identified.

**Section 60.8 – Other Mid-Year Changes Requiring Participant Notification**

The notification requirements for mid-year Medicare benefit changes described in this section are also applicable to mid-year Medicaid or required Demonstration additional benefit changes.

**Section 70.2 – Marketing of Rewards and Incentives Programs**

The FIDA-IDD Plan may offer rewards and incentives to current FIDA-IDD Plan Participants, as provided in section 70.2 of the MMG, Chapter 4 of the Medicare Managed Care Manual, and CMS' December 4, 2014 HPMS guidance memorandum, "Rewards and Incentives Program Guidance."

**Section 70.5 – Marketing Through Unsolicited Contacts**

In addition to the requirements of section 70.5, if the FIDA-IDD Plan conducts permitted unsolicited marketing activities such as conventional mail and other print media, it is required to include the disclaimer in section 50.18 of this guidance on all materials used for that purpose.

**Section 70.7 – Outbound Enrollment and Verification Requirements**

Since all enrollments into the FIDA-IDD Plan are submitted by the State's enrollment broker, the requirements of this section do not apply.

**Section 70.8 – Prospective Enrollee Educational Events**

In addition to the guidance in this section, the FIDA-IDD plan must notify CMS and the State of educational events via HPMS consistent with the guidance for marketing events in section 70.9.1 of the MMG.

**Section 70.9 - Marketing/Sales Events and Appointments**

In addition to requirements in this section of the MMG, the FIDA-IDD Plan must convene all educational and marketing events at sites within the plan's service area that are physically accessible to all Participants or potential FIDA-IDD Plan Participants, including persons with disabilities and persons using public transportation.

**Section 70.9.2 – Personal/Individual Marketing Appointments**

Since the FIDA-IDD Plan is not allowed to market directly to individual, potential FIDA-IDD Plan Participants, one-on-one appointments with potential FIDA-IDD Plan Participants are generally not permitted. We clarify, however, that if a current or prospective FIDA-IDD Plan Participant proactively requests a one-on-one appointment and the FIDA-IDD Plan has a documented incoming request for the one-on-one appointment, the FIDA-IDD Plan may meet with the Participant subject to the requirements of sections 70.9.2 and 70.9.3 of the MMG.

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 individuals should never conduct marketing activity, as defined in the MMG, but we clarify that non-sales plan employees may provide factual information about the FIDA-IDD Plan and its benefits if individuals request it in the course of care coordination activities.

**Section 70.11 – Marketing in the Health Care Setting**

In addition to the requirements of this section, 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.

**Section 70.11.5 – Comparative and Descriptive Plan Information Provided by a Non-Benefit/Non-Health Service-Providing Third Party**

We clarify that the guidance in this section referring to materials provided by a "State agency" also applies to materials produced and/or distributed by the State's enrollment broker.

**Section 80.1 – Customer Service Call Center Requirements**

This section is replaced with the following revised guidance:

> **Section 80.1 – Customer Service Call Center Requirements**
>
> 42 CFR 422.111(h)(1), 423.128(d)(1)
>
> The FIDA-IDD Plan must operate a toll-free call center for both current and potential FIDA-IDD Plan Participants seven (7) days a week, at least from 8:00 a.m. to 8:00 p.m. ET, except as provided below. During this time period, current and potential 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 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 the required information listed below, and/or allow a Participant to leave a message in a voice mail box. A customer service representative must then return the call in a timely manner, no more than one business day later.

The use of a call center and the provision of information through a call center are mandatory for all MMPs.

Call centers must meet the following operating standards:

- Provide information in response to inquiries outlined in sections 80.2-80.4 of the MMG. If callers are transferred to a third party for provision of the information listed in sections 80.2 and 80.4 of the MMG, all other requirements in section 80.1 apply to the services as performed by the third party.

- Follow an explicitly defined process for handling customer complaints.

- Provide interpreter service to all non-English speaking, limited English proficient and hard-of-hearing Participants.

- Inform callers that interpreter services are "free." Interpreters should be available within 7 minutes of reaching the CSR.

- At a minimum, provide TTY service to all hard-of-hearing Participants but also provide the technological equivalent, such as texting or video-conferencing. CSRs through the TTY service should be available within 7 minutes of the time of answer.

- Limit average hold time to two (2) minutes. The average hold time is defined as the time spent on hold by the caller following the IVR system, touch-tone response system, or recorded greeting and before reaching a live person.

- Answer eighty (80) percent of incoming calls within thirty (30) seconds.

- Limit the disconnect rate of all incoming calls to five (5) percent. A disconnected call is defined as a call that is unexpectedly dropped by the plan while the caller was navigating the IVR or connected with a CSR.

Hold time messages (messages played when a Participant or prospective Participant is on hold when calling the plan) that promote the FIDA-IDD Plan or include benefit information must be submitted in HPMS for review as marketing materials. The FIDA-IDD Plan is prohibited from using hold time messages to sell other products.

For Pharmacy Technical Help or Coverage Determinations and Appeals Call Center requirements, refer to Appendix 3 in the MMG.

**Section 80.2 –Informational Scripts**

We clarify that informational calls to the plan's call center that become marketing discussions, per the definition of marketing in Appendix 1 of the MMG, may be conducted by plan staff provided such staff comply with the licensure requirements for marketing activity in section 120 of this guidance and the MMG. Calls that become enrollment requests must be transferred to the State's enrollment broker. Prior to transferring an informational call to the State's enrollment broker, the Participant must be

informed he/she is being transferred. The plan representative may remain on the line during the call to the enrollment broker.

**Section 90 – The Marketing Review Process**

Any references in this section of the MMG, and in all subsections thereunder, to CMS in its role in reviewing marketing materials are also references to the State for purposes of FIDA-IDD Plan marketing material review.

**Section 90.2.3 – Submission of Multi-Plan Materials**

This section does not apply to the FIDA-IDD Plan.

**Section 90.3 – HPMS Material Statuses**

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 10- or 45-day review period. The FIDA-IDD Plan may obtain more information about the specific review parameters and timeframes for marketing materials under the FIDA-IDD Demonstration in the Marketing Code Look-up functionality in the HPMS marketing module. All other guidance in this section of the MMG and its subsections applies.

**Section 90.3.1 – Approved**

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.

**Section 90.4 – 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.

**Section 90.5 – Time Frames for Marketing Review**

We clarify that, for purposes of FIDA-IDD Plan materials, there will be no "deeming" of materials requiring either a dual review by CMS and the State or a one-sided State review, and materials will 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 will 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 will deem after the respective 10- or 45-day review period. The FIDA-IDD Plan may obtain more information

about the specific review parameters and timeframes for marketing materials under the FIDA-IDD Demonstration in the Marketing Code Look-up functionality in the HPMS marketing module. All other guidance in this section of the MMG and its subsections applies.

**Section 90.6.1 – Restriction on the Manual Review of File & Use Eligible Materials**

This section does not apply to the FIDA-IDD Plan.

**Section 100.1 – General Website Requirements**

In addition to the requirements of this section, we note that the FIDA-IDD Plan must post the SB for the upcoming contract year to its website by September 30.

**Section 100.2 – Required Content**

In addition to the requirements outlined in this section, the FIDA-IDD Plan must also include on its website a direct link to the State'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). As provided in Appendix 2 of the MMG, plan websites 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 HPMS.

The FIDA-IDD Plan must also include a disclaimer, as provided in section 50.19 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 relating to accessing services. The FIDA-IDD Plan must include the toll-free number, the number for TTY users, and the website for the Participant Ombudsman.

**Section 100.2.2 – Required Documents for All Plans/Part D Sponsors**

The requirements of this section apply with the following modifications:

- The FIDA-IDD Plan will not be required to post the LIS Premium Summary Chart, as this document is not applicable to MMPs.

- Because the FIDA-IDD Plan will be too new to measure under the CMS plan (star) rating system, the FIDA-IDD Plan will not be required to post a CMS plan ratings document on its website.

**Section 100.3 – Electronic Enrollment**

This section is not applicable to the FIDA-IDD Plan. The Online Enrollment Center will not be enabled for the FIDA-IDD Plan, and the FIDA-IDD Plan will not be permitted to directly enroll individuals through a secure Internet website. All enrollments will be processed via the State's enrollment broker.

**Section 100.5 – Online Formulary, Utilization Management (UM), and Notice Requirements**

Formulary change notices applicable to all formulary changes (not just Part D drug changes) must be maintained on the FIDA-IDD Plan's website as required in this section.

**Section 120 – Marketing and Sales Oversight and Responsibilities**

The provisions in this section of the MMG and all its subsections applicable to independent agents/brokers do not apply to the FIDA-IDD Plan since the use of independent agents/brokers is not permitted. All FIDA-IDD Plan enrollments are processed by the State's enrollment broker. We clarify that CMS does not regulate compensation of employed agents.

We also clarify that FIDA-IDD Plan staff conducting marketing activity of any kind, as defined in Appendix 1 of the MMG, must be State-licensed (and, when required, appointed) as an insurance broker/agent. Providing factual information about the plan that does not steer the enrollee to a specific plan or subset of plans is not marketing and does not require the individual to be licensed.

**Section 120.6 – Activities That Do Not Require the Use of State-Licensed Marketing Representatives**

Consistent with section 120.6 of the MMG, we clarify that in order to provide more than factual information, FIDA-IDD Plan outbound callers must be State-licensed and appointed marketing agents. The FIDA-IDD Plan must use State-licensed and appointed marketing agents for any activity that meets the definition of marketing in Appendix 1 of the MMG.

**Section 150 – Use of Medicare Mark for Part D Sponsors**

We clarify that the FIDA-IDD Plan will be 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 section 150 of the MMG and all its subsections applies.

**Section 160.4 – Sending Non-plan and Non-health Information Once Prior Authorization is Received**

The disclaimer described in this section should be modified as follows:

> "Neither Medicare nor New York Medicaid has reviewed or endorsed this information."