



Texas Provider Marketing Guidelines

**As Required by
Senate Bill 8, 83rd Legislature,
Regular Session, 2013**

**Health and Human Services
Commission**

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1. Purpose

The purpose of the Texas Provider Marketing Guidelines is to provide guidance to the State of Texas Medicaid fee-for-service, Medicaid Managed Care, Children's Health Insurance Program (CHIP), Children's Medicaid Dental, and CHIP Dental Providers, referred to as Medicaid, on permissible and prohibited provider marketing.

The information provided is not intended to be comprehensive, or to identify all applicable state and federal laws and regulations. Providers remain responsible for and must comply with all applicable requirements of state and federal laws and regulations.

2. Applicable Legal Authorities

Texas Health and Human Services Commission (HHSC) Office of Inspector General (OIG) *Special Advisory Bulletin: Offering Gifts and Other Inducements to Beneficiaries*, August 2002

Texas HHSC OIG Special Advisory Bulletin: Offering Gifts and Other Inducements to Beneficiaries, March 6, 2013

Senate Bill 8, 83rd Legislature, Regular Session, 2013

1 Texas Administrative Code §353.405

1 Texas Administrative Code §354.1452

1 Texas Administrative Code §370.601

3. Background

S.B. 8, 83rd Legislature, Regular Session, 2013, prohibits certain provider marketing activities under Medicaid fee-for-service, Medicaid Managed Care, CHIP, Children's Medicaid Dental, and CHIP Dental.

These guidelines are intended to assist providers in assessing their compliance with the rules and provide information on the option of submitting provider marketing to HHSC for review and approval.

4. Defined Terms

Client - any individual or individual's parent/legal representative who has been determined eligible for Medicaid or CHIP.

Marketing - any communication from a provider to a Medicaid or CHIP client that can reasonably be interpreted as intended to influence the client's choice of provider.

Marketing Materials - materials produced in any medium designed or intended to be provided to Medicaid or CHIP clients or client's parent/legal representative. Materials relating to the prevention, diagnosis, or treatment of a medical or dental condition are not Marketing Materials.

Provider - any individual or entity furnishing Medicaid or CHIP services under a provider agreement with the Texas Medicaid agency.

Provider Marketing - any attempt to communicate with a Medicaid or CHIP client to inform of services provided.

5. Helpful Tips

Providers are encouraged to review the Texas Provider Marketing Guidelines created by HHSC and available on the Texas Health and Human Services (HHS) website.

Providers should assess their intended provider marketing to determine if it is permissible or prohibited.

A provider participating in Medicaid may engage in provider marketing as long as the provider marketing does not involve unsolicited personal contact or promotion of the provider's practice that is not intended for health education purposes.

6. Specific Guidelines

1. Provider must comply with its applicable licensing agency's laws and regulations, including any related to marketing and advertising.
2. Provider must comply with applicable state and federal laws and regulations, contractual requirements, and other guidance documents.
3. Provider must comply with provider's contract requirements regarding the use of HHSC's, the State's, or an HHS Agency's name in a media release, public announcement, or other public disclosure.
4. Marketing materials must be written at or below a sixth grade reading level.
5. Marketing materials that target the client community must be available in English and Spanish. In addition, any languages of other major population groups in Texas must be made available if requested by a client.
6. Marketing materials must include the name of the provider and the provider's office location and address.
7. Marketing materials must not be misleading, inaccurate, or contain misrepresentations.
8. Marketing materials must not make false, misleading, or inaccurate statements relating to services or benefits.
9. Marketing materials must not represent that services will be provided at no cost when a Medicaid provider will seek remuneration.
10. Marketing materials must not offer a Medicaid client or client's parent/legal representative any financial gain or incentives.
11. Marketing materials must not portray competitors or other providers in a negative manner.
12. Marketing materials must not contain the HHSC logos or insignias or make any assertion or statement of endorsement by federal or state governmental agencies.

7. Examples of Permissible and Prohibited Marketing Activities

	Permissible	Prohibited
1	Sending Marketing Materials to every person within a specific zip code, without specifically targeting Medicaid clients.	Unsolicited personal contact such as direct mail, telephone, and door-to-door solicitation.
2	Sending an appointment reminder to a Medicaid client.	Offering gifts or other inducements designed to influence a client's choice of Provider.
3	Participation at a health awareness education event and making available branded giveaways valued of no more than 10 dollars, individually.	Providing giveaways or incentives valued at over 10 dollars, individually, or passing out materials
4	General dissemination of Marketing Materials via television, radio, newspaper, Internet, or billboard advertisement.	Dissemination of material or any other attempts to communicate intended to influence the Client's choice of Provider.
5	Provider marketing conducted at: Community-sponsored educational event Health fair Outreach activity or Other similar community or nonprofit event And which does not involve unsolicited personal contact or promotion of the provider's practice that is not intended as health education.	Sending Marketing Materials to a client to offer inducements or incentives.
6	Provider marketing for the purpose of: <ul style="list-style-type: none"> ● Providing appointment reminder. ● Distributing promotional health materials ● Providing information about the types of services offered by the provider ● Coordination of care 	Unsolicited personal contact at a child care facility or any other type of facility; or targeting clients solely because the client receives Medicaid/CHIP benefits.

8. Self-Review Checklist/Questions

1. Does the Marketing Material include a general statement, or a list of all insurances accepted rather than only listing Medicaid?
 - If yes → this meets requirements.
2. Is the Marketing Material sent to everyone within the zip code?
 - If yes → this meets requirements.
3. Is the Marketing Material strictly to promote health education?
 - If yes → this meets requirements.
4. Is the Marketing Material at or below the sixth grade reading level?
 - If yes → this meets requirements.
5. Does the marketing include a giveaway valued at more than 10 dollars?
 - If yes → this is a prohibited provider marketing.

9. Optional Submission Process

After reviewing these guidelines, if the provider is still unsure of compliance, the provider may submit the proposed marketing material to HHSC for review and approval. The provider must complete the Texas Provider Marketing Form for each provider marketing item or activity and submit to HHSC before engaging in the provider marketing. The provider must provide a brief summary of intended use, provider marketing activity date, and activity location. HHSC may request additional information or clarification from the provider.

To be considered for review, the provider must submit the final Provider Marketing to HHSC at the following mailbox: TexasProviderMarketing@hhsc.state.tx.us. If the proposal is submitted in any other manner, it will not be considered.

Once an email is received, the provider will receive an automated email reply.

Mailbox Automated Reply Message

Dear Provider,

Thank you for your provider marketing submission. The Health and Human Services Commission (HHSC) will review your submission and provide a response within 30 business days. To avoid duplication efforts, please do not re-submit.

10. HHSC Review Process

HHSC will review all Provider Marketing submissions and provide a response to the provider. The response will notify the Provider if the Provider Marketing is approved or denied.

Review Determination

HHSC will notify the provider in writing of its review and decision. If HHSC denies an approval for the provider marketing, then such denial decision is final. If HHSC denies an approval, the provider may revise and re-submit as a new submission.

HHSC will assign an approval number to each approved provider marketing. The approval number will be included in the Texas Provider Marketing Form. HHSC's approval is not extended to any deviations or modifications made to the provider marketing following the issuance of HHSC's approval.

HHSC Approval Email Message:

Dear Provider,

The provider marketing submission is approved as submitted.

HHSC's provider marketing approval is not extended to any deviations or modifications made to the marketing following the issuance of HHSC's approval. This approval does not extend to any future marketing materials.

HHSC Denial Email Message:

Dear Provider,

The provider marketing submission is denied for the following reason:

[Insert reason for denial].

Please note: Denials are final. The denied provider marketing may be revised and resubmitted as a new submission.

11. HHSC Review Timeframe

HHSC reviews all provider marketing submissions. HHSC generally completes the review within 30 business days. HHSC will contact the provider if additional time is needed.

12. Texas Provider Marketing Form

HHSC will facilitate the provider a submission form in which the provider populates the requested information and submits to HHSC along with the provider marketing. The provider must include all required elements when submitting a request for provider marketing review and approval from the HHSC. The form specifies what section the provider is responsible for completing. If an approval is provided, HHSC will complete the appropriate section and provide an approval number.

The Texas Provider Marketing Form must be submitted as an attachment in the email along with the provider marketing submitted to HHSC for approval. Each provider marketing item or activity must be submitted separately. If the Texas Provider Marketing Form is not submitted, is incomplete, or is not submitted to the specified email address, the provider marketing will not be reviewed.

Incomplete Submission Email Message

Dear Provider,

The provider marketing submission will not be reviewed because either the provider marketing or Texas Provider Marketing Form was incomplete or not included in the email.

The provider marketing may be resubmitted as a new submission. To be considered for review, please resubmit the provider marketing and a completed Texas Provider Marketing Form.

Texas Provider Marketing Form Example

A completed Texas Provider Marketing Form can be found below.



Texas Provider Marketing Form

Please complete all sections of the following form and submit to TexasProviderMarketing@hhsc.state.tx.us by clicking the "submit form" button below

Provider Marketing Information	
Category (choose one): Brochure	If "other," explain:
Reading Grade Level of Marketing Material: 6th grade	Submission for Facility/ Group? Yes No
Brief Summary of Provider Marketing or Intended Use of Marketing Material (attach additional pages if necessary): This brochure is designed for parents and children - reminding them of the importance of regular checkups. The services our office offers are detailed, and phone numbers are given for scheduling appointments or asking questions.	
Has this Provider Marketing been previously submitted and approved? Yes No	If yes, please provide approval number:
Provider Marketing County: Harris County	
Provider Information	
Submitter (choose one): Office Manager	If "other," explain:
Provider Name (Last, First): Doe, John	
National Provider Identifier: 123456789	Texas Provider Identifier: 123456789
Practice / Facility Name: The John Doe Group	
Practice Location (City, County, State, ZIP): 12345 Six Seven Avenue, Number 8	
Email Address: John@doe.com	Home Page URL (if applicable):
<input checked="" type="checkbox"/> I understand that submission of this Provider Marketing is optional. The applicable sections of the Texas <u>Administrative Code</u> govern the allowable form, content, and use of provider marketing.	

Submit Form

Please do not print below this section.

For HHSC Use Only	
Date Approved:	
Approval Number:	

HHSC's Provider Marketing approval is not extended to any deviations or modifications made to the marketing following the issuance of HHSC's approval. This approval does not extend to any future provider marketing.