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Owner Stephanie Clark:
Director,
Compliance &
ACO Compliance
Officer

Area Compliance

Applicability Privia Health and
All Markets

ACO Communications and Material Review

1. Purpose:

Identify the ACO's policy around communications outside of the ACO, as well as the approval process to ensure compliance with CMS requirements related to Marketing Materials as defined in the Medicare Shared Savings Program Final Rule.

2. Scope:

This policy applies to all Privia Quality Networks, all PQN's, CMG ACO and all ACO Related Individuals as defined in this policy.

3. Definitions:

- **ACO Management System (ACO-MS)** - [ACO-MS](#) is an online management tool used to manage the Medicare Shared Savings Program (MSSP).
- **ACO Related Individual** - ACO officers, directors, employees, ACO Participant, ACO Provider/Supplier, or any other individual or entity providing functions or services related to ACO Activities.
- **Federal Plain Language Guidelines** - These guidelines may be located [here](#); plain language is defined as communication your audience can understand the first time they read or hear it.
- **Marketing Materials and Activities** - Include, but are not limited to, general audience materials such as brochures, advertisements, outreach events, letters to beneficiaries, Web pages, data sharing opt out letters, mailings, social media, or other activities conducted by or on behalf of the ACO, or by ACO participants, or ACO providers/suppliers participating in the ACO, when used to educate, solicit, notify, or contact Medicare beneficiaries or providers and suppliers regarding the Shared Savings Program.

- **Medicare Shared Savings Program (MSSP)**- Medicare Shared Savings Program, established under section 1899 of the Social Security Act.
- **Non-Marketing Materials and Activities** - The following beneficiary communications are not marketing materials and activities: Certain informational materials customized or limited to a subset of beneficiaries; materials that do not include information about the ACO, its ACO participants, or its ACO providers/suppliers; materials that cover beneficiary-specific billing and claims issues or other specific individual health related issues; educational information on specific medical conditions (for example, flu shot reminders), written referrals for health care items and services, and materials or activities that do not constitute “marketing” under 45 CFR 164.501 and 164.508(a).

4. Policy:

It is the policy of the ACO to ensure that all general audience materials are compliant with any relevant regulatory requirements, and accurately reflect the opinions, position, and strategy of the ACO.

5. Procedure:

- A. ACOs are subject to marketing requirements beginning with their acceptance into the Shared Savings Program. ACOs and ACO Related Individuals are required to comply with MSSP marketing requirements.
 1. MSSP ACO Marketing Material Guidance may be accessed via the Marketing and Beneficiary Education Toolkit, located within the Program Resources section of the Knowledge Library tab in ACO-MS.
- B. Marketing Material Reviews. ACOs are no longer required to submit marketing materials to CMS prior to use; CMS eliminated the submission and approval of marketing materials and activities after a 5-day review period.
- C. The ACO does not use and prohibits ACO Related Individuals from using ACO Related Marketing Materials or Activities until reviewed and approved in their entirety by the ACO's designated contact for marketing materials or activities and the ACO Compliance Officer.
 1. Marketing Materials or Activities include, but are not limited to, general audience materials such as brochures, advertisements, outreach events, letters, web pages, mailings, social media, or other activities conducted by or on behalf of the ACO or its Participants or Providers/Suppliers, when used to educate, notify, or contact Beneficiaries or providers/suppliers regarding the Medicare Shared Savings Program.
 2. Non-marketing materials and activities are defined in the definitions section of this policy.
- D. ACO Related Communications. Only ACO Related Individuals designated by the ACO, the ACO Executive, the ACO's Governing Body and/or their designee are authorized to communicate official ACO policy or make public statements on behalf of the ACO. No other individuals are authorized to make such statements. All requests for public statements on behalf of the ACO, and all opportunities or responsibilities to make public statements on behalf of the ACO, should be referred to the ACO Executive, the ACO's Governing Body and/or their designee.

1. A "public statement" is defined as any statement made to anyone other than a person receiving care from a Participant or Provider/Supplier, whether such statement is made orally, in writing, via email or other electronic communication or through social media.
 - a. A "public statement" does not include any complaint or report made in good faith to any government agency or law enforcement personnel.
 2. For purposes of this policy, "social media" includes all means of communicating or posting information or content of any sort on the Internet, including to one's own or someone else's web log or blog, journal or diary, personal website, social networking or affinity website, web bulletin board or chat room, whether or not associated or affiliated with the ACO.
- E. Any template materials provided by CMS may be utilized by the ACO immediately. These template materials may not be changed in any way, except as authorized by CMS (i.e logo/ letterhead); refer to the [Beneficiary Information Notification FAQs](#).
- F. The ACO and any ACO Related Individuals will obtain prior approval from the ACO's Governing Body and/or appropriate sub-committee and/or their designee for the publication or release of any press release, external reports or statistical /analytical material that materially and substantially references the ACO's participation in the MSSP or the ACO's financial arrangement with CMS. Examples of such reports include, but are not limited to: papers, articles, professional publications, speeches and testimony.
1. All external reports and statistical/analytical material that are subject to this section must include the following statement on the first page: "The statements contained in this document are solely those of the authors and do not necessarily reflect the view or policies of CMS. The authors assume responsibility for the accuracy and completeness of the information contained in this document."
- G. Voluntary Alignment Communications. ACO Related Individuals may directly communicate with Beneficiaries regarding Voluntary Alignment.
1. The ACO uses template language developed by CMS for Voluntary Alignment communications. Template language and Fact Sheets are used without modification.
 2. Materials will be submitted to Compliance as required and will not offer gifts, cash, or other remuneration as inducements for:
 - a. Completing Voluntary Alignment, or
 - b. Receiving items or services from, or remaining in, an ACO or with ACO providers/suppliers in a particular ACO or receiving items or services from ACO participants or ACO providers/suppliers.
 3. ACO Related Individuals may answer questions from Beneficiaries regarding Voluntary Alignment, but may not complete the online form on behalf of any Beneficiary.
 4. If a Beneficiary has a question about how to make a change to their Voluntary Alignment selection, they should be directed to call the 1-800-MEDICARE or visit MyMedicare.gov, Medicare.gov, or any successor site.

- H. ACO Communications may not contain inaccurate or misleading information, including but not limited to:
1. Language suggesting that beneficiaries are required to see providers only within the ACO or are in any way prohibited from seeing providers outside of the ACO.
 2. Language suggesting that beneficiaries enroll or are participating in ACOs. Language should be clear that it is the provider, not the beneficiary, which is participating in the ACO.
 3. Language suggesting that CMS endorses one ACO over another.
 4. Language suggesting a Shared Savings Program ACO is in any way superior to other ACOs or other types of ACOs, or that the providers participating in the MSSP ACO are superior to other providers participating in other ACOs or CMS initiatives.
- I. ACO Communications must not be used in a discriminatory manner and should adhere to Federal Plain Language Guidelines where possible.
- J. CMS Monitoring. CMS may request the submission of marketing materials and activities at any time; the ACO must make them available for CMS review through ACO-MS upon request.
1. If CMS determines that the marketing materials and activities do not comply with the requirements, CMS will issue written notice of disapproval to the ACO.
 2. The ACO, ACO participants, ACO providers/suppliers, and other individuals or entities performing functions or services related to ACO activities must discontinue use of any marketing materials or activities disapproved by CMS.
- K. The ACO and/or a designee selected by the ACO shall maintain a log of all material approvals and a library of all written and electronic materials in accordance with the ACO Record Retention policy and the MSSP Final Rule.
- L. Failure to comply with MSSP marketing requirements will subject the ACO to the penalties set forth in 425.216, termination under 425.218 or both.

Approval Signatures

Step Description	Approver	Date
Chief Audit & Compliance Officer Approval	Dana Fields: Chief Audit & Compliance Officer	03/2024
ACO Compliance Leadership Approval #1	Stephanie Clark: Director of Government Programs	02/2024
	Stephanie Clark: Director of Government Programs	02/2024