



Preliminary Guidance: MCO and Member Communication Through Telephone, Text Message, and Email Policy

Note: A forthcoming UMCM amendment and MCO Notice will be published to allow time for the MCOs to comment and provide feedback. The UMCM amendment will supersede the preliminary guidance. HEY! I THINK THIS IS THE SAME POLICY

I. Authorizations

The authorizations in Subsections A, B, and C to communicate with a Member through electronic means apply only to the MCOs and their Subcontractors.

The MCO must ensure compliance with Health Insurance Portability and Accountability Act (HIPAA) and all other relevant privacy and security laws when communicating protected information with Members.

A. Communication Preferences from Eligibility Application

In accordance with Texas Human Resources Code § 32.025, HHSC authorizes the MCO and its Subcontractors to communicate with Members through electronic means, including telephone, text message, and email using the Member's contact information and communication preferences obtained from the Medicaid and CHIP eligibility application, eligibility renewal forms, and updated Member communication preferences received from HHSC or the Member thereafter.

The MCO must comply with requirements set forth by HHSC on how a Member may update their communication preferences, including the option to opt out of telephone, text message, or email communications by notifying the Member's MCO.

The MCO may not contact Members using the contact information and communication preferences obtained from the eligibility application and renewal forms until the MCO has received a file from HHSC.

B. Communications Preferences Obtained by Other Methods

In accordance with Texas Government Code §533.008, HHSC authorizes the MCO to communicate through electronic means, including telephone, text message, and email with their Members who provide their preferred contact information via methods other than in the Medicaid and CHIP eligibility application and related updated Member communication preferences. The MCO is not required to provide the Member's preferred contact information to HHSC if it is obtained through a method other than the Medicaid and CHIP eligibility application or renewal forms. MCOs may also refer the individual to HHSC to update their contact preferences.

Prior to delivering written communication by electronic means, the MCO is responsible for following all applicable federal and state laws, rules, and regulations regarding consent, privacy and security.

The MCO may use the following standardized language to obtain a Member's contact information and communication preferences to receive communications through electronic means, including telephone, text message, or email. This language is replicated from the eligibility application.

You can choose to receive this contact by telephone, text message, or email.

Text message and e-mail are not encrypted and may not be secure. The risks include an unauthorized third party intercepting confidential or private health information. If one of these is your preferred method of communication for your health care, be aware of these risks when sending your personal information by text or email.

[Insert MCO] will take reasonable steps to make sure your health care information stays private.

By completing the information below, you acknowledge that you understand the risks associated with receiving electronic communications and consent to sharing your preferred method of contact.

Select your preferred contact method from the list below.

Phone Number: _____

(if contacted by cell phone, the call may be auto-dialed or pre-recorded, and your carrier's usage rates may apply)

Cell phone number: _____

(Carrier message and data rates may apply)

E-mail address: _____

If you choose to provide this information, you will be responsible for notifying [insert MCO] of any changes to your contact information. You can opt out of being contacted by telephone, text message, or email by notifying [insert MCO].

C. Consent to Use Telephone Number on Eligibility Application

In accordance with the January 23, 2023, Federal Communications Commission (FCC) Declaratory Ruling: [In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; US Department of Health and Human Services Petition for Declaratory Ruling](#), HHSC authorizes the MCO to consider the telephone number provided on the Member's Medicaid and CHIP eligibility application as the Member's prior express consent to receive automated telephone and text messages at that number about eligibility and enrollment matters only.

HHSC strongly encourages the MCO to use the Reassigned Numbers Database (RND) before making calls to Members if they are relying upon the telephone number as prior express consent. The MCO may be subject to Telephone Consumer Protection Act (TCPA) liability if the Member's number has been reassigned from the person that gave consent.

II. Limitations

For all communications other than automated telephone and text messages using the telephone number on the eligibility application as prior express consent, the MCO may communicate by any electronic means, including telephone, text message, or email with their Members only in the following manner:

- To share information about eligibility and enrollment matters.
- To share Health-Related Materials as defined in the Medicaid and CHIP managed care contracts. For example, this can include text messages providing health education about postpartum visits to pregnant Members. All Health-Related Materials must comply with applicable provisions in [UMCM 4.3 Marketing and Member Materials Policy](#) and all other requirements set forth by HHSC for Marketing Materials.

- To share health-related appointment reminders. For example, text message reminders for prenatal appointments, immunizations, or well-child visits. For well-child visits, a text message or email communication may not replace existing required communications sent by mail.
- To share health-related screening reminders.
- To conduct MCO service coordination activities as allowed by service coordination or service management requirements in the Medicaid and CHIP managed care contracts. Health-Related Materials, appointment reminders, and screening reminders delivered through text message or email may be a component of MCO service coordination and service management programs.
- To share information about other health care matters.

III. Prohibited Uses

For automated telephone or text messages using the telephone number on an application as prior express consent, the MCO may not send messages for advertising or telemarketing purposes.

IV. STAR Health

In accordance with Texas Government Code § 533.008, HHSC authorizes the STAR Health MCO to communicate through electronic means, including telephone, text message, and email with their Members and the Members' caregivers, and medical consenters who provide their contact information.

The STAR Health MCO must follow requirements and may use the standardized consent language in Section I.B. *Consent Obtained by Other Means*.

Section II *Limitations* applies to the STAR Health MCO.

The STAR Health MCO must ensure compliance with HIPAA and all other relevant privacy and security laws when communicating protected information with Members.