



# Cal MediConnect 2017



**L.A. Care**  
HEALTH PLAN<sup>®</sup>  
For a Healthy Life

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## Medicare Marketing Materials, Provider Based Activities, and Promotional Activities

# Objectives

- ❖ Provide guidance on the review process for marketing materials developed by Providers / Participating Provider Groups (PPGs) for the Cal MediConnect Program
  - **Section 2.9.10.2 Of the Three Way Contract between the Department of Health Care Service, Center for Medicare & Medicaid Services and L.A. Care Health Plan.**
  
- ❖ Review regulations and requirements around marketing materials, provider based activities and promotional activities

# Definitions

- ❖ **Marketing Materials** - Marketing materials include any informational materials that perform one or more of the following:
  - Promote an organization
  - Provide enrollment information for an organization
  - Explain the benefits of enrollment in an organization
  - Describe the rules that apply to enrollees
  - Explain how Medicare services are covered, including conditions that apply to such coverage
  - Communicate with an individual on various membership operational policies, rules, and procedures
    - 42 CFR 422.2260
- ❖ **Provider Promotional Activities** – Activities that a provider may perform to educate potential enrollees or to assist potential enrollees in enrollment.
- ❖ **FDR** - First Tier, Downstream and Related Entity

# Standards for Marketing

- ❖ CMS has authority for marketing oversight. Medicare Marketing Guidelines (MMGs) encompass marketing materials and marketing/sales activities.
  - 42 CFR 422.2268
- ❖ L.A. Cares' Compliance Department is responsible for ensuring compliance with CMS' current marketing regulations and guidance, including monitoring and overseeing the activities of subcontractors, downstream entities, and/or delegated entities.
- ❖ L.A. Care may be subject to compliance actions (intermediate sanctions and civil money penalties) by CMS if L.A. Care fails to comply with regulations.

# Provider Failure To Comply with Standards

- ❖ L.A. Care may impose sanctions on a provider for any violation of Medicare marketing guidelines. L.A. Care may impose sanctions including, but not limited to:
  - Financial penalties;
  - Immediate suspension of use of all marketing materials and promotional activities for a period not to exceed six (6) months;
  - Imposition of an enrollment cap or membership cap and Contract termination.

**(L.A. Care Cal MediConnect Provider Manual, Section 13.5.2)**

# Marketing Content Requirements

- ❖ Marketing materials shall not contain false, misleading or ambiguous information
  - *42 CFR 422.2268(e)*
- ❖ Materials must be written at a 6<sup>th</sup> grade reading level or lower
- ❖ Materials must be culturally and linguistically appropriate
- ❖ Marketing materials shall include the following:
  - The year of which they were last updated
  - The source of any representations, endorsements, or awards referred to in the material
  - The entity responsible for producing the material
  - Correct usage of L.A. Care logo
    - L.A. Care must review and approve the use of the L.A. Care logo prior to producing/publishing

# Submission, Review and Approval Process – Timeframes

L.A. Care Compliance Department will review and provide a disposition on all submissions received.

## ❖ Internal Review

Internal Review is required when the material does not list benefit information.

- L.A. Care will review and reply within 7 business days after receipt from provider.
- If revisions are requested to the content (marketing materials or promotional activities), provider will resubmit revised documents to L.A. Care within seven(7) business days.

## ❖ External Review

External Review is required when the material lists benefit information.

- L.A. Care will submit proposed marketing materials or promotional activities to CMS. ***Please note if a CMS review is required, the review timeframe is 45 days.***
- L.A. Care will notify providers when materials are approved by CMS



# Provider-Based Activities

## Providers may:

- ❖ Provide the names of Plans/Part D Sponsors with which they contract and/or participate
- ❖ Provide information and assistance to a beneficiary applying for Low Income Subsidy (LIS)
- ❖ Assist a beneficiary in an objective assessment of his/her needs and potential options to meet those needs
- ❖ Share information with beneficiaries from the CMS' website, including the "Medicare and You" Handbook or "Medicare Options Compare" from <http://www.medicare.gov>, or other documents that were written by or previously approved by CMS
- ❖ Refer beneficiaries to other sources of information, such as State Health Insurance Assistance Program (SHIP), plan marketing representatives, their State Medicaid Office, local Social Security Office, CMS' website at <http://www.medicare.gov/> or **1-800-MEDICARE**



# Promotional Activities

- ❖ A contracted Provider may engage in promotional activities related to L.A. Cares' Cal MediConnect Plan (Medicare-Medicaid Plan)
  - In accordance with L.A. Care Policies and Procedures
  - In accordance with guidelines from CMS and/or DHCS
    - *42 CFR 422.2268*
  
- ❖ Types of activities permitted:
  - Distribution of materials and/or displaying plan posters
    - Materials distributed or posters displayed must be available for all plans with whom you contract with and must be approved by CMS
    - Make available and/or distribute plan marketing materials in common areas
      - *42 CFR 422.2268(e), (j), and (k)*
      - *Section 70.5- Marketing in the Health Care Setting of the MMG*

# Prohibited Activities

- ❖ Making phone calls or directly urge or attempt to persuade beneficiaries to enroll in a specific plan based on financial or any other interests of the provider
- ❖ Conduct health screening as a marketing activity
- ❖ Accept Medicare enrollment applications
- ❖ Offer anything of value to induce enrollees to select them as their provider
- ❖ Offer inducements to persuade beneficiaries to enroll in a particular plan or organization
- ❖ Distribute materials/applications within an exam room setting
  - 42 CFR 422.2268

*Note: This is not an all inclusive list. Other restrictions may apply.*

# Contacts

Please contact the Compliance Department Marketing & Fulfillment Unit if you have questions regarding Medicare marketing materials, promotional activities, and/or provider based activities:

Email: [MMCommunications@lacare.org](mailto:MMCommunications@lacare.org)