

Programs of All-Inclusive Care for the  
Elderly (PACE)

Chapter 3 – Marketing Guidelines

*Rev. 5, Issued: 10/2/2018*

## 10 – Introduction

The PACE Marketing Guidelines (PMG) interpret and provide guidance on marketing requirements and related provisions of the Programs of All-Inclusive Care for the Elderly (PACE) rules (Chapter 42 of the Code of Federal Regulations (CFR), Part 460 (See Appendix 1 for a list of related laws and regulations). PACE Organizations (PO) must follow all Federal laws and regulations that impact marketing including, but not limited to those listed in Appendix 1. POs also must comply with any State specific requirements. POs must ensure the activities of all subcontractors, downstream entities, and/or delegated entities are compliant with all aforementioned laws and regulations.

POs should direct questions regarding a marketing material or practice that is not addressed in this guidance to their CMS Account Manager (AM).

POs may not begin marketing until their initial application has been approved, and they have received their signed PACE program agreement. Additionally, POs may not market new PACE centers or service areas until they receive their amended, signed program agreement.

## 20 – Required Information to Be Conveyed Through Marketing Materials

42 CFR 460.82(a)(1)

### 20.1 PACE Program Information

The following information must be included in marketing materials provided to prospective participants, prior to an enrollment decision:

- An adequate description of the PO's enrollment and disenrollment policies and requirements;
- PACE enrollment procedures;

**Note:** Additional information on enrollment and disenrollment is available in the PACE Manual at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs-Items/CMS019036.html>

- Description of benefits and services;

- Premiums; e.g.,
  - What you pay for PACE depends on your eligibility under Medicare and Medicaid.
  - If you are eligible for Medicaid, or dually eligible for both Medicare and Medicaid, you won't pay a monthly premium for PACE.
  - If you don't qualify for Medicaid, but you have Medicare, you'll be charged a monthly premium for PACE.
  - There's no deductible or copayment for any drug, service, or care approved by your health care team.
  - If you don't have Medicare or Medicaid, you can pay for PACE privately.
- Other information necessary for prospective participants to make an informed decision about enrollment.

**Note:** POs do not have to include all of the information outlined in section 20 in all marketing materials; rather the PO must ensure that the aggregate of materials received by a prospective participant contains the required information.

## **20.2 – Information on the Restriction of Services**

42 CFR 460.82(d)(1)

Marketing materials must inform a prospective PACE participant that they must receive all needed health care services, including primary care and specialist physician services (other than emergency services), from the PO or an entity authorized by the PO.

## **20.3 – Liability for Costs**

42 CFR 460.82(d)(2)

All marketing materials must state clearly that PACE participants may be fully and personally liable for the costs of unauthorized or out-of-PACE program agreement services.

## **30 – Marketing Material Identification, Submission, and Review Process**

### **30.1 – The Marketing Review Process**

The PACE Marketing Module in HPMS is an automated tool used to enter, track, and maintain marketing materials submitted for review and approval. POs must submit marketing materials subject to CMS review in HPMS. This includes materials associated with PACE initial or service area expansion (SAE) applications, and materials created and used by subcontractors on the PO's behalf.

The HPMS module facilitates dual reviews by the CMS Regional Office and the state. Except where otherwise noted, marketing materials must be reviewed and approved by CMS and the state prior to their use by the PO.

### **30.2 – PO Responsibilities**

42 CFR 460.82(b)

Prior to submission, the PO should ensure all marketing materials are in accordance with the requirements of this guidance and other CMS and state issued guidance and instructions. CMS does not review marketing materials for typographical or grammatical errors, unless such errors render the materials inaccurate or misleading.

### **30.3 – Marketing Material Identification**

42 CFR 460.82(b)

POs must place a unique marketing material identification (ID) number on all marketing materials (except as indicated below) to facilitate CMS review and oversight.

The marketing material ID includes: (1) PO contract number (i.e., HXXXX), and (2) any series of alpha numeric characters chosen by the PO.

The following marketing materials do not require a marketing material ID:

- ID cards;
- Radio ads; and
- social media comments and posts

### **30.3.1 – Marketing Material Identification Number for Non-English or Alternate Format Materials**

42 CFR 460.82(b)

Non-English or alternate format materials must be given a unique material ID using the method outlined above. When submitting these materials in HPMS, POs must designate that they are non-English or alternate format versions. See section 30.4.2 for additional information about the submission of non-English and alternate format materials.

### **30.4 – Material Submission Process**

42 CFR 460.82(b)

POs must select a CMS and state reviewer when submitting materials for review. POs should refer to the HPMS Marketing Module User Guide for instructions on how to submit materials in HPMS.

**Note:** Under certain circumstances, and with prior CMS approval, materials may be submitted outside of HPMS.

#### **30.4.1 – Submission of Marketing Materials Associated with an Application**

42 CFR 460.82(b)(2)

Materials submitted as a part of an initial or a SAE application must:

- Be submitted within 5 days of the application submission; and
- Include the contract number and “Initial Application” or “SAE Application” in the comments field of the marketing submission (for example: H1234 Initial Application).

#### **30.4.2 – Submission of Non-English and Alternate Format Materials**

42 CFR 460.82(b), 460.82(c)

Non-English and alternate format material must either be based on previously approved English/standard print versions of the same material, or include an English translation with the non-English/alternate format material submission. Both non-English and alternate format materials should be submitted as alternate format materials in HPMS. If the alternate format cannot be submitted in HPMS (e.g., braille), the PO should contact its AM and/or the state point of contact to discuss a different method for submission.

**Note:** POs do not need to submit large-print materials as an alternate format material in HPMS if the only modification to the material is an increased font size and/or layout changes due to the increased font size.

Multi-lingual is defined as material that incorporates English and another language(s). POs should include a note in the HPMS comments field specifying that the material is multi-lingual. Multi-lingual material should not be submitted as an alternate format material.

Any revisions that are made to the original English versions of materials should also be made to the non-English and alternate format versions and re-submitted in HPMS.

**Note:** See Appendix 1 for a definition of alternate formats.

### **30.4.3 – Submission of Websites for Review**

42 CFR 460.82(b)

Website content, other than content that would fall under section 80 of this guidance, must be submitted for review in HPMS. POs should submit a document that includes a link(s) to any PO website(s) so that CMS may review the information as it appears on the live or test website. POs may submit screen shots in lieu of a live website.

The PO should submit updated pages of their website in HPMS for CMS and state approval. POs must submit links to the updated pages in HPMS and include their own material ID and date stamp.

POs that have been approved to operate may make their website publicly available during the CMS review period; however, POs must indicate that the website is pending CMS review until CMS has either approved or disapproved the website. If the website, or portions of the website, are disapproved, POs must submit their revised website to CMS within 20 calendar days, or they must remove the disapproved content from public view. POs may not post websites for new PACE centers or service areas until they have received their amended, signed program agreement.

### **30.5 – Timeframes for Marketing Review**

42 CFR 460.82(b)(3)(i)

Marketing materials will be reviewed within 45 calendar days of submission. The 45 day period begins on the date of submission in HPMS. Materials that have been submitted, but not reviewed within the 45-day time frame, are deemed approved.

**Note:** Materials associated with an application will be reviewed within 45 days or prior to the due date of the application, whichever comes firsts.

### **30.6 – HPMS Material Statuses**

42 CFR 460.82(b)

Once reviewed, all marketing materials in HPMS will have an indication of their status, as: approved, disapproved, withdrawn, alternate format, or deemed.

**Note:** If a PO does not have a signed program agreement, all submitted and approved marketing materials will be considered *conditionally* approved, meaning that the material is approved once the PO receives a signed PACE program agreement. A PO may not market until it has received a signed program agreement.

#### **30.6.1 – Approved**

42 CFR 460.82(b)

Materials marked “approved” may be used in the format in which they were submitted. CMS retains the right to disapprove previously approved marketing materials if they are subsequently found to be inaccurate, altered, or otherwise non-compliant.

#### **30.6.2 – Disapproved**

42 CFR 460.82(b)

Materials marked “disapproved” may not be used. A reason for the disapproval will be included in HPMS.

### **30.6.3 – Withdrawn**

42 CFR 460.82(b)

POs may withdraw a marketing material following submission and review. POs should submit a written request to their AM stating the reason(s) for the withdrawal.

### **30.6.4 – Alternate Format**

42 CFR 460.82(b)

Non-English and alternate format materials will be marked as “Alternate Format” and are not reviewed or given an approval designation by CMS because they are based on previously approved materials.

### **30.6.5 – Deemed**

42 CFR 460.82(b)

Materials that are submitted, but not reviewed by CMS within 45 days are deemed approved. The status of “deemed” will be notated on the 46<sup>th</sup> day. Materials marked as “deemed” may be used in the format in which they were submitted.

### **30.6.6 – Resubmitting Previously Disapproved Materials**

42 CFR 460.82(b)

POs may modify and resubmit previously disapproved materials. POs should highlight changes and/or insert notes regarding all modifications in the comments section of HPMS. Please see the HPMS Marketing Module User Guide for additional information.

### **30.6.7 – Template Materials**

42 CFR 460.82(b)

A template includes placeholders for variable data that may be populated by a PO. Templates allow POs to submit one “master document” with variable elements tailored to one or multiple PACE centers. Variable elements may include the PO name, address, telephone number, and/or URL.

POs must submit templates in HPMS and indicate how the variable data will be populated. POs should insert the name of the field using brackets (e.g. [PO name]), or by populate the fields with all variables (e.g., [PO name Center A, PO name Center B, PO name Center C]). Template Materials will

have only one marketing ID number regardless of the number and combination of variables.

## **40 – Accessibility and Formatting Requirements**

### **40.1 – Anti Discrimination**

42 CFR 460.32(a)(2), 460.82(e)(1), 460.112(a)

POs are prohibited from any discriminatory marketing practices with the exception of being able to target those individuals who may be eligible for the PACE program (Chapter 5, Section 20.1 of the PACE Manual). Moreover, PACE participants have the right not to be discriminated against in the delivery of required PACE services based on race, ethnicity, national origin, religion, sex, age, sexual orientation, mental or physical disability, or source of payment. POs must comply with other anti-discrimination rules and requirements.

### **40.2 – Requirements Pertaining to Non-English Speaking Populations**

42 CFR 460.82(c)

POs must have interpreter services available to assist non-English or limited English proficient (LEP) participants. POs must provide printed copies of all marketing materials to prospective and current participants in English and any other principal languages of the community, as determined by the state.

### **40.3 – Accessibility of Marketing Materials/Alternate Formats**

42 CFR 460.82(c)(2)

POs must ensure all marketing materials are available in alternate formats so they are accessible and appropriate for individuals with disabilities (e.g., those with visual or hearing impairments). This includes providing documents in braille, if necessary or requested. Reasonable accommodations to communicate marketing information must be made in accordance with the Americans with Disabilities Act and the Rehabilitation Act (see Appendix 2). CMS expects that a PO will make the necessary accommodations (i.e., provide the alternate format) as expeditiously as possible. A PO may provide an audio alternative format with the agreement of the current or prospective participant.

#### **40.4 – Font Size Rule**

42 CFR 460.82(e)(2)

All marketing material text, including footnotes, must be printed with a font size equivalent to or larger than Times New Roman twelve (12)-point. The equivalency standard applies to both the height and width of the font.

Exceptions to the font size rule, include:

- Television ads;
- ID cards;
- Internal tracking numbers;
- Logos with taglines; and
- Media, such as newspapers and social media, where the PO does not have control over the font size.

#### **40.5 – Use of Teletypewriter (TTY) Telephone Numbers**

Section 504 of the Rehabilitation Act

PO's must include a TTY telephone number in the same font, size, and style as the other telephone numbers whenever they list their customer service telephone number, except as outlined below. POs may use their own TTY telephone number or a state relay service, as long as the telephone number is accessible from TTY equipment. TTY customer service telephone numbers must be toll-free.

TTY telephone numbers do not need to be included in:

- Outdoor advertising (ODA) or banner/banner-like ads; and
- Radio ads and radio sponsorships (e.g., sponsoring an hour of public radio)

The TTY number used in television ads may be a different font, size, or style than other telephone numbers to limit confusion.

## 50 – General Marketing Requirements

### 50.1 – Messages for Callers on Hold

42 CFR 460.82(a)

Hold time messages that play recorded information and discuss health-education and general information (e.g., hours of operation, flu shot reminders) or generic statements such as “Thank you for holding” are not considered marketing and do not need to be submitted in HPMS for review or approval.

However, hold time messages that promote the PACE organization or include benefit information are considered marketing and must be submitted in HPMS for review and approval. POs are prohibited from using hold time messages to market other products.

### 50.2 –Use of Studies, Statistical Data, and Survey Results

42 CFR 460.82(e)(2)

Marketing material that uses or refers to studies, statistical data, or survey results regarding customer satisfaction, quality, or cost must include the following information, in text or as a footnote:

- The name of the organization sponsoring the study;
- Information about the PO’s relationship with the entity that conducted the study; and
- The publication title, date, and page number.

**Note:** This information should also be included in the comments field in HPMS.

POs referencing studies or statistical data must include the following in their HPMS submission(s):

- If a PO uses study data that includes aggregate marketplace information on several other POs, the PO is not required to submit data on all POs included in the study. However, the study details, such as the number of POs included, must be disclosed.
- If a PO references a CMS study, the PO should include reference information (e.g., publication, date, page number) in the HPMS Marketing Material Transmittal comments field, or as a comment on a

separate page if the PO is not submitting the materials through HPMS. The PO is prohibited from using DHHS, CMS, or Medicare logos.

- If a PO references non-CMS sponsored studies, it should submit the reference(s), sample size, and number of POs surveyed in the HPMS Marketing Material Transmittal comments.

### **50.3 – Prohibited Terminology/Statements**

42 CFR 460.82(a)(2),(e)(2)

POs may only distribute marketing materials that are accurate and appropriately represent the PO, PACE Program, its benefits and services. This requirement extends to contractors that may be directly or indirectly involved in marketing the PO.

POs may:

- State that the PO is approved to participate in the Medicare/Medicaid programs and/or that it is authorized to administer Medicare/Medicaid benefits; and
- Use the term “Medicare covered” or “Medicaid covered” to describe the benefits and services.
- Compare their PO to another, provided the PO can support them (e.g., by studies or statistical data) and such comparisons are factually based and not misleading.

POs must not:

- Claim within their marketing materials that they are recommended or endorsed by the DHHS, CMS, or Medicare. This includes use of the DHHS name and logo, CMS’s name and logo, and the words “Medicare” or “Medicaid” in a manner that conveys the false impression that such item is approved, endorsed, or authorized by DHHS or CMS;
- Use absolute superlatives (e.g., “the best,” “highest ranked,” “rated number 1”) and/or qualified superlatives (e.g., “one of the best,” “among the highest rank”) unless they are substantiated with supporting data provided to CMS as part of the marketing review process or they are used in logos/taglines. The superlatives used and the data provided must be in context and not mislead consumers; or

## 50.4 – Product Endorsements/Testimonials

42 CFR 460.82(e)(2)

Product endorsements and testimonials must adhere to the following guidelines:

- The individual providing the testimonial or endorsement must identify the PO by name;
- If the endorsement or testimonial is from a PACE participant, the PACE participant must be enrolled at the time the endorsement or testimonial was created. POs are reminded that they need to take all applicable measures to appropriately secure the necessary consent to use the participant’s statements and/or images. If desired, the PO may request the participant’s consent to continue using the endorsement in the case of their death;
- Endorsements or testimonials from family members/care givers are permitted. The endorsements or testimonials must reference a time when the participant was enrolled. Family members/care givers may provide testimonials of deceased participants; however, the time in which the participant was enrolled in PACE must be referenced in the testimonial. As with participant endorsements, POs are responsible for taking applicable measures to appropriately secure consent;
- The endorsement or testimonial cannot use fictitious quotes by physicians or other health care providers; and
- The PO must clearly state that an individual offering a testimonial or endorsement was paid, or if the individual offering the testimonial or endorsement is a paid actor (i.e. “paid actor portrayal”), if applicable.

**Note:** The re-publication of an individual user’s content or comment from social media sites (e.g., Facebook, Twitter, YouTube, LinkedIn) that promotes a PO is considered an endorsement or testimonial and must adhere to the guidance in this section.

## 50.5 – Marketing of Alternative Care Settings (ACS)

42 CFR 460.82(a), 460.98(b)(2)

When marketing ACSs, POs must make it clear that:

- ACSs are not PACE centers; and
- ACSs offer a more limited set of services than the PACE center.

## 60 – Outreach and Promotional Activities

### 60.1 – Prospective Participant Contact

42 CFR 460.82(e)

POs and their subcontractors must not engage in direct, unsolicited contact with non-referred prospective participants, including outbound calls.

Specifically, POs must not:

- Make unsolicited outbound calls;
- Conduct unsolicited door-to-door marketing;
- Call former participants who have disenrolled, or current participants who are in the process of disenrolling, as a means of re-enrolling or retaining these individuals;
- Call prospective participants who attended a PACE marketing or informational event, unless the individual gave explicit permission at the event for a follow-up call;
- Advertise outside of the PO's defined service area unless such advertising is unavoidable (e.g., advertising in print or broadcast media with a national audience or with an audience that includes some individuals outside of the service area); in this instance, the PO should clearly disclose its service area; or
- Confirm receipt of marketing information unless the marketing materials were requested by prospective participants, family members, and/or caregivers.

POs may conduct the following activities:

- Contact their participants or their participants' family members and/or caregivers to conduct normal business related to enrollment in PACE, including calls to participants who have been involuntarily disenrolled to resolve eligibility issues;
- Call former participants after the disenrollment effective date to conduct disenrollment surveys for quality improvement purposes. Disenrollment surveys may be done by phone or sent by mail, but neither calls nor mailings may include sales or marketing information;
- Call participants who gave explicit permission for a PO to contact them;
- Provide an opt-out process for participants/family members/caregivers who no longer wish to receive email communications;

- Return phone calls and messages from prospective participants, family members, and/or caregivers;
- Contact participants/family members/caregivers via an automated telephone notification to inform them about general information such as the availability of flu shots, upcoming PACE changes, and other important PACE information; and
- Call prospective participants, family members, and/or caregivers based on referrals from unsolicited contacts.

**Note:** POs may make an initial follow-up call or mailing based on referrals from a prospective participant's family, friends or neighbor, or from community partners and resources such as social workers, physician offices, and housing managers. However, if upon initial contact, the prospective participant/family member/caregiver shows no interest, further contact is prohibited.

## **60.2 – Use of Subcontracted or Downstream Entities**

42 CFR 460.82(e)(4)

POs are prohibited from using third parties whose sole responsibility is to directly contact prospective participants to solicit enrollment.

**Note:** This does not preclude POs from subcontracting administrative tasks such as printing and web development, nor does it preclude POs from working with the State Health Insurance Assistance Program (SHIP) and other community advocates.

## **60.3 – Nominal Gifts**

42 CFR 460.82(e)

POs may offer gifts to prospective participants, provided they:

- Have only Nominal Value (be worth \$15 or less) based on the retail value of the item, with a maximum aggregate of \$75 per person, per year;

**Note:** POs should track and document items given to current participants. POs are not required to track pre-enrollment promotional items on a per person basis; however, they must

not structure pre-enrollment activities so as to avoid the \$75 per year aggregate maximum.

- Are offered to all prospective participants regardless of whether they enroll and without discrimination;
- Are not be tied directly or indirectly to the provision of any other covered item or service;
- If a nominal gift is one large gift (e.g., a concert or raffle), the total retail value must not exceed the nominal per person value based on attendance. For example, if 10 people are expected to attend an event, the nominal gift may not be worth more than \$150 (\$15 for each of the 10 anticipated attendees). For planning purposes, anticipated attendance may be used, but must be based on actual venue size, response rate, or ad circulation; and
- Nominal gifts may not be in the form of cash or other monetary rebates, even if their worth is \$15 or less. Cash gifts include charitable contributions made on behalf of prospective participants, and those gift certificates and gift cards that can be readily converted to cash, regardless of dollar amount.

**Note:** Additional information regarding gifts and gift cards is available on the DHHS Office of Inspector General's (OIG's) website (available at <http://www.oig.hhs.gov/>).

#### **60.4 – Disclaimers Applicable to Advertising that Promotes a Nominal Gift** 42 CFR 460.82(e)(3)

POs must include a written statement on all marketing materials promoting drawings, prizes, or any promise of a free gift that there is no obligation to enroll in PACE. For example:

- “Eligible for a free drawing and prizes with no obligation”  
“Free drawing without obligation”

### **70 – Websites**

#### **70.1 – General Website Requirements** 42 CFR 460.82(a)(2), 460.82(b), 460.82(e)

POs may choose to have a website. POs must ensure that their website, including websites owned by parent companies that include PACE content,

meet all marketing requirements outlined in this chapter. PO websites must be compliant with web-based technology and information standards for people with disabilities, including Section 508 of the Rehabilitation Act.

In addition, PO websites must:

- Provide a separate and distinct section for PACE information if the website includes information regarding other lines of business;
- Notify individuals that they will leave the PO's PACE-specific website/section if there is a link to non-PACE information or to a different website;
- Clearly label all hyperlinks;
- Include a date stamp on each webpage with the date the page was last updated;
- Include the toll-free customer service number and hours of operation, TTY number, and either a physical or Post Office Box address;
- Include information on participant rights and responsibilities upon disenrollment;
- Provide the PO's service area;
- Include information that the PACE program will be the participant's sole service provider and that the PO guarantees access to services, but not to a specific provider;
- Provide instructions on how to appoint a representative and a link to the downloadable version of the CMS Appointment of Representative Form (CMS Form-1696); and
- A description of and information on how to file a grievance and an appeal by participants, their family members, or representatives. This must include:
  - Phone number(s) for receiving oral requests;
  - Mailing address for written requests;
  - Fax number for written requests;
  - Links, if applicable, to any forms created by the PO for appeals and grievances; and
  - Contact numbers for participants, family members, and/or representatives to use for process or status questions.

## 80 – Materials Not Subject to Marketing Review

42 CFR 460.82(b)

CMS views the following as materials largely designed to get the consumer's attention and provide contact information for purposes of requesting more information. POs must ensure that these materials meet applicable requirements and should have a system to track, maintain these materials so that they may be made available to CMS upon request.

These are not subject to CMS review and approval and should not be submitted in HPMS:

- HIPAA Privacy notices (subject to enforcement by the Office for Civil Rights within the U.S. Department of Health and Human Services (DHHS));
- Press releases that do not include any PACE-specific information (e.g., information about benefits, premiums, co-pays, deductible, benefits, how to enroll, networks, etc.);
- Advertising/Promotional Materials (see Appendix 1);
- Banner and Banner-Like ads (see Appendix 1);
- Outdoor Advertising (ODA) (see Appendix 1);
- Certain participant newsletters, unless sections are used to encourage enrollment or disenrollment;
- Letterhead/fax coversheets that do not include promotional language;
- General health promotion materials that do not include any specific PO-related information and are educational in nature (e.g., health education and disease management materials);
- Materials to educate participants, family members/caregivers, and Ad-Hoc Participant Communications Materials (see Appendix 1) that are not being distributed to prospective participants, or lack PACE-specific information;
- Participant surveys; and
- Newsletters to professional referral sources to keep them up-to-date on the PACE program.
- Materials that provide information to current participants, family members, or caregivers, about their current enrollment in the PACE program or provide non-PACE-specific health information.

- Items such as billboards, bus or bench ads, etc. that advertise the PO's name and provide contact information without providing more detailed information.

## **Appendix 1 – Definitions**

### **Ad-hoc Participant Communications Materials**

Ad-hoc participant communications materials provide information that is targeted to current participants or a customized/limited subset of participants. They do not include information about the PO's benefit structure. They apply to specific situations, cover participant-specific processes, or other operational issues. These materials are not marketing materials.

### **Advertising/Promotional Materials**

Advertising/promotional materials are primarily intended to attract or appeal to a prospective participant. Advertising/promotional materials contain less detail than other marketing materials, and may provide benefit information at a level to entice a prospective participant to request additional information.

### **Alternate Formats**

Alternate formats are methods/forms of communication used to convey information to participants with disabilities (e.g., Braille, large print, and audio). These materials address reasonable accommodation requirements to communicate marketing information.

### **Banner and Banner-Like Ads**

Banner ads are typically in television ads and flash information quickly across a screen with the sole purpose of enticing a prospective participant to contact the PO to enroll or request more information. A "banner-like" ad is usually in some media other than television (e.g., outdoor advertising and internet banner ads), and is intended to be very brief and to entice someone to call the PO or to alert someone that information is forthcoming. These types of ads are considered informational and are not considered marketing materials.

### **Enrollment Materials**

Enrollment materials are used to convey information specific to enrollment and disenrollment. Enrollment materials that are used prior to enrollment are considered marketing materials (see Appendix 2).

## **Health Plan Management System (HPMS)**

HPMS is a web-enabled information system that supports the implementation and ongoing operations of POs. HPMS and its software modules may be used by POs to enter, track, and maintain marketing materials submitted to CMS for review and approval.

## **Marketing Materials**

Marketing materials are information POs provide to the public about its program. Marketing materials can be used to educate prospective participants. These materials must be approved by CMS and the SAA.

## **Mobile Applications (Apps)**

Mobile apps are programs that are typically downloaded and run on a mobile device. Mobile apps differ from websites in that a website is accessed via a device's web browser.

## **Nominal Value**

Nominal value is currently defined by CMS as being worth \$15 or less, based on the retail value of the item in question. Any promotional activity or item (i.e., gift) offered by POs, including those that will be used to encourage retention of participants, must be of nominal value.

**Note:** CMS sets the maximum, not the minimum, for nominal value.

## **Outdoor Advertising (ODA)**

Outdoor advertising is outdoor marketing intended to capture the attention of a passing audience (e.g., billboards, signs attached to transportation vehicles), and to influence them to request more detailed information on the product being advertised.

## **Programs of All-inclusive Care for the Elderly (PACE)**

PACE is a managed care Medicare/Medicaid program authorized under sections 1894, 1905(a), and 1934 of the Social Security Act and Chapter 42 of the Code of Federal Regulations, Part 460 (see Appendix 2).

## **PACE Program Agreement**

A PACE program agreement is an agreement between a PO, CMS, and the SAA for the operation of a PACE program. A PO may only operate in a state in accordance with a PACE program agreement.

**Template Material**

A template material is any marketing material that includes placeholders for variable data to be populated at a later time.

**Website Address**

A website address is an address that is typed into an internet browser, also known as a Universal Resource Locator (URL).

## **Appendix 2 - Related Laws and Regulations**

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### **Chapter 42 of the Code of Federal Regulations Part 460**

The PACE regulations can be found at <https://www.gpo.gov/fdsys/granule/CFR-2009-title42-vol4/CFR-2009-title42-vol4-part460>

### **Privacy and Confidentiality**

Additional information on the HIPAA Privacy Rule and its use and disclosure requirements can be found at <http://www.hhs.gov/ocr/privacy/>

### **Americans with Disabilities Act**

Additional information on the Americans with Disabilities Act can be found at <http://www.ada.gov/>

### **Sections 501 and 504 of the Rehabilitation Act**

Additional information on sections 501 and 504 of the Rehabilitation Act can be found at

<http://www.dol.gov/oasam/regs/statutes/sec504.htm> and

[http://transition.fcc.gov/cgb/dro/504/disability\\_primer\\_1.html](http://transition.fcc.gov/cgb/dro/504/disability_primer_1.html)

### **HPMS, Connectivity Guide and User Instructional Guides**

Additional information can be found at <https://www.hpms.cms.gov>

### **Section 508 of the Rehabilitation Act**

(Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), August 7, 1998)

All POs that choose to create and maintain an Internet website must ensure that it is compliant with web-based technology and information standards for people with disabilities as specified in section 508 of the Rehabilitation Act. For additional information, please go to the following website address:

<http://www.section508.gov>

**Note:** These Federal requirements are extended to all POs through the requirements for non-discrimination under Federal grants and programs (29 USC §794).

### **PACE Enrollment and Disenrollment**

Additional information on PACE Enrollment and Disenrollment can be found in the PACE Manual at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs-Items/CMS019036.html>

**Sections 1894, 1905(a) and 1934 of the Social Security Act**

Additional information on the PACE provisions in the Social Security Act can be found at [https://www.socialsecurity.gov/OP\\_Home/ssact/title18/1894.htm](https://www.socialsecurity.gov/OP_Home/ssact/title18/1894.htm);  
[https://www.socialsecurity.gov/OP\\_Home/ssact/title19/1934.htm](https://www.socialsecurity.gov/OP_Home/ssact/title19/1934.htm) and  
[http://www.socialsecurity.gov/OP\\_Home/ssact/title19/1905.htm](http://www.socialsecurity.gov/OP_Home/ssact/title19/1905.htm)