

**EBCI Tribal Option**  
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**Together We Heal**



*The Mission of the Cherokee Indian Hospital is to be the provider of choice for the community by providing accessible, patient and family centered quality healthcare with responsible management of the Tribes resources.*

**TITLE: EBCI Tribal Option Marketing Policy**

**REVIEWED AND APPROVED BY: CIHA Executive Committee**

**EFFECTIVE DATE: 5/13/2021**

**LAST REVIEWED: 7/15/2022**

**PURPOSE:**

To establish an Eastern Band of Cherokee Indians (EBCI) Tribal Option Marketing Policy and plan that meets the NC DHHS/EBCI Tribal Option Contract and 42 CFR § 438.104 requirements.

**STAFF GOVERNED BY THIS POLICY:**

This Policy applies to all:

- Cherokee Indian Hospital Authority (CIHA) Executive staff;
- EBCI Tribal Option staff;
- EBCI Tribal Option Member Services staff;
- EBCI Tribal Option Provider Network;
- Care Managers;
- Behavioral Health Care Managers: [Behavioral Health Consultants (BHCs)];
- Other Primary Care (Nutritionists, Pharmacists, and Providers in the Integrated Care Team);
- Care Manager Extenders [Licensed Practical Nurses (LPNs)/Certified Medical Assistants (CMAs)/Other].

**EBCI Tribal Option Marketing Policy**

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**POLICY:**

EBCI Tribal Option shall comply with 42 CFR § 438.104. EBCI Tribal Option shall comply with all marketing requirements, including monitoring and overseeing the activities of its subcontractors and all persons acting for, or on behalf of, the EBCI Tribal Option to ensure that Members receive accurate oral and written information to make an informed decision on whether to enroll or reenroll in the EBCI Tribal Option.

**DEFINITIONS:**

**Code of Federal Regulations (CFR)**

A compilation of administrative laws governing federal regulatory agency practice and procedures. This includes such agencies as Medicaid, Medicare, and Indian Health Services.

**Division of Health Benefits**

The North Carolina Department of Health and Human Services, Division of Health Benefits, formerly the Division of Medical Assistance, responsible for operating the State Medicaid and Health Choice programs.

**EBCI Tribal Option**

The EBCI Tribal Option is a managed care option for federally recognized tribal members and other individuals eligible to receive Indian Health Services (IHS). The EBCI Tribal Option will be established as an Indian Managed Care Entity, defined in 42 C.F.R § 438.14(a).

**EBCI Tribal Option Contract**

The Indian Managed Care Entity Contract #30-2020-014-DHB between the North Carolina Department of Health and Human Services, Division of Health Benefits and Cherokee Indian Hospital Authority. Subsequent revisions and amendments are also included in this definition. This Contract is also referred to as the NC DHHS/EBCI Tribal Option Contract.

**EBCI Tribal Option PCCM Entity**

The program ~~that will be~~ defined in the State Plan of North Carolina, administered by the North Carolina Department of Health and Human Services, Division of Health Benefits, and operated by CIHA under this Contract, for providing Care Management support and other managed care functions to Medicaid and Health Choice populations using a Medical Home model. This Program is referred to as the EBCI Tribal Option.

**Marketing**

Any communication from the EBCI Tribal Option to a Medicaid beneficiary who is not enrolled in the EBCI Tribal Option that can reasonably be interpreted to increase beneficiary awareness of the EBCI Tribal Option and its benefits with the intent to influence beneficiary choice.

**Marketing Materials**

**EBCI Tribal Option Marketing Policy**

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Materials produced in any medium, by or on behalf of the EBCI Tribal Option, and can reasonably be interpreted as intended to market the EBCI Tribal Option to potential enrollees.

**North Carolina Department of Health and Human Services (NC DHHS)**

A Department within the North Carolina Executive Branch that is the designated single state agency with the US Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for the administration of the Medicaid Program through the Division of Health Benefits.

**Purchase/Referred Care Delivery Area (PRCDA)**

Formally known as the contract health service delivery area, is a geographic area within which purchased/referred care will be made available by the Indian Health Service (IHS) to members of an identified Indian community who reside in the area. For the purposes of the NC DHHS/EBCI Tribal Option Contract, PRCDA refers to the five-county area where the EBCI Tribal Option PCCM entity will primarily operate, which includes Cherokee, Graham, Haywood, Jackson, and Swain counties.

**PROCEDURE:**

EBCI Tribal Option shall not use the existence of the NC DHHS/EBCI Tribal Option Contract or the name of NC DHHS or State of North Carolina as part of any commercial advertising or marketing of its products or services without the written consent of NC DHHS. In addition, NC Medicaid agrees not to use the existence of this Contract or the name or seal of the EBCI or Cherokee Indian Hospital Authority (CIHA) as part of any advertising or marketing of its programs or services, without the written consent by the designated EBCI/CIHA personnel. EBCI Tribal Option will review the request by NC Medicaid in a timely manner and communicate with the NC Division of Health Benefits (Medicaid) EBCI Tribal Option Manager.

Prior to submission of marketing materials to NC Medicaid, the EBCI Tribal Option shall develop and review the materials to ensure compliance with the following:

- All marketing materials meeting the definition shall be submitted to NC Medicaid for review and approval;
- The marketing materials will be accurate and will not mislead, confuse, or defraud the Member or NC Medicaid;
- All marketing materials will be used only within the defined service area;
- The materials will comply with the language, accessibility, non-discrimination, and cultural sensitivity requirements, the Member materials requirements in the Contract, and any applicable federal and North Carolina laws and regulations;
- The marketing materials and marketing strategies comply with the *EBCI Tribal Option's Non-Discrimination Policy for Employees, Members and Providers*.

All marketing materials and activities will occur in permissible areas only. EBCI Tribal Option may:

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- Use, distribute, display, or otherwise make available written marketing materials (e.g., posters, brochures, leaflets) at community centers, markets, malls, retail establishments, hospitals, pharmacies, other provider sites, schools, health fairs, public libraries, and other state-approved community-based marketing events or locations;
- Participate in community-based marketing events or activities (e.g., health fairs, community events);
- Sponsor outreach activities and events and be a financial sponsor;
- Conduct media campaigns through television, radio, billboards, bus posters, social media, etc.

EBCI Tribal Option prohibits statements, claims, and activities (written or oral) that communicate the following:

- A Member must enroll in the EBCI Tribal Option to obtain Medicaid/Health Choice benefits;
- A Member must enroll in the EBCI Tribal Option so as not to lose Medicaid/Health Choice benefits;
- EBCI Tribal Option is endorsed by the Centers for Medicare & Medicaid Services (CMS), the federal or State government, or similar entity;
- Referencing other NC Medicaid Managed Care or fee-for-service (FFS) entities or other contractors of NC DHHS, listing or referencing Providers who are not part of the plan Network, or including negative information about NC DHHS or other NC Medicaid Managed Care or FFS entities in any of its marketing materials.

EBCI Tribal Option shall not:

- Directly or indirectly engage in door-to door, telephone, email, texting, or other cold-call marketing activities, including direct mailings and solicitation;
- Falsely describe covered or available services, enrollment Benefits, availability of Network primary care providers (PCPs), or qualifications or skills of Network PCPs;
- Offer gifts, coupons for products of material value, or incentives to enroll in the EBCI Tribal Option;
- Distribute marketing materials or engage in marketing activities beyond a reasonable distance of the five-county PRCDA;
- Engage in activities that seek to target Members currently enrolled in other Medicaid Managed Care entities or beneficiaries currently enrolled in NC Medicaid Direct;
- Offer Choice Counseling or seek to enroll Potential Members in the EBCI Tribal Option, as this is the sole responsibility of NC Medicaid and the NC Enrollment Broker;
- Distribute, display, or otherwise conduct marketing activities in healthcare settings, except in common areas. Common areas where marketing activities are allowed include areas such as hospital or nursing home cafeterias, community or recreational rooms, and conference rooms;

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- Conduct marketing activities in areas where Members primarily intend to receive healthcare services other than common areas. These prohibited areas include, but are not limited to, patient hospital rooms and exam rooms.

If EBCI Tribal Option chooses to conduct marketing activities in common areas of healthcare settings, such as CIHA, EBCI Tribal Option shall provide a policy to NC Medicaid describing how it will ensure that Providers do not use the materials in prohibited areas.

To the extent applicable, EBCI Tribal Option shall not seek to influence enrollment in conjunction with the sale or offering of any private insurance. Private insurance shall not include Qualified Health Plans (QHPs) as defined in 45 C.F.R. § 155.20, 42 C.F.R. § 438.104.

The marketing materials shall not use irrelevant facts or inaccurate statistical information in any marketing materials and shall not imply that statistics are derived from the information that is being marketed unless such is the fact. If references to a study or statistics are included in any marketing material, EBCI Tribal Option shall provide reference information (e.g., publication, date, page number) and information about EBCI Tribal Option or CIHA's relationship with the entity that conducted the study or provided the statistics, including the funding source, either in the text or as a footnote, on the marketing material.

All marketing materials shall be submitted to NC Medicaid for review at least sixty (60) calendar days before the proposed use of the material or in an agreed upon timeframe. If EBCI Tribal Option makes a significant change [including, but not limited to, changes in dates, uniform resource locator (URL) references, and product line name changes] to marketing materials that have been previously approved by NC DHHS, EBCI Tribal Option must resubmit the materials, in accordance with this section, for NC Medicaid's review and approval.

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**EASTERN BAND OF CHEROKEE INDIANS (EBCI) TRIBAL OPTION  
MARKETING POLICY:  
POLICY IMPLEMENTATION/REVISION INFORMATION**

Original Effective Date: 5/13/2021

**Revision Information:**

<b>Date</b>	<b>Section Updated</b>	<b>Change</b>
7/15/2022	Policy Header	Added Cherokee translation and syllabary for “EBCI Tribal Option” and added “CIHA” to Executive Committee title
7/15/2022	Policy Header	Added “Last Reviewed” date
7/15/2022	All sections	Checked and amended grammar, numbering, and readability as needed
7/15/2022	Staff Governed By This Policy	Updated the “Staff Governed By” section with the appropriate parties
7/15/2022	Definitions	Added “CFR,” “EBCI Tribal Option,” “EBCI Tribal Option PCCM Entity,” and “NC DHHS” to the definition list and supplemented additional language to other definitions
7/15/2022	Procedure	Changed “Department” to “NC DHHS” in all instances
7/15/2022	Procedure	Amended the title for the <i>EBCI Tribal Option’s Non-Discrimination Policy for Employees, Members and Providers</i> and exchanged the word “patients” for “Members”
7/15/2022	Policy Implementation/ Revision Information	Added policy revision information table

**EBCI Tribal Option Marketing Policy:  
Policy Implementation/Revision Information**

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