

Policy Title: THN Communications and Marketing Materials			
Department Responsible: THN ACO Operations/Marketing	Policy Number: OP-002	THN's Effective Date: January 1, 2022	Next Review/Revision Date: September 30, 2024
Title of Person Responsible: Assistant Director of ACO Operations/Marketing	THN Approval Council: THN Operating Committee	Date Approved: June 8, 2023	

- I. Purpose.** The purpose of OP-002 is to define Triad HealthCare Network's (THN's) external communications policy, as well as the approval process to ensure compliance with CMS requirements related to Descriptive THN Materials and Activities (hereinafter Marketing Materials) as defined in the Accountable Care Organization Realizing Equity, Access, and Community Health (ACO REACH) Model Participation Agreement (PA).
- II. Policy.** It is the policy of THN to ensure that all materials are compliant with any relevant regulatory requirements, and accurately reflect the opinions, position, and strategy of THN.

III. Procedures.

- A. THN submits a plan for implementing Marketing Activities to CMS for approval prior to distributing any Marketing Materials or hosting any Marketing Events. This includes, but is not limited to, any Voluntary Alignment Activities as well as any Activities used to educate, notify, or contact Beneficiaries regarding THN's participation in the Model. Any material changes to this plan are submitted to CMS prior to implementation. Any amendment to THN's Marketing Plan is deemed approved within 10 business days after submission, unless rejected in writing by CMS.
- B. THN does not use and prohibits THN Related Individuals from using any Beneficiary facing material related to ACO Activities, until reviewed and approved in their entirety by THN's Compliance Officer and when necessary, CMS.
- C. THN does not and does not allow any THN Related Individual to conduct any Marketing Activities outside of the ACO Service Area, as defined in the ACO REACH Model PA Agreement.
 1. THN is required to maintain records of the ACO Service Area and may update the Core Service Area during the Performance Period, by a date and in the manner described by CMS.
- D. ACO REACH Related Communications. Only specified individuals are authorized to communicate official THN policy or to make public statements on behalf of THN.
 1. A "public statement" is defined as any statement made to anyone other than a person receiving care from an ACO Participant or Preferred Provider, whether such statement is made orally, in writing, via e-mail, 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 on the Internet, including to one's own or someone else's blog, journal or diary, personal website, social networking or affinity website, web bulletin board or chat room, whether it is associated or affiliated with THN or not.
 3. Only the executive leadership at THN is authorized to make public statements on behalf of THN. This duty shall not be delegated to a junior staff member.
- E. All marketing materials will be reviewed by the ACO Operations Leadership prior to submission for final approval by CMS.
- F. The Marketing Department and/or ACO Operations Leader is responsible for submitting any materials which meet the definition of Marketing Materials, Marketing Events, or Marketing Activities within the ACO REACH PA Participation Agreement to CMS for approval, certifying that the materials are compliant with all requirements. These materials may be used following their submission to CMS if not disapproved in writing within 10 days.
1. If CMS disapproves Materials after the 10-day review period, THN must immediately discontinue use of the Marketing Materials or Activities.
 2. Any changes to existing Materials will trigger an additional review by the Director of Compliance. Revised Materials and Activities must be resubmitted to CMS and approved before use, following the process described in 5.04.J.2 of the ACO REACH PA.
- G. THN and any THN Related Individuals will obtain prior approval from CMS for the publication or release of any press release, external reports, or statistical/analytical material that materially and substantially references THN's participation in the ACO REACH Model or THN'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 requirement 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."***
- H. Marketing Activities, Materials, and Events may not:
1. Discriminate or selectively target Beneficiaries based on race, ethnicity, national origin, religion, gender, sex, age, mental or physical disability, health status, receipt of health care, claims experience, medical history, genetic information, evidence of insurability, geographic location, or income; or
 2. Be targeted toward Beneficiaries enrolled in Medicare Advantage or any other Medicare managed care plan.
- I. **Voluntary Alignment Communications.** THN Related Individuals may directly communicate with Beneficiaries regarding Voluntary Alignment.

1. Materials will be submitted to THN Compliance & Privacy and CMS as required and will not offer gifts, cash, or other remuneration as inducements for:
 - a. Completing Voluntary Alignment, or
 - b. Remaining in THN or with ACO Providers or Suppliers or receiving items or services from ACO Participants or Preferred Providers.
 2. Materials will not contain language suggesting that THN, ACO Participants or ACO Preferred Providers would withhold medical services or limit access to care for failure to complete Voluntary Alignment.
 3. THN 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 1-800-MEDICARE or visit MyMedicare.gov. MyMedicare.gov.
 - a. More information regarding the Voluntary Alignment process may be found in OP-005.
- J. In using Marketing Materials and conducting Marketing Activities, THN and all THN Related Individuals may not:
1. Engage in activities that could mislead or confuse a Beneficiary regarding the model another model currently tested or under development by CMS, the Medicare Shared Savings Program, Medicare benefits, or THN.
 2. Use language suggesting that beneficiaries are required to see providers only within THN or are in any way prohibited from seeing providers outside of THN.
 3. This includes expressly stating or implying that selecting an ACO Participant as the Beneficiary's main doctor, main provider, and/or the main place the Beneficiary receives care removes a Beneficiary's freedom to choose to obtain health services from providers and suppliers who are not ACO Participant Providers or Preferred Providers.
 4. Use language that clearly expresses it is the provider, not the beneficiary which is participating in THN.
 5. Use language suggesting that CMS recommends or otherwise endorses THN or that CMS recommends that the Beneficiary select an ACO Participant Provider as his or her main doctor, main provider, and/or the main place the Beneficiary receives care; or
 6. Use Materials or conduct Activities outside of THN's Service Area as defined by Section 5.04.H of the ACO REACH PA.
- K. Marketing Activities may be conducted through unsolicited direct contact with Beneficiaries only if the Marketing Materials are distributed using conventional mail and other print media, or e-mail if Beneficiaries are provided an opportunity to opt-out of subsequent contacts.
1. Telephonic and door-to-door solicitation are prohibited, even if leaving printed materials. This includes text messages and leaving voicemail messages.
 2. In person activities are allowed only in common areas of ACO Participant

- and Preferred Provider health care settings.
 - a. This does not include restricted areas of the health care setting such as exam rooms and pharmacy counter areas.
- 3. Printed Marketing Materials may be distributed and displayed in common and restricted areas of the health care setting.
- L. THN may conduct Marketing Events, as approved by the Director of Compliance.
 - 1. Marketing events shall not involve health screenings or any other activity that is used, or could be perceived as being used, to avoid treating At-Risk Beneficiaries or to target certain Beneficiaries for purposes of trying to affect the population of Beneficiaries aligned to THN.
 - 2. Require attendees to provide their contact information as a prerequisite for attendance;
 - a. Any sign-in sheets used for purposes of the Marketing Event must be clearly labeled as optional.
 - b. Any contact information provided is used only for the purpose for which it was solicited.
 - 3. Marketing Events may be:
 - a. Hosted in a public venue;
 - b. Used to answer Beneficiary-initiated questions regarding THN's participation in the Model; and
 - c. Used to distribute THN's, a THN Participant Provider's, or a Preferred Provider's business cards and contact information.
- M. THN is required to obtain authorization from patients prior to using or disclosing PHI about them for the purpose of marketing a product or service to them.
- N. Any template language for Marketing Materials is provided by CMS, without edit, unless the CMS template materials specifically allow for certain edits by THN.
- O. THN translates all materials into any non-English language that is the primary language of at least 5% of THN Beneficiaries. THN Communications must not be used in a discriminatory manner and should adhere to the Federal Plain Language Guidelines where possible.
- P. THN's Marketing Department and/or Operations Leadership shall maintain a log of all material approvals and a library of all written and electronic materials and appropriate records for all Marketing Activities in accordance with RR-001 and the ACO REACH PA.

Date	Reviewed	Revised	Notes
January 1, 2022			Original Publication
August 2022	X		No changes
May 2023		X	Converted to REACH