



Policy: MA.2001
Title: **Marketing Material Standards**
Department: Network Operations
Section: Member Outreach and Education

CEO Approval: /s/ Michael Hunn 11/22/2024

Effective Date: 08/01/2005

Revised Date: 11/01/2024

Applicable to: ☐ Medi-Cal
☒ OneCare
☐ PACE
☐ Administrative

I. PURPOSE

This policy describes CalOptima Health's guidelines for the creation and distribution of OneCare (HMO D-SNP), a Medicare Medi-Cal plan Marketing Materials.

II. POLICY

- A. CalOptima Health shall review and update OneCare Marketing Materials in accordance with the Title 42 Code of Federal Regulations (CFR) Part 422, Subpart V, the Medicare Communications and Marketing Guidelines (MCMG) and Department of Health Care Services (DHCS) CalAIM Dual Eligible Special Needs Plans (D-SNP) Policy Guide as applicable.
- B. Communication Activities and materials are distinguished from Marketing Activities and Materials based on both intent and content.
 - 1. Intent – the purpose of Marketing Activities and Materials is to draw a prospective or current Member's attention to a plan or group of plans to influence a Member's decision when selecting an enrolling in a plan or deciding to stay in a plan (retention-based Marketing).
 - 2. Content – based on the exclusions in the definition of Marketing and Marketing Materials and the type of information that would be intended to draw attention to a plan or influence a Member's enrollment decision, Marketing Activities and Materials include:
 - a. Information about benefits or benefit structure;
 - b. Information about premiums and cost sharing;
 - c. Comparisons to other Plan(s)/Part D sponsor(s);
 - d. Rankings and measurements in reference to other Plan(s)/Part D sponsor(s); and/or
 - e. Information about Star Ratings.
- C. Marketing Materials may be produced in a variety of print, broadcast, Internet, and direct Marketing media that include, but are not limited to: radio, television, billboards, newspapers, leaflets,

informational brochures, videos, advertisements, letters, posters, and items of nominal value, as described in CalOptima Health Policy MA.2002: Marketing Activity Standards.

- D. CalOptima Health must not use the Medicare name, CMS logo, and products or information issued by the federal government in a misleading manner. CalOptima Health shall receive the Centers for Medicare & Medicaid Services' (CMS) authorization prior to the usage of the Medicare card image.
- E. CMS authority for Marketing oversight encompasses not only Marketing Materials, but also Marketing and sales activities. The scope of the CFR and MCMG pertain to, but are not limited to, the following types of Marketing Materials:
 - 1. Advertising and promotional materials, including newspaper Advertising, radio spots, and brochures;
 - 2. Pre-Enrollment Marketing Materials, including enrollment forms and letters of receipt of enrollment;
 - 3. Post-Enrollment Marketing Materials, including identification cards, Summary of Benefits, the Member Handbook, letters of claims denials, and notices of service denials;
 - 4. Sales presentation materials, such as slides and charts;
 - 5. Telephonic Sales and Enrollment Talking Points;
 - 6. Communication to Members regarding contractual changes, changes in premiums, benefits, etc.;
 - 7. Website content;
 - 8. Health education materials used to promote or explain benefits; and
 - 9. Outbound telephone call Talking Points.
- F. CalOptima Health shall be responsible for all Marketing Materials, including those materials used by delegated entities on behalf of CalOptima Health's OneCare programs. Applicable Marketing Materials shall be submitted by the CalOptima Health Regulatory Affairs & Compliance (RAC) Department to CMS, and DHCS for review and approval.
- G. Marketing for an upcoming year may not occur prior to October 1 of the current year. Plans/Part D sponsors are permitted to simultaneously market the current year with prospective year starting on October 1, provided Marketing Materials make it clear what plan year is being discussed. Current year materials may be provided upon prospective Member's request and enrollment applications may be processed.
- H. CalOptima Health's Marketing Materials shall not contain inaccurate or misleading information, or engaging in Marketing Activities that could mislead or confuse beneficiaries or misrepresent OneCare.
- I. CalOptima Health's Marketing Materials shall not discriminate based on race, ethnicity, national origin, religion, gender, sex, age, mental or physical disability, health status, claims experience, or medical history.

- J. CalOptima Health shall provide Marketing Materials in a culturally and linguistically appropriate manner in accordance with CalOptima Health Policies (OneCare) DD.2002: Cultural and Linguistic Services.
- K. CalOptima Health shall make reasonable effort to write Marketing Materials at a reading level of fourth (4th) grade and shall ensure a reading level not greater than the sixth (6th) grade.
- L. Any materials created by a third-party on behalf of CalOptima Health must follow the guidelines outlined in this Policy. CalOptima Health shall be held responsible for the Marketing practices of its third-party and/or downstream entities and must ensure that all materials developed on its behalf are compliant with federal and state Marketing requirements.
- M. Co-Branding of Marketing Materials:
 - 1. If CalOptima Health chooses to enter into a Co-Branding relationship with the Health Networks, CalOptima Health's Marketing Materials shall clearly state that other Health Networks are available in the CalOptima Health's network. Plan/Part D sponsor needs to make it clear to Member that the provider is part of CalOptima Health's network. In addition, Plans/Part D sponsors must include the appropriate model disclaimer on co-branded materials.
 - 2. CalOptima Health shall not co-brand the Member identification card with any participating Health Network.
- N. Marketing guidance is subject to change as Policy, Communication technology, and industry Marketing practices evolve. Any new rulemaking (e.g., annual Call Letter or Health Plan Management System (HPMS) guidance memoranda, Dual Plan Letters), may supersede the Marketing guidance provided in this Policy. Specific questions regarding sales and/or Marketing practices should be directed to CalOptima Health's RAC Department for clarification from the CMS/DHCS Account Manager or Marketing Reviewer.
 - 1. While the "approved" (or "accepted") designation provided to submitted Marketing Materials does not have an expiration date, the status remains valid only as long as the material remains compliant with the most current law and version of the MCMG and CFR.

III. PROCEDURE

A. Marketing Standards

- 1. CalOptima Health shall provide each prospective Member, prior to enrollment, a comprehensive written statement of benefits and cost-sharing protections under OneCare, as compared to protections afforded a Member under Medicare and Medi-Cal. The OneCare Summary of Benefits is a book summarizing the health services covered by each of the programs for January 1 - December 31 of each year. CalOptima Health will include a Summary of Benefits in the welcome packet for each newly enrolled Member. Community Partners will offer directions where prospective Members can find the Summary of Benefits on CalOptima Health's website during enrollment appointments.
- 2. For OneCare Members, CalOptima Health shall provide additional information to new and renewing Members at the time of enrollment and annually thereafter, such as a Member identification card (ID card) and a Summary of Benefits per CalOptima Health Policy MA.4003: Member Enrollment.

3. For OneCare Members, CalOptima Health shall provide Star Ratings information to be distributed with the enrollment form for in-person enrollments and directions where Members can find the ratings on CalOptima Health's website for over-the phone enrollments. Excluding the annual mailing documents, these materials shall be provided to all new and renewing Members no later than ten (10) calendar days from receipt of CMS confirmation of enrollment or by the last date of the month prior to the effective date, whichever is later. CalOptima Health shall refer to the date of the Transaction Reply Report (TRR) that has notification to identify the start of the ten (10) calendar day timeframe.

B. Marketing Material Pre-Approval Process

1. CalOptima Health's RAC Department shall review and approve Marketing Materials prior to submission to CMS for review of OneCare materials.
2. CalOptima Health's RAC Department shall assign the standardized material identification (SMID) number to required Marketing Materials, as well as the required disclaimers per the Code of Regulations (CFR), and CMS MCMG and
 - a. The SMID is required on all materials except the following:
 - i. Membership ID card.
 - ii. Envelopes, radio ads, Outdoor Advertisements, Banner and Banner-Like Advertisements, and social media comments and posts.
 - iii. Office of Management and Budget (OMB)-approved forms/documents, except those materials specified under 42 CFR, section 422.2267.
 - iv. Corporate notices or forms meeting the definition of Communications such as privacy notices and authorization to disclose Protected Health Information (PHI).
 - v. Agent-developed communications materials that are not marketing.
 - b. Non-English and alternate format materials, based on previously created materials may have the same SMID as the material on which they are based.
3. For all non-English materials, the CalOptima Health Cultural and Linguistic Department shall sign the letter of attestation, certifying that the translation conveys the same information and level of detail as the corresponding English version of the material.
4. CalOptima Health's RAC Department shall submit required OneCare Marketing Materials to CMS and DHCS via the Health Plan Management System (HPMS) for review and approval prior to authorization and distribution of such materials.

C. Marketing Material Approval Process

1. Submission of Marketing Materials in HPMS:
 - a. The English version of required materials shall be submitted by the RAC Department through HPMS for approval first.

- b. CalOptima Health is not required to submit Non-English language materials that are based on an English version, and later submitted once the English version has been approved by the CMS/DHCS Marketing Reviewer. These materials may have the same SMID as the material on which they are based.
 - c. Any changes or revisions that are made to the English version shall be accurately reflected in the non-English materials.
 - d. CalOptima Health is not required to submit alternate format versions of previously submitted standard material.
 - e. CalOptima Health must submit multi-lingual Marketing Materials that include English and another language (or languages). CMS requires plan to include a note in the comments field specifying that the material is multi-lingual.
2. Submission of Marketing Events:
- a. All formal and informal Marketing/Sales Events shall be submitted to RAC prior to Advertising the event or seven (7) calendar days prior to the event's scheduled date, whichever is earlier.
 - b. Notification of cancelled Marketing/Sales Events shall be submitted to RAC more than forty-eight (48) hours prior to the originally scheduled event, whenever possible. Please refer to CalOptima Health Policy MA.2030: Personal/Individual Marketing Appointments for details.

D. General Website Content

- 1. CalOptima Health shall have a website that includes specific CMS-required documents and content. Plans/Part D sponsors may include other information, including both Communications and approved Marketing information on their website. Unless otherwise noted, webpages with or containing CMS required content and other Communication content should not be submitted to HPMS. Webpages with or containing Marketing must be submitted to HPMS and reviewed or accepted prior to being publicly available.
- 2. CalOptima Health shall maintain current contract year content at least until December 31, and content shall be reviewed monthly and updated as necessary. If any updates are made, CalOptima Health staff shall notify the RAC Department, so the Account Manager or Marketing Reviewer can be informed. Notify Members when there is a link that will take an individual to non-Medicare information webpage or to a different website; and include or provide access to (e.g., through a hyperlink) applicable disclaimers as required. The Federal Contracting Disclaimer only has to be placed on one web page.
- 3. All documents, or information, posted on the website shall be reviewed and approved by CMS prior to its posting on the website.
- 4. Any translated documents shall also be posted on the website.
- 5. Website text shall be coded to be a minimum of twelve (12) point Times New Roman font or equivalent.
- 6. CalOptima Health's website shall be compliant with web-based technology and information standards for people with disabilities as specified in Section 508 of the Rehabilitation Act.

7. CalOptima Health shall update benefit information on its website for Members on an annual basis. Marketing Materials shall include all required documents outlined below and ensure these documents are downloadable:
- a. Summary of Benefits;
 - b. Annual Notice of Change
 - c. Pre-Enrollment Checklist;
 - d. Enrollment instructions and forms;
 - e. Member Handbook;
 - f. Privacy Notice;
 - g. Transition Policy and Prescription Drug Transition Policy;
 - h. Provider/Pharmacy Directory;
 - i. Comprehensive Formulary (updated and reposted on a monthly basis);
 - j. LIS Premium Summary Chart;
 - k. Plan Star Ratings;
 - l. Service area listing;
 - m. Member Rights and Responsibility information, including a description on how to file a Grievance, an Organization or Coverage Determination (including Exceptions), and an Appeal. This information must include procedures for filing a complaint, all contact methods, and information on how a Member may obtain an aggregate number of Grievances, Appeals, and Exceptions filed with OneCare;
 - n. Any forms developed by OneCare to be used by Members or Physicians to satisfy a Utilization Management or Prior Authorization requirement;
 - o. Any forms developed by Physicians when providing a supporting statement for an Exceptions request (if applicable);
 - p. Part D Coverage Determination and Redetermination Request forms;
 - q. Instructions about how to appoint a representative and a web link to CMS' Appointment of Representative form (Form CMS-1696);
 - r. A link that takes the Member to the Medicare.gov website where a Member may enter a complaint in lieu of calling 1-800-MEDICARE;
 - s. Members' rights and responsibilities upon disenrollment; and
 - t. List of out-of-network coverage rules.

8. The OneCare webpages shall have separate Part D webpages containing Medication Therapy Management (MTM) Program information about eligibility requirements, and a statement explaining the comprehensive medication review and targeted medication reviews.
9. CalOptima Health must ensure that our website is updated within 30-days from notification of change and includes the date of the last update on each webpage.

IV. ATTACHMENT(S)

Not Applicable

V. REFERENCE(S)

- A. CalOptima Health Contract with the Centers for Medicare & Medicaid Services (CMS) for Medicare Advantage
- B. CalOptima Health Policy MA.2002: Marketing Activity Standards
- C. CalOptima Health Policy MA.2030: Personal/Individual Marketing Appointments
- D. CalOptima Health Policy DD.2002: Cultural and Linguistic Services
- E. CalOptima Health Policy MA.4003: Member Enrollment
- F. Department of Health Care Services (DHCS) CalAIM Dual Eligible Special Needs Plans (D-SNP) Policy Guide (Issued July 2024)
- G. Medicare Managed Care Manual, Chapter 3, Medicare Communications and Marketing Guidelines (MCMG) (Issued February 9, 2022)
- H. Section 1557 of the Affordable Care Act of 2010— Nondiscrimination Communication Requirements and Grievance Procedures
- I. Section 508 of the Rehabilitation Act
- J. Title 42, Code of Federal Regulations (CFR.), Parts 422 Subpart V, 423, and 417

VI. REGULATORY AGENCY APPROVAL(S)

None to Date

VII. BOARD ACTION(S)

None to Date

VIII. REVISION HISTORY

Action	Date	Policy	Policy Title	Program(s)
Effective	08/01/2005	MA.2001	Marketing Standards	OneCare
Revised	07/01/2008	MA.2001	Marketing Standards	OneCare
Revised	07/01/2009	MA.2001	Marketing Standards	OneCare
Revised	04/01/2010	MA.2001	Marketing Standards	OneCare
Revised	07/01/2015	MA.2001	Marketing Standards	OneCare OneCare Connect
Revised	09/01/2016	MA.2001	Marketing Standards	OneCare OneCare Connect
Revised	09/01/2017	MA.2001	Marketing Standards	OneCare OneCare Connect
Revised	10/01/2018	MA.2001	Marketing Standards	OneCare OneCare Connect

Action	Date	Policy	Policy Title	Program(s)
Revised	12/01/2019	MA.2001	Marketing Standards	OneCare OneCare Connect
Revised	09/01/2020	MA.2001	Marketing Standards	OneCare OneCare Connect
Revised	11/01/2021	MA.2001	Marketing Standards	OneCare OneCare Connect
Revised	12/31/2022	MA.2001	Marketing Standards	OneCare
Revised	10/01/2023	MA.2001	Marketing Standards	OneCare
Revised	11/01/2024	MA.2001	Marketing Standards	OneCare

IX. GLOSSARY

Term	Definition
Advertising	Advertising materials are primarily intended to attract or appeal to a potential Plan/Part D Sponsor enrollee. Advertising materials contain less detail than other Marketing Materials and may provide benefit information at a level to entice a potential enrollee to request additional information.
Advertisement	A read, written, visual, oral, watched, or heard bid for, or call to attention. Advertisements can be considered communication or Marketing based on the intent and content of the message.
Alternate Formats	Alternate formats means a format used to convey information to individuals with visual, speech, physical, hearing and intellectual disabilities (for example, braille, large print, and audio).
Appeal	As defined at 42 CFR §422.561 and §423.560, the procedures that deal with the review of adverse initial determinations made by the plan on health care services or benefits under Part C or D the enrollee believes he or she is entitled to receive, including a delay in providing, arranging for, or approving the health care services or drug coverage (when a delay would adversely affect the health of the enrollee) or on any amounts the enrollee must pay for a service or drug as defined in 42 CFR §422.566(b) and §423.566(b). These appeal procedures include a plan reconsideration or redetermination (also referred to as a level 1 appeal), a reconsideration by an independent review entity (IRE), adjudication by an Administrative Law Judge (ALJ) or attorney adjudicator, review by the Medicare Appeals Council (Council), and judicial review.
Banner and Banner-Like Advertisements	Banner advertisements are typically used in television ads that is intended to be brief, and flashes limited information across a screen for the sole purpose of enticing a prospective enrollee to contact the Plan/Part D sponsor to enroll or obtain more information. A “banner-like” advertisement is usually in some media other than television (for example, outdoor and on the internet). Banner advertisements are intended to be brief and to entice someone to call the Plan/Part D sponsor or to alert someone that information is forthcoming.
Centers for Medicare & Medicaid Services (CMS)	The federal agency under the United States Department of Health and Human Services responsible for administering the Medicare and Medicaid programs.
Communications	For purposes of this policy, communications means activities and use of materials created or administered by CalOptima Health or any downstream entity to provide information to current and prospective enrollees.
Coverage Determination	A decision made by the plan, or its delegated entity, on a request for coverage (payment or provision) of an item, service, or drug.
Coverage Determination Exception	A Coverage Determination related to: <ol style="list-style-type: none"> 1. OneCare’s tiered cost-sharing structure; or 2. A Part D Covered Drug that is not on the OneCare formulary.
Co-Branding	Co-branding is defined as a relationship between two or more separate legal entities, one of which is an organization that sponsors a Medicare plan. Co-branding is when the Plan/Part D Sponsor displays the name(s) or brand(s) of the co-branding entity or entities on its Marketing materials to signify a business arrangement. Co-branding arrangements allow a Plan/Part D Sponsor and its co-branding partner(s) to promote enrollment in the plan.

Term	Definition
	Co-branding relationships are entered into independent of the contract that the Plan/Part D sponsor has with CMS.
Department of Health Care Services (DHCS)	The single State Department responsible for administration of the Medi-Cal program, California Children's Services (CCS), Genetically Handicapped Persons Program (GHPP), Child Health and Disabilities Prevention (CHDP), and other health related programs.
Direct Mail	Direct mail is information sent to an individual to attract his/her attention or interest and allow him/her to request additional information.
Enrollment Materials	Enrollment materials are materials used to enroll or disenroll a beneficiary from a plan, or materials used to convey information specific to enrollment and disenrollment issues such as enrollment and disenrollment notices.
Grievance	An expression of dissatisfaction with any aspect of the operations, activities or behavior of a plan or its delegated entity in the provision of health care items, services, or prescription drugs, regardless of whether remedial action is requested or can be taken.
Health Network	A Physician Hospital Consortium (PHC), physician group under a shared risk contract, or health care service plan, such as a Health Maintenance Organization (HMO) that contracts with CalOptima Health to provide Covered Services to Members assigned to that Health Network.
Health Plan Management System (HPMS) Marketing Module	The HPMS Marketing Module is an automated tool used to enter, track, and maintain materials submitted to CMS for review and approval. Plans/Part D sponsors must submit Marketing materials and specified communication materials through the HPMS Marketing Module. The HPMS Marketing Module User Guide provides extensive information on how to use HPMS. Plans/Part D sponsors should refer to the User Guide for any questions regarding the Marketing Module or how to submit materials in HPMS.
Marketing	Activities and use of materials that are conducted by CalOptima Health with the intent to draw a beneficiary's attention to CalOptima Health and to influence a beneficiary's decision-making process when selecting a plan for enrollment or deciding to stay enrolled in a plan (that is, retention-based marketing). Additionally, marketing contains information about CalOptima Health's benefit structure, cost sharing, measuring or ranking standards.
Marketing Activity	Any product or activity intended to encourage retention of or an increase in Contracted Membership or any occasion during which Marketing Materials are presented to Members or persons who may become Members through verbal exchanges or the distribution of Marketing Materials. Marketing Activities may include but are not limited to: health fairs, workshops on health promotion, after school programs, raffles, informational sessions hosted by Providers, community-based social gatherings, and posting of Marketing Materials on the internet.
Marketing/Sales Event	Marketing/Sales Events are events designed to steer, or attempt to steer, enrollees or potential enrollees toward a plan or a limited set of plans. At marketing/Sales Events, the Plan/Part D Sponsor may promote specific benefits/premiums and/or services offered by the plan. Plans/Part D Sponsors may conduct a formal event where a presentation is provided to Medicare beneficiaries or an informal event where Plans/Part D Sponsors are only distributing health plan brochures and pre-Enrollment Materials. Plans/Part D Sponsors may also accept enrollment forms and perform enrollment at marketing/sales even

Term	Definition
Marketing Materials	<p>Marketing Materials include any informational materials targeted to Medicare beneficiaries which:</p> <ol style="list-style-type: none"> 1. Promote the Plan/Part D Sponsor, or any Plan/Part D Sponsor offered by the MA organization; 2. Inform Medicare beneficiaries that they may enroll, or remain enrolled in, a Plan/Part D Sponsor offered by the MA organization; 3. Explain the benefits of enrollment in a Plan/Part D Sponsor, or rules that apply to enrollees; or 4. Explain how Medicare services are covered under a Plan/Part D Sponsor, including conditions that apply to such coverage. <p>Marketing Materials exclude ad hoc enrollee Communications materials.</p>
Model Document	Model Documents are materials for which CMS has provided model language which, when used without modification, qualifies for a 10-day review or for submission through the File & Use process.
Outdoor Advertising	Outdoor advertising (ODA) means outdoor material intended to capture the attention of a passing audience (for example, billboards, signs attached to transportation vehicles). ODA may be communications or marketing material.
Post-Enrollment Marketing Materials	Post-enrollment marketing material is a subset of Marketing Materials used by a Plan/Part D Sponsor to convey benefits or operational information to current enrollees.
Pre-Enrollment Marketing Materials	Pre-enrollment marketing material is a subset of Marketing Materials used prior to enrollment. Pre-Enrollment Materials may contain plan rules and/or benefit information.
Protected Health Information (PHI)	<p>Protected Health Information (PHI): Has the meaning 45 Code of Federal Regulations Section 160.103, including the following: individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium.</p> <p>This information identifies the individual or there is reasonable basis to believe the information can be used to identify the individual. The information was created or received by CalOptima Health or Business Associates and relates to:</p> <ol style="list-style-type: none"> 1. The past, present, or future physical or mental health or condition of a Member; 2. The provision of health care to a Member; or 3. Past, present, or future Payment for the provision of health care to a Member.
Standardized Language	Standardized Language is language developed by CMS or another Federal agency that is mandatory for use by the Plan/Part D sponsor and cannot be modified except as noted by CMS (e.g., ANOC, EOC, Plan Ratings).

Term	Definition
Talking Points	Talking Points are standardized text. Informational Talking Points are designed to respond to beneficiary questions and requests and provide objective information about a plan or the Medicare program. Sales and enrollment Talking Points are intended to steer a beneficiary towards a plan or limited number of plans, or to enroll a beneficiary into a plan.
Template Materials	Template Materials are any materials that include placeholder for variable data to be populated at a later time.