**Section 4521.100 Solicitation**

a) No HMO, or representative of the HMO, may cause or knowingly permit the use of advertising, solicitation, or any form of evidence of coverage that is untrue, misleading or deceptive.

1) All information required to be disclosed pursuant to this Part shall set out conspicuously and in close conjunction with the statements to which the information relates under appropriate captions of the prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the solicitation as to be confusing or misleading.

2) The format and context of a solicitation of any HMO's plan or program shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the Director from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

3) Solicitations shall be truthful and not misleading in fact or implication. Words or phrases, the meaning of which is clear only by employment or by familiarity with insurance, medical terminology or health care plans, shall not be used unless those words or phrases are otherwise explained in the solicitation.

4) No solicitation shall omit information or use words, phrases, statements, references, or illustrations if an omission of the information or use of the words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving prospective enrollees as to the nature or extent of any benefit payable, loss covered, premium payable or health care service provided.

b) A detailed description of all training and educational programs provided to solicitors of the health care plan or to any person providing marketing activities shall be submitted to the Director upon application for a Certificate of Authority and any substantive changes in the programs shall be submitted to the Director 15 days prior to the intended effective date of the change.

c) All brochures, media scripts, and any other marketing or advertising materials an HMO applying for Certificate of Authority plans to use must be filed with the Department. The material must be filed before use and, in the event that the material can obviously not be filed, such as audiovisual presentations, a description of the solicitation activity must be filed.

d) An advertisement or solicitation shall not directly or indirectly make unfair or incomplete comparisons of policies, plans, or benefits or comparisons of non-comparable plans or policies of other HMOs or insurers, and shall not disparage competitors, their policies or plans, services or business methods and shall not disparage or unfairly minimize a competing method of marketing insurance or health care services.

e) No advertisement or marketing material of an HMO shall imply that certification by the Department is an endorsement of the HMO.

f) An HMO shall provide its enrollees, no later than at the time of enrollment, or the time the individual contract or evidence of coverage is issued, lists of the names and locations of primary care physicians participating in the network applicable to the enrollee's benefit plan. The lists shall disclose those providers who are not open for selection by the subscriber, as known to the HMO at the time the list is created. The list shall also contain the following sentence in a prominent location:

NOTICE TO ENROLLEES: While every provider listed in this document contracts with (the HMO) to provide primary care services, not every provider listed will be accepting new patients. Although (the HMO) has identified those providers who were not accepting patients as known to (the HMO) at the time this (directory) was created, the status of any physician's practice may have changed. For the most current information regarding the status of any physician's practice, please contact either the selected physician or (member services) at (phone number).

g) Failure to comply with the requirements of this Section shall subject the HMO or its representative to corrective action the Director may order pursuant to Section 4-7 of the Act.

(Source: Amended at 37 Ill. Reg. 14032, effective August 26, 2013)