



Normative Letter 18-1205 (Amendment to Normative Letters 18-0807, 13-1212 and 13-1216)

Date: December 5, 2018

To: All Managed Care Organizations contracted by the Puerto Rico Health Insurance Administration (PRHIA) to provide benefits and services for Plan Vital,

Subject: Marketing and Educational Materials - Marketing Activity Guides

This Normative Letter amend Normative Letter 18-0807, dated August 7, 2018 related to the guidelines for the evaluation of content, image, development and distribution of the materials used for marketing, promotion and press that directly or indirectly affect Plan Vital, beneficiaries. The following is mandatory as of December 1, 2018:

1. **Marketing Materials:**

A. **Applicability:**

The art and content of all marketing materials (e.g. writing, images, sound, videos) that include information regarding Plan Vital, Vital benefits and services.

Examples: brochures, marquees, exhibitions, presentations, posters, banners, loose sheets, posters, promotional items, street banners, shirts, announcements and/or press release for media (traditional, digital, social networks, internet), radio, and others.

B. **Scope:**

All materials addressed to Plan Vital, beneficiaries, municipal and state government employees and officials, and the general community and public, that are generated by the Managed Care Organizations (MCOs) contracted by PRHIA, or their subcontractors.



C. Definition of Marketing Materials:

Marketing means the activities and use of materials that are conducted with the intent to draw a beneficiary's attention and to influence a beneficiary's decision-making process when selecting an MCO for enrollment or deciding to stay enrolled in a plan (that is, retention-based marketing). Additionally, marketing includes any materials that contain information about the MCO's benefit structure, cost sharing, and measuring or ranking standards. As per Vital Contract, marketing also means Any communication from the Contractor to any Eligible Person or Potential Enrollee that can reasonably be interpreted as intended to influence the individual to enroll in the Contractor's Plan, or not to enroll in another plan, or to disenroll from another plan.

Materials that are produced in any medium, by or on behalf of the Contractor that can reasonably be interpreted as intended to market to Potential Enrollees.

D. Content Guidelines:

I. Messages included in the materials (e.g., communications, announcements, notifications):

- a. Must not contain third parties or provider's specific names, logos, trademarks, slogan, etc.
 - b. Will refer to the Government Health Plan (GHP or PSG for its Spanish initials) as Plan.
 - c. In the case of documents addressed to beneficiaries, must be simple and suitable such that a beneficiary of 4th grade schooling can understand its content.
 - d. Must not contain protected health information or any other unauthorized disclosure of information when materials are used in the marketing context. HIPAA laws and regulations, as well as the contractual agreement with PRHIA, establish the responsibility of both the covered entity and the business associate regarding unauthorized disclosures. Any communication,











announcement, notification or material related to disclosures of information must be submitted to the PRHIA Privacy Officer for approval.

The specific content of the materials will depend on its final purpose, so it will be the responsibility of the MCO to ensure that it complies with the messages endorsed by PRHIA and corresponding state and federal authorities.

b. Images: Messages will use cohesive graphic images for Plan Vital adapted to the colors used institutionally by PRHIA:

a. Colors:

	C 100% M 29% Y 19% B 0%		C 46.46% M 0% Y 87.5% B 0%		C 60.55% M 22.66% Y 13.28% B 0%
	C 0% M 0% Y 0% B 60%		C 80.47% M .39% Y 96.48% B 60%		C 80.86% M 50.39% Y 23.83% B 3.13%
			C 70.7% M 28.52% Y 100% B 12.89%		C 100% M 87.5% Y 32.03% B 20.7%

b. Institutional Logo (PRHIA), MCO Logo and header:



- i. PRHIA's logo cannot be altered.
 - ii. PRHIA's logo must be in the header and on the cover of all materials.
 - iii. If the MCO required to use PRHIA's logo in black and white version the MCO must request PRHIA previous authorization.
 - iv. The MCO's logo will be placed on the bottom or back of each piece, as applicable, but smaller than the PRHIA logo.
 - v. All headings must have: Plan Vital, Vital logo, PRHIA logo, title of the material.
 - vi. Each material will include in the lower or back part, as applicable, a button with PRHIA's customer service number (image is included). They must also include provider and beneficiary customer service contact numbers for the MCO, and the web portal information.
 - vii. Banners and tents shall be identified with the name of Plan Vital and the PRHIA logo in the foreground. The MCO's logo may be placed in the background and smaller than PRHIA's logo.
- c. General Templates: For the best use of resources, each entity is required to develop a general template per piece (e.g., single sheet, PowerPoint presentations), which will be used for all similar materials that are developed.

i. Mandatory Requirements:

a) Header and Cover Page:

- i. PRHIA's logo and MCO's logo
- ii. Plan logo
- iii. Plan Vital button



- b) Footer or back, as applicable: MCO customer service contact numbers for providers and beneficiaries, and internet address (website).

E. Procedure to submit marketing materials that require approval and schedules:

1. Each MCO will submit to PRHIA's Compliance and Integrity Office, a maximum of five (5) materials per week before **10:00 am** for review and approve. PRHIA assign the following day to submit the materials:

- Monday-First Medical Health Plan
- Tuesday-Medicare y Mucho Mas
- Wednesday-Molina Health Care of PR
- Thursday- Plan de Salud Menonita
- Friday-Triple Salud

If the assigned day is a holiday the MCO must submit the next business day.

2. Each MCO will develop the necessary deliverables to comply with requirements related to marketing, promotion, and press, as established in the contract with PRHIA. The content and specific image of the materials will depend on their final use and purpose; they will be the responsibility of the MCO to ensure that all materials comply with the guidelines contained in this letter, the messages endorsed by PRHIA, and any corresponding state and federal authorities.
3. Each MCO will develop marketing materials that do not contain comparative or superlative terms such as: better, superior, supreme, great, terrific, best, and other words with similar meanings.
4. Marketing materials, including promotions and/or press releases (e.g., writings, sounds, videos, images) addressed to beneficiaries, will be sent to PRHIA's Compliance and Integrity Office for review and approval prior to distribution and/or publication. The methods used by MCOs to send marketing materials (electronic delivery, paper copies,

CDs, etc.) must be identified as: "Marketing Material", include the type or category (e.g. presentation, letter, flyer, brochure, banner, billboard) and the name of the document (e.g. Material Marketing_type or category _Name of the document _Version).

Ex. "Material Marketing_Billboard _Name of the Document _Name of the MCO_v1"

If the marketing material needs to be re-submitted due to required correction from ASES, the version of the document will be identified as v2, v3 and subsequently.

Ex. "Material Marketing_Billboard _Name of the Document _Name of the MCO_v2"

Ex. "Material Marketing_Billboard _Name of the Document _Name of the MCO_v3"

5. The primary method for receiving marketing materials in the Compliance and Integrity Office is through the following email address: materialesmercadeovital@asespr.org
6. PRHIA will communicate the determination of required correction, approval or denial via email. The time of review for each marketing material will be fifteen (15) business days. MCOs may not re-submit the same material previously denied by the PRHIA to different PRHIA personnel who did not work on the original submission.
7. Approved marketing material will have an authorization number provided by PRHIA that must be placed in the lower or back part of each promotional material in a font size no smaller than 8. Without said authorization number, the marketing material may not be published and/or distributed.
8. Marketing materials may not be published on the Plan MCO's webpage. Plan Vital.
9. PRHIA reserves the right to notify the MCOs to discontinue or modify previously approved marketing materials.

F. In accordance with article 12.001 of Act No. 78 of June 1, 2011, as amended (16 L.P.R.A. § 4231), known as the Electoral Code of Puerto Rico for the 21st Century; during general election

year and until the day after the election, all marketing materials must also be approved by Puerto Rico State Election Commission.

II. Educational Materials:

Health education written materials must complement face-to-face education interventions and patient centered health promotion strategies. MCOs must avoid using written or graphic content that may cause copyright infringement. Information related to mental health diagnoses must comply with current Diagnostic and Statistical Manual of Mental Disorders (DSM) standards. PRHIA reserves the right to audit health education materials (*including PowerPoint presentations*) at any given time and will impose penalties to materials disseminated by MCOs that:

1. Do not portray appropriately the Plan Vital, Vital or PRHIA logos in terms of collocation, coloring, size, etc. as stated in the marketing guidelines.
 2. Contain grammatical errors.
 3. Fail to include proper understandability and or actionability elements.
- A. The following is a list of evaluation items that will guide (but not limit) audit assessments and must be considered during the preparation of health education / health promotion materials:
1. Understandability:
 - a. Content:
 - i. The material makes its purpose completely evident.
 - ii. The material does not include information or content that distracts from its purpose.



- iii. Educational material must not contain comparative or superlative terms and cannot be used to promote the MCO.

b. Word Choice & Style:

- i. The material uses common, everyday language.
- ii. Medical terms are used only to familiarize audience with the terms. Medical terms should be defined when used.
- iii. The material uses the active voice.

c. Use of Numbers:

- i. Numbers appearing in the material are clear and easy to understand.
- ii. The material does not expect the user to perform calculations.

d. Organization:

- i. The material breaks or “chunks” information into short sections.
- ii. The material’s sections have informative headers.
- iii. The material presents information in a logical sequence.
- iv. The material provides a summary.

e. Layout & Design

- i. The material uses visual cues (e.g., arrows, boxes, bullets, bold, larger font, highlighting) to draw attention to key points.

f. Use of Visual Aids

- i. The material uses visual aids whenever they could make content more easily understood (e.g., illustration of healthy portion size).
- ii. The material's visual aids reinforce rather than distract from the content.
- iii. The material's visual aids have clear titles or captions.
- iv. The material uses illustrations and photographs that are clear and uncluttered.
- v. The material uses simple tables with short and clear row and column headings.

2. Actionability

- a. The material clearly identifies at least one action the user can take.
- b. The material addresses the user directly when describing actions.
- c. The material breaks down any action into manageable, explicit steps.
- d. The material provides a tangible tool (e.g., menu planners, checklists) whenever it could help the user take action.
- e. The material provides simple instructions or examples of how to perform calculations.

- f. The material explains how to use the charts, graphs, tables, or diagrams to take actions.
 - g. The material uses visual aids whenever they could make it easier to act on the instructions.
3. From October 31, 2018 to January 31, 2018 all Educational Material must be send to the PRHIA Planning and Clinical Affairs Office for evaluation and approval After February 1, 2018 all Educational Material must comply with the requirements of this Letter but will not be submitted to PRHIA for approval. Educational Material must be available upon request and is subject to PRHIA audits.
4. Education Material must not include the following:
- (i) Any marketing messages
 - (ii) Any benefits or services not cover by Plan Vital.
 - (iii) Promote the MCO, services, or contracted providers to motivate beneficiary enrollment.
- C. Each MCO will send the monthly calendar of programmed educational activities for both beneficiaries and providers to the designated personnel in the PRHIA Planning and Clinical Affairs Office. Both calendars must be submitted to PRHIA no later than the 25th day of the previous month. MCOs must also send a report of monthly activities carried out, as well as those canceled. This report must be sent on the seventh (7th) day after the month is completed.

III. Guidelines for Marketing Activities:

All MCOs contracted to provide services to GHP Enrollees shall abide by the PRHIA rules for marketing when it involves GHP services or benefits. The PRHIA does not permit the performance of any sales activities, presentations or distribution of marketing materials in any Puerto Rico Government Agencies, Public Corporations or other government facilities. Similarly, PRHIA does not allow any MCO to perform marketing activities within one (1) mile of a Puerto Rico Medicaid Office.



MCOs are prohibited from conducting sales activities, presentations, and distributing and/or soliciting beneficiaries within one hundred (100) feet of areas where individuals primarily receive health care services or are waiting to receive health care services. These restricted areas generally include but are not limited to: provider office diagnostic and treatment center, exam rooms, hospital patient rooms, dialysis center treatment areas (where individuals interact with their clinical team and receive treatment), medical office building, pharmacy counter areas where patients interact with pharmacy providers, including the waiting areas to obtain medications. The prohibition against conducting marketing activities in health care settings extends to activities planned in health care settings outside of normal business hours. This prohibition is not intended to limit health care providers from engaging in independent discussions with beneficiaries should a beneficiary seek advice.

Appointments with beneficiaries residing in long-term care facilities (including nursing homes, assisted living facilities, board and care homes, etc.) are only permitted upon request by the beneficiary. Contracted providers or facilities may be used to distribute marketing materials if the provider or facility distributes or makes available marketing materials for all plans in which the provider or facility participates. Marketing materials may only be distributed to individuals who meet criteria for enrollment.

A. MCOs are prohibited from engaging in the following activities:

1. Directly or indirectly engaging in door-to-door, telephone, email, texting or other cold-call marketing activities.
2. Offering any favors, inducements or gifts, promotions, or other insurance products that are designed to induce enrollment in the MCO's Plan.

Offering of gifts, promotions, or token items that are not designed to induce enrollment in the MCO's Plan can be use however it could not exceed fifteen dollars (\$15) or less per Enrollees and no more than seventy-five dollars (\$75) in the aggregate annually per Enrollee, if prior approved in writing by ASES.

3. Distributing plans and materials that contain statements that PRHIA determines are inaccurate, false, or misleading. Statements considered false or misleading include, but are not limited to, any assertion or statement (whether written or oral) that the MCO's plan is endorsed by the Federal Government or the Government of Puerto Rico, or similar entity.
 4. Distributing materials that, according to PRHIA, mislead or falsely describe the MCO's Provider Network, the participation or availability of Network Providers, the qualifications and skills of Network Providers (including their bilingual skills); or the hours and location of network services.
 5. Seeking to influence Enrollment in conjunction with the sale or offering of any private insurance.
 6. Asserting or stating in writing or verbally that the enrollee or potential must enroll in the MCO's plan to obtain or retain benefits.
- B. MCOs will be permitted to perform the following marketing activities:
1. Distribute general information through mass media (i.e. newspapers, magazines and other periodicals, radio, television, the internet, public transportation advertising, and other media outlets).
 2. Make telephone calls, mailings and home visits only to Enrollees currently enrolled in the MCO's plan, for the sole purpose of educating them about services offered by or available through the MCO.
 3. Distribute brochures and display posters at Provider offices that inform patients that the Provider is part of the GHP Provider Network;
 4. Attend activities that benefit the entire community, such as health fairs or other health education and promotional activities.

If the MCO performs an allowable activity as specified herein and per 42 CFR 438.104, they must conduct that activity island-wide. All materials shall be in compliance with the informational requirements in 42 CFR 438.10.

IV. Provider Marketing Materials:

MCOs are responsible for ensuring that not only its marketing activities, but also the marketing activities of its Subcontractors and Providers, meet the above requirements. MCOs shall collect from its Subcontractors and Providers any marketing materials they intend to distribute and submit these to PRHIA for review and written approval prior to distribution. MCOs shall provide for equitable distribution of all marketing materials without bias toward or against any group.

V. Other Materials

1. Any other material that not comply with the marketing material and educational documents definition must be considered operational documents and must comply with PRHIA contract with the MCO and with any other state and federal law. PRHIA will approve the operational material under the Readiness Review Process or upon request if it was not under the scope of Readiness. Operational documents must be submitted to the Compliance and Integrity Office for review and approval.
2. Adverse notifications to beneficiary will not be review or approve by PRHIA and accordingly do not contain PRHIA name and Vital Logo. PRHIA will issue the final determination on adverse notifications in the Administrative Hearing under the Grievance and Appeals Procedure.

VI. Sanctions

PRHIA will sanction or assess monetary penalties on any MCOs that does not comply with this Normative Letter or marketing requirements in the Contract, as permitted by contract and applicable laws and regulations. The sanctions or monetary penalty for noncompliance will be up to \$25,000 for each event of non-compliance. Repeated instances of non-compliance with a requirement in this Normative Letter or the marketing requirements in the Contract may result in



PRHIA's imposition of a sanction or monetary penalty of \$25,000 for each event of non-compliance.

PRHIA may impose additional intermediate sanctions or civil monetary penalties in the Contract between PRHIA and the MCOs for the latter's non-compliance with any of the terms and conditions of the MCO contract. If an employee or authorized representative of PRHIA determines a MCO's sales representative has performed marketing activities in a manner contrary to this Normative Letter, PRHIA's employee or authorized representative may take, but is not limited to, the following actions:

1. Collect the MCO's sales representative's marketing materials;
2. Solicit the name and position of the MCO's sales representative;
3. Verify that the sales representative is informed about this Normative Letter;
4. Take pictures of the MCO's marketing activities or of the sales point;
5. As appropriate, PRHIA's employee or authorized representative may measure the distances between the point of sale activities and the unauthorized areas in steps, to demonstrate noncompliance.
6. Other actions that may be necessary or required.

The PRHIA Compliance Office will notify the MCO's Compliance Officer by e-mail or other written method of any identified instances of noncompliance with this Normative Letter.

We expect strict compliance with these guidelines,



Angela M. Ávila Marrero
Executive Director