



WALA PROVIDER FAQ: INTERACTIONS WITH MCO MEMBERS

Q. If my facility is terminating its contract with an MCO and my facility is still under contract with another MCO, what can I tell members at my facility?

A. The Wisconsin Department of Health Services has warned that providers may not influence participant choice in MCOs by communicating with members in a way that is inaccurate, misleading or coercive. Further, DHS has stated that it will investigate any reports of interference with recipient rights and may impose sanction including disqualification of providers from receiving future Medicaid funding. For this reason, providers must be cautious when communicating with MCO members. Providers should only give MCO members factual information and not try to persuade a member to disenroll from one MCO and enroll in another.

Generally, giving members notice that the facility is terminating its contract with an MCO is permissible. In fact, according to the 2017 Family Care DHS-MCO Contract, the MCO itself is required to notify members of such a termination in writing within 15 days. Additionally, informing members that the facility currently has a contract with another MCO is also generally acceptable because such information is factual and not inaccurate, misleading or coercive. However, telling a member that they would need to enroll in a particular MCO to stay at the facility would not be permissible. Such communication would likely be construed as influencing the exercise of participant freedom of choice.

While there is a fine distinction between permissible and impermissible communications, facilities can avoid risk of any possible sanctions from DHS for interference with recipient rights referring the resident back to the ADRC. Referring individuals to the ADRC regarding the facility's MCO contracts puts the impetus on the ADRC, which is tasked with informing individuals about their rights, to explain the situation.

Finally, every provider should carefully analyze its own MCO contract regarding communications with members. Your MCO contract may contain even more restrictive language regarding member communications. If you have questions regarding your MCO contract or regarding whether you may tell your residents something in particular, call attorney Bob Lightfoot at 608-229-2257.

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