Questions & Answers on the Elimination of Direct Marketing related to Contract Provisions (Section 11, Appendices D & P)

Health Plan Association

1). Q. Existing Section 11.1, Information Requirements, addresses information requested by a prospective enrollee and providing that information in a manner that meets the language and disability needs of those individuals. The information requirements are pursuant to Public Health Law and Federal regulations, as cited within the section. These requirements are an integral part of educating prospective enrollees as part of the Facilitated Enrollment process. Removing this section completely from the contract would not alleviate the responsibility to provide pre- and post-enrollment information.

A. This requirement is included in Appendix P, Section 11.a.

2). Q. The revised guidelines allow outreach materials to be developed for Facilitated Enrollment encounters, but it is difficult to know what the guidelines will be without seeing the proposed modifications to Appendix P.

A. Additional guidance is included in Appendix P which is attached.

3). Q. Under the current contract, plans are required to have a marketing plan that describes all activities and includes monitoring and enforcing compliance with DOH guidelines. The revised Section 11.2, Prior Approval of Advertising Materials and Procedures, requires submission of "procedures and materials related to Advertising." It is not clear what procedures would need to be reviewed by SDOH.

A. Section 11.2 will read as follows: The Contractor shall submit all materials, developed for purposes of this Agreement, related to advertising to the uninsured and/or potential Enrollees to the SDOH for prior written approval.

4). Q. The proposed Section 11 requires Facilitated Enrollers to terminate encounters with individuals enrolled in Medicaid fee-for-service and refer the individual to the enrollment broker or LDSS. This creates an undue burden and causes delays in enrollment for Medicaid FFS beneficiaries that are actively pursuing enrollment in a managed care plan. Lack of ability to complete timely enrollment will result in auto-assignment and added bureaucratic processing to change an auto-enrollment selection. Delays in care may also result if providers do not participate in the auto assigned plan network.

A. For Enrollment Broker & non Enrollment Broker counties, phone enrollments are offered for persons who are already eligible and in receipt of Medicaid. We believe phone enrollments will streamline the process and allow consumers to enroll more quickly. For Enrollment Broker counties, if a facilitated enroller encounters a consumer who is already in receipt of Medicaid fee-for-service, the FE may assist the consumer in contacting the enrollment broker by phone. It

will be the responsibility of the enrollment broker to educate the consumer and enroll the consumer in a health plan. The department understands the limited staffing and resources available at the LDSS and therefore, for non Enrollment Broker counties, SDOH will allow the LDSS, at their discretion, to allow facilitated enrollers at the LDSS to educate and enroll Medicaid fee-for-service consumers in a health plan. For Facilitated Enrollment encounters with uninsured consumers, the application, education and enrollment will be one process, as it is now.

5). Q. Given the State's emphasis on enrolling fee-for-service Medicaid recipients in managed care, it does not make sense to place a prohibition on facilitated enrollers assisting Medicaid fee-for-service recipients. Some LDSS offices rely on Facilitated Enrollers to assist applicants due to limited staffing and resources within the County. The LDSS will have to be notified that FEs will no longer be allowed to provide orientations and assist FFS members with choosing a managed care plan. In addition, a facilitated enroller may become aware during an encounter with a
family that one family member has no insurance, while others have Medicaid fee-for- service. If the whole family is requesting to be enrolled in the same plan, it would not make sense to terminate this encounter.

A. As stated above, for non Enrollment broker counties, SDOH will allow the LDSS to decide whether they will allow an FE to educate consumers and enroll Medicaid fee-for-service consumers in a health plan, as well as to assist an uninsured person in applying for public health insurance and to educate the consumer and enroll him or her in a health plan. LDSS offices have been informally informed of the rules through coalition meetings. A formal notification will be going out to all counties. If an FE is out in the community the FE will be allowed to take an application for the uninsured family member and to educate and enroll. If the rest of the family members are not enrolled yet, they can assist the consumer with a phone enrollment.

6). Q. The prohibition on setting up tables on the street with brochures and other informational material is contradictory to the goal of enrolling uninsured individuals, and is one of the primary vehicles for outreach, which is still permitted under the proposed guidelines. DOH guidelines could mirror the Medicare requirements, which prohibit "approaching beneficiaries in common areas (e.g., parking lots, hallways, lobbies, etc.)", but allow tabling, so long as plans only engage potential enrollees that approach the table on their own. Protections of privacy would still apply to all activities.

A. Only in the following instances will setting up tables on the street be allowed: within 10 feet of a plan's community office, where allowed by local law; at community events; and in front of a community outreach vehicle. All tables must be staffed at all times. Appendix D will be updated to reflect this inclusion.

Coalition of NYS Public Health Plans

7). Q. We do not know which elements that you have removed from the revised Appendix D and contract Section 11, if any, will be retained in other portions of the amended contract. We urge the Department to delay implementation until plans have had an opportunity to review and comment on all changes to the Model Contract relative to marketing activities. (leave question as is)

A. Appendix P has been updated to include many of the requirements that have been removed from Appendix D and Section 11. A new requirement has been added to Section 21 stating: [NOTE: In the final contract, I believe this is section 21.26 and the internal lettering/numbering is different.]

"21.26 Communication with Patients
The Contractor shall instruct its Participating Providers regarding the following requirements applicable to communications with their patients about the MMC and FHPlus products offered by the Contractor and other MCO's with which the Participating Provides may have contracts:
a) Participating Providers who wish to let their patients know of their affiliations with one or more MCO's must list each MCO with whom they have contracts.
b) Participating Providers who wish to communicate with their patients about managed care options must advise patients taking into consideration ONLY the MCO that best meets the health needs of the patients. Such advice, whether presented verbally or in writing, must be individually base and not merely a promotion of one plan over another.
c) Participating Provides may display the Contractor's Outreach materials provided that appropriated material is conspicuously posted for all other MCO's with whom the Provider has a contract.
d) Upon termination of a Provider Agreement with the Contractor, a provider that has contracts with other MCO's that offer MMC and FHPlus products may notify their patients of the change in status and the impact of such change on the patient."

8). Q. Facilitated Enrollment for Medicaid Fee-for Service Beneficiaries. The proposed contract language prohibits plans from conducting enrollment activities for individuals currently receiving Medicaid fee-for-service. We do not understand why the Department proposes this restriction, and would appreciate an explanation. We are also concerned that, if enacted, this provision will place an undue burden on beneficiaries, local districts, providers and the plans. There will continue to be individuals in the fee-for-service program, including those newly eligible for Medicaid who have been notified that they must select a health plan. Under the Department's proposed restriction, if such a beneficiary encounters a health plan facilitated enroller and expresses interest in applying for coverage, the facilitated enroller would have to end the encounter and, instead of assisting, tell the individual that s/he must contact the local district or the enrollment broker instead. The individual will then have to navigate the enrollment process, which, without the assistance of a facilitated enroller, can be burdensome and daunting. Furthermore, local districts are under-staffed and, in many cases, ill-prepared to deal with

significant interest in enrolling clients into Medicaid managed care. Not only will this situation breed client dissatisfaction, it is also likely to lead to an increase in the auto-assignment rate and disrupt provider/beneficiary relationships.

We urge the Department to reconsider this provision. At a minimum, we suggest the Department allow the FE to contact the local district or enrollment broker together with the client so that a phone enrollment can be done. This way the FFS recipient can complete the enrollment at the time of the FE encounter. This is currently the process used for enrollment in the HIV SNPs. Finally, please clarify whether CBOs will be subject to these limitations, among others, as outlined in the proposed contract amendments.

A. Consumers who are in receipt of Medicaid Fee-for-Service will have a choice period of 30 days. If a choice is not made they will be automatically enrolled.
New eligibles will not have a choice period. They will be required to choose at time of application.
As always, Facilitated Enrollers taking an application for assistance must educate and assist consumers in choosing a plan.
Current Medicaid eligibles newly targeted for enrollment will have the option of phone enrollment either through the enrollment broker or the LDSS.
Phone enrollments must be initiated by the consumer. An FE may assist the consumer in contacting the enrollment broker or LDSS by phone.
Other than non Enrollment Broker counties and at the discretion of an LDSS, an FE encounter out in the community must be with an uninsured individual.

9). Q. Outreach Materials. The proposed guidance only references that "outreach" materials be made available in different languages but does not provide any guidance on information that must be provided during a facilitated enrollment encounter. Will this information be included in the forthcoming Appendix P?

A. Information regarding outreach materials is included in Appendix P, section 11.

10). Q. Appendix D.1 states "The contractor may develop Outreach materials as defined in Section 11." Section 11, however, does not provide a definition of outreach materials; it only refers to Media e.g. television, radio, billboards and general reference to procedures and materials related to advertising. Please clarify what is included in the category of "Outreach materials"; would it include brochures, pamphlets and give-aways? Can plans continue to provide these items?

A. Outreach material includes brochures and pamphlets.
Plans may continue to provide these items as long as plans follow SDOH's review and approval process. Language concerning give-away items is included in Appendix P, section 11.c.iv.

11). Q. Appendix D.1, Section 9 no longer includes language that says the SDOH will inform plans when 5% of the uninsured in any county speak a language other than English thus

obligating plans to provide outreach materials in a language other than English. Will the DOH still notify plans if this threshold has been reached?

A. Appendix D.1, 9 has been revised to include additional language:

"The Contractor must make available written Outreach material in a language other than English whenever at least five percent (5%) of the uninsured in any county of the service area speak that particular language and do not speak English as a first language. SDOH will inform the Contractor when the five percent (5%) threshold has been reached. Materials to be translated include those key materials, such as informational brochures, that are produced for routine distribution. SDOH will determine the need for other-than-English translations based on county-specific census data or other available measures."

12). Q. Appendix D allows the plan to make available approved outreach material to such places as LDSS, community centers, markets, pharmacies, hospitals and other provider sites, schools, health fairs, and other areas where the uninsured are likely to gather. What is the intent behind the language "may make the information available"? Is this restricting health plans to informational displays at these locations only?

A. Plans may allow their FEs to have plan approved informational outreach material (as they have now) to share with an uninsured individual during an FE encounter. Plans are not being restricted to informational displays only. They may distribute brochures, pamphlets, etc. to uninsured individuals.

13). Q. Marketing Representatives. The current Appendix D provides specific requirements governing plan marketing representatives. The term "Marketing Representative" is a commonly used industry-wide term but does not properly reflect the true nature of the position in the plan, namely performing facilitated enrollment activities. While facilitated enrollment is being preserved, the proposed Appendix D does not make any reference to the requirements related to Facilitated Enrollers. Specifically, the following are not defined or cited: training program requirements, use of give-aways, compensation requirements, staffing requirements in terms of the allowable number of FTEs, etc. Will these provisions be included in the forthcoming Appendix P or have they been eliminated?

A. Appendix P, sections 2.a, 2.b and 3.d include language regarding facilitated enrollment training. Appendix P section 11.c.iv addresses give-aways. Appendix P Section 6 addresses staffing requirements and Appendix P Section 7 addresses facilitated enrollment compensation.

14). Q. Facilitated Enrollment Sites. The current version of Appendix D provides specific details regarding facilitated enrollment and marketing sites. However, the proposed Appendix D does not provide any specific reference to the sites and locations where facilitated enrollment activities may be conducted. For example, while it references locations where outreach materials can be made available, it does not specify details on allowable facilitated enrollment sites, such as provider offices, at a local district if requested by the LDSS, or at community based

organizations. SDOH should provide further guidance on this especially around whether plans can conduct FE at provider sites. Furthermore, can FE be conducted during outreach activities as long as the venue is appropriate and the privacy of the individuals is respected?

A. Appendix P, Section 11.c provides a listing of locations where facilitated enrollment activities are prohibited.

15). Q. We believe the Department should clarify its guidance on tabling. We understand the Department's intention to remove marketing from the streets. There are instances, however, in which we suggest a table is appropriate. Examples include a) in front of a community outreach vehicle, in front of a health plans community office (where allowed by local laws), and as part of any community events such as those envisioned in Appendix D.1, Section 10.

A. The statement in Appendix D is specific to street marketing. The suggested examples given above will be allowed.

16). Q. Plans do conduct outreach and education in many public locations to connect with the uninsured about potential government sponsored health insurance. If privacy cannot be assured, then a general screening is conducted and information about benefits, network, etc. is provided. An in-home or community based appointment is then arranged to further discuss eligibility, review documents and complete the application. Please confirm that this is still permissible.

A. Yes, this is still permissible.

17). Q. Marketing Plan. Section 11 and Appendix D of the current contract require development of a marketing plan, which is subject to the approval of SDOH. The proposed guidance does not make any references to a marketing plan in Section 11 or Appendix D. Is this requirement being eliminated or will this provision be included in the forthcoming Appendix P under a new requirement for an "Outreach Plan" or "Facilitated Enrollment Plan?"

A. Yes, there will be a Facilitated Enrollment Plan as specified in Appendix P, section 3.

18). Q. Marketing Schedules. We understand that plans will no longer be required to submit monthly "marketing" schedules to HRA and/or to the local districts and will not be required to submit changes to marketing schedules that were already submitted. Will Plans be required to submit schedules related to facilitated enrollers?

A. Plans will be required to submit facilitated enrollment schedules to the Department in accordance with Appendix P, sections 2.c and 4.

19). Q. Vehicles. The proposed Appendix D.1, Section 14 imposes a limit of no more than one vehicle in any borough/county at one time. Please confirm that this limitation applies to so-called Community Outreach Vehicles, i.e., RVs, and not to other company vehicles used for purposes other than direct marketing activities, e.g., travel by recertification personnel, supervisors and managers, delivery of supplies and equipment, etc. Also, please clarify whether a) health plans are prohibited from deploying vehicles in zip codes in which they have community offices, b) the

revised rules continue to prohibit deployment of a vehicle within a two block radius of another MCO's Community Enrollment Office, and c) the Department will maintain a "high traffic" schedule as currently published by the City. These vehicle use requirements are in the current contract Appendix N.

A. Appendix D will be revised with the following language:
[NOTE: This does not appear to be the language included in the final contract (Appendix D.1, Section 14).]

> "The Contractor is limited to using one vehicle per borough/county for facilitated enrollment. Vehicles include recreational vehicles, trailers, cars, SUVs and vans. The Contractor must supply written justification at least one month prior to the date on which the Contractor wants to use an additional vehicle in a county/borough. The justification must describe the rationale for being in the area and the time period for which they will be in the area. No more than one vehicle may be deployed in Manhattan on any given day. The Contractor is prohibited from deploying vehicles in zip codes in which the Contractor has a Community Enrollment Office in New York City, Erie, Nassau, Rockland, Suffolk and Westchester Counties. The Contractor is prohibited from parking its vehicles or setting up a table or kiosk within a two block radius of another MCO's Community Enrollment Office."

20). Q. Blue List. As per the current Appendix N, are plans still required to distribute the Blue List to prospective enrollees? Also, are plans required to discuss the NYC Mandatory Disclosures described on the back of the Blue List (choice of 3 PCP's, automatic newborn enrollment, transportation benefit descriptions, family planning benefit description, family members can be enrolled in different health plans, lock-in explanation, etc.)?

A. Yes, this will still be a requirement. The Blue List will be distributed by HRA to plans. The information on the back of the Blue List should be included as part of the FE education.

21). Q. Business to Business Engagement. Many plans conduct business to business marketing, where an FE will visit a business to enroll eligible but uninsured individuals in the health plan. Please clarify whether this practice remains allowable.

A. Yes, this is allowable as long as the individuals are uninsured.

22). Q. Beneficiary Incentives. There is no longer any language regarding the offering of nominal gifts not to exceed $5 in fair-market value to potential enrollees, and rewards that do not exceed $75 in fair-market value to enrollees for completing health goals. Does this mean that the plans will be relieved of these restrictions?

A. Appendix P, section 11.c.iv. includes language regarding nominal gifts to potential enrollees. Please refer to Section 16.3, Incentivizing Enrollees to Complete a Health Goal in the model contract regarding the $75 to enrollees for completing health goals.

23). Q. Outreach Material Approvals. Please confirm that the new language around media campaigns and prior approvals of advertising materials is intended to maintain the current process for prior approvals. Can plans continue to create materials for the purposes of outreach and advertising in the same manner, with similar content and distribution channels as are currently used? If there is meant to be a change in either the type of material or the process for approval, this should be more clearly defined in the proposed amendments.

A. The approval process will remain the same. However, plans will submit their request for approval to SDOH only. Plans may continue to create material for the purposes of outreach and advertising. Appendix D will be updated to more accurately reflect this policy.

24). Q. Should plans resubmit all current materials for SDOH approval, even if these materials were already approved by the City? Will any submitted materials be subject to the current sixty (60) day "file and use" policy, whereby a plan may assume any submitted materials have been approved if the SDOH reviewer has not submitted any written comment? Will there be an exception for event flyers where plans will be permitted to use an approved template without having to re-submit each flyer for approval?

A. Plans will not have to resubmit current materials approved by CDOH. SDOH is unsure as to what materials would have been approved by CDOH alone. SDOH will require plans to submit any materials to SDOH that were previously approved by CDOH only. The (60) day "file and use" policy will still be in effect and will be reflected in Appendix D. SDOH will not require plans to submit approved event flyer templates as long as the only changes made are, place, date and time. If plans are co-sponsoring an event, the normal review and approval process will be in effect.

25). Q. CDOHMH Role. Please clarify what role the City Department of Health and Mental Hygiene will play going forward in monitoring facilitated enrollment and outreach activities.

A. CDOHMH's role will continue for an unspecified period of time, at least for 6 months from the effective date of the ban on direct marketing.

26). Q. SDOH/LDSS Action. Section 11.3(b) retains language allowing SDOH/LDSS, in its sole discretion, to impose sanctions and/or penalties on health plans for alleged non-compliance with outreach policies and rules. We contend that health plans should have an opportunity to appeal such decisions, and that the SDOH/LDSS should be obligated to respond to the appeal promptly and fairly.

A. SDOH agrees.

Hinman Straub

27). Q. 11.2 (a) Prior Approval of Advertising Material and Procedures. This section proposes to require plans to obtain prior approval from the Department for all procedures related to advertising. Historically, the procedures for advertising were included in the annual marketing plan; however, the amendments delete all references to the marketing plans. Please specify the mechanism plans would be required to use to obtain prior approval for procedures related to advertising.

A. Plans will still be required to submit all materials for approval to SDOH and continue to send to NYCDOHMH for a certain period of time. Appendix P, section 3 contains the guidelines for the facilitated enrollment plan.

28). Q. 11.2 (b) Written Materials. This section permits written materials to be developed for use at provider sites, hospitals, and LDSS. To ensure consistency with the draft Appendix D amendment, please add "community centers, markets, pharmacies, schools, health fairs, and other areas where the uninsured are likely to gather" to this section.

A. Appendix D has been updated.

29). Q. Appendix D.1 Allowable Outreach. Please provide a definition of "outreach" and specifically differentiate the activities considered "outreach" from those activities considered "marketing". Please specify whether plan employees that conduct outreach activities must be facilitated enrollers. Finally, paragraphs 5 and 11 appear to each list locations at which outreach materials can be provided. We suggest that these paragraphs be combined as follows:

> The Contractor may develop outreach materials to be made available at provider sites, Local Departments of Social Services, community centers, markets, pharmacies, hospitals and other provider sites, schools, health fairs, and other areas where the uninsured are likely to gather and during FE encounters.

A. Paragraph 5 has been combined with 11.

30).Q. Free Giveaways. The contract amendments appear to eliminate the ability of the plans to provide nominal gifts. Please add that giveaways are prohibited at events sponsored, co-sponsored, and/or attended by plans. This will address whether plans can participate in events whose sponsors advertise free giveaways to increase attendance.

A. This is reflected in Appendix P, section 11.c.iv.

31). Q. Information regarding Other Plans. Please add a provision to Appendix D obligating facilitated enrollers to provide unbiased information regarding all of the available MMC and FHP plans to applicants during facilitated enrollment encounters.

A. This is reflected in Appendix P, section 2.j and k and Section 11.2.d. [Section 11.b is incorrect; was Section 11.2.c intended, perhaps?]

Re: Questions on Amendments to Model Contract from Manatt July 1, 2011

Contract Section 11

32). Q. In the sentence "The Contractor shall submit all materials related to advertising to the uninsured to the SDOH for prior written approval," we recommend that the term "the uninsured" be changed to "potential enrollees."

A. Advertising materials used by plan FEs (brochures/pamphlets) are specifically for an encounter with an uninsured individual. Advertising material such as bus ads, subway ads, billboards etc. are more related to potential enrollees. Therefore we will include potential enrollees with the uninsured in this section.

The following sentence will be updated in Section 11.2 a) to read: [NOTE: This language differs slightly from the language included in the final contract.] "The Contractor shall submit all materials, developed for purposes of this Agreement, related to advertising to the uninsured and/or potential Enrollees to the SDOH for prior written approval. The Contractor shall not use any materials that the SDOH has not approved. Advertising and outreach materials shall be made available by the Contractor throughout its entire service area. Advertising and outreach materials may be customized for specific counties and populations within the Contractor's service area."

33). Q. If a provider is conducting a form of outreach with only one of its contracted health plans, can the event's promotional materials list only the health plan involved in the event? In addition, would it suffice if the printed materials disclose that this provider accepts other health plans?

A. If plans are conducting a form of outreach with one of their contracted providers who have contracts with other plans, the outreach material used must include the statement "this provider accepts other health plans".

Appendix P

34). Q. Section 2 outlines Facilitated Enrollment (FE) standards. Will SDOH provide a training guide to FEs, or offer a new FE training based on these guideline revisions? In addition, please define what is meant by "fixed Enrollment facilitation sites" and what constitutes a fixed vs. non-fixed site. What is the process, format, and schedule for submitting the list of these sites, and to whom? Is this list different from the Bi-Monthly Schedule discussed in Section 4?

A. The Department does not anticipate developing a training guide or training module regarding the revised Appendix P. Fixed enrollment sites are places where a facilitator is present at defined hours each week. These sites are used by the Enrollment Center and others as a way to refer potential applicants for assistance. The Department will provide a spreadsheet, similar to what has been used in the past to produce the facilitated enrollment site directory. This will be submitted to the Bureau of Child Health Plus Enrollment on a monthly basis. This list is the same list as described in Section 4. Appendix P.1, Section 4 has been revised as follows:

" **4. Facilitated Enrollment Schedules**

The Contractor shall submit a monthly schedule of all facilitated enrollment activities to the DOH. A list of daily updates is not required."

35). Q. Section 4 states that plans will be required to submit a bi-monthly schedule. To whom should plans send this schedule? Should the schedule reflect only non-street activity and vehicles? The Coalition strongly recommends that SDOH no longer require daily schedule updates; this is an administrative burden of limited value to the State.

A. As stated above, the listing of sites will be submitted on a monthly basis. A daily schedule will no longer be necessary with the elimination of direct marketing activities. The draft amendment has been revised, please see above.

36). Q. The prohibition in Section 5 against "deploying vehicles in zip codes in which the Contractor has a Community Enrollment Office" is problematic in upstate counties where zip codes cover large areas. In some zip codes, an enrollment office could be miles from a COV site. Therefore, we recommend that this zip code requirement apply only to New York City.

A. This section has been revised as follows:
[NOTE: This does not appear to be the language included in the final contract (which is in Appendix P.1, Section 5.a.iii).]

"5.a iii Facilitated Enrollment Activities

"The Contractor is prohibited from deploying vehicles in zip codes in which the Contractor has a Community Enrollment Office in New York City, Erie, Nassau, Rockland, Suffolk and Westchester Counties. The Contractor is prohibited from parking its vehicles or setting up a table or kiosk within a two-block radius of another MCO's Community Enrollment Office. "

37). Q.The guidelines should make clear that the use of COVs dedicated to marketing Medicare Advantage products are not utilized for outreach or facilitated enrollment activities related to the Medicaid and Family Health Plus programs unless the plan expressly designates that COV for both Medicare and Medicaid and complies with the one COV per borough/county requirement.

A. Appendix P.1, Section 5a.v has been revised as follows:
[NOTE: I believe this language is found in the final contract in Appendix P.1, Section 5.a.v.)]

"v).Vehicles used for purposes of marketing Medicare Advantage and other commercial products are not subject to the requirements above. Vehicles used for facilitated enrollment activities for Medicaid and Family Health Plus and Medicare Advantage or another commercial product are subject to the requirements above."

38). Q. Please confirm that the Department will not require quarterly high-traffic COV schedules that are currently facilitated by the City.

A. This report should be submitted to the Bureau of Child Health Plus Enrollment for at least the next six months. We will consider eliminating this requirement after that time.

39). Q. Related to the Section 7 guidelines, can a plan run a short-period contest as an incentive, as long as the incentive approved by the State Departments of Health does not have a dollar face value (e.g. comp ticket to a movie, theme park, sporting event)?

A. Such an incentive program is not permitted.

40). Q. Consistent with Section 10, plans would like the ability to track the referrals that an FE makes to the Enrollment Broker or Local Social Service District (LDSS) by telephone. Can the FE obtain the name, CIN number, SSN number, and DOB at the time of the initial FE encounter for tracking purposes? Alternatively, can a plan facilitate a conference call between the member and the enrollment broker in order to obtain the aforementioned information for tracking purposes?

A. The FE should not be tracking this information as the person may be selecting a different plan.

41). Q. Section 11 notes that a contractor "is not allowed to set up tables throughout the City unless a facilitated enroller is present to communicate with prospective enrollees." Plans are interpreting these guidelines to mean that table outreach is permissible, so long as it is staffed.

This is particularly important because plans want to ensure that during the warmer months they can be stationed outside provider locations or other business with whom they partner for education, outreach and enrollment.

A. This type of outreach is permissible for facilitated enrollment purposes only.

42). Q. In Section 12, will SDOH provide guidance on the process for appealing decisions about direct marketing-related activities and restrictions?

A. We do not anticipate revising the contract to include an appeal process. If a health plan is suspended from facilitated enrollment activities, the letter notifying the plan of that suspension will provide information regarding the timing and other activities related to the suspension and will allow the plan to appeal the decision.

Appendix D

43). Q. Section 1.14 should also include the parallel exception language found in Appendix P, Section 5: "The Contractor must supply written justification at least one month prior to the date in which the plan wants to use an additional vehicle in a county/borough." In addition, we assume there is no limitation for other vehicles indirectly involved (e.g. supervisors, dropping off supplies, etc) or the use of a vehicle at an outreach event where no FE is taking place?

A. This will be monitored by the FE program. Therefore, the language in Appendix P is sufficient.

44). Q. Please clarify the requirement that no facilitated enrollment may occur in areas such as banks, fast food restaurants and nail salons "unless prior arrangements have been made to meet an uninsured individual at one of these specified locations and privacy can be assured." Plans regularly conduct education and outreach at some public locations and have secured permanent private space. How would the statement "prior arrangements...to meet" impact these arrangements?

A. Plans may carry out FE in public places as long as privacy can be assured. The prior arrangement statement is meant for a scenario where an uninsured individual approaches an FE in a public place but there is nowhere to assure privacy so the FE can arrange to meet that individual at a specific time to assure privacy.

45). Q. The requirement in Section 1.5 that "SDOH will adhere to a sixty (60) day 'file and use' policy" should clarify whether this policy applies to media.

A. This policy applies to all outreach and advertising, including media.

46). Q. Section 2.2 states that "If the Contractor becomes aware during an FE encounter that the individual is already enrolled in Public Health Insurance, the FE encounter must be promptly terminated." We recommend changing the term "Public Health Insurance" to "another plan" to more effectively convey the intent of the provision.
[NOTE: This language now appears in Appendix D.1, Section 13. Shouldn't this be mentioned in the response?]

A. The intent of this language is to convey that if an FE encounters an individual with public health insurance they may assist them with making a phone call to the LDSS for non enrollment broker counties or to the enrollment broker for education and enrollment. If an FE encounters an individual already enrolled in a plan who may want to transfer to another plan, they must direct the consumer to contact either the LDSS or the enrollment broker and promptly terminate the encounter. Please refer to Appendix D.1, Section 13.

Q & A Document

47). Q. On the second to last page of the Q & A document, it mentions that the City Department of Health's (CDOH) role will continue for an unspecified period of time, at least for 6 months from the effective date of the ban on direct marketing. What will this role entail, and what information will plans be expected to provide to CDOH?

A. NYCDOH will continue to monitor FE activities until at least through the end of 2011.

48). Q. The Q & A document distinguishes direct marketing in counties with and without an enrollment broker. Will these provisions against direct marketing in a broker county be applicable to lead agencies and community based organizations (CBOs)? If not, how will SDOH monitor lead agencies and CBOs to ensure that these agencies are not promoting one plan over another?

A. CBOs will continue to be monitored as they have been to ensure they are not promoting one plan over another. The Division of Coverage and Enrollment has an FE monitoring unit that will continue to monitor CBOs.