

November 09, 2023

Zane Garcia Ramadan  
Assistant Director/CEO  
Department of Economic Security/Division of Developmental Disabilities  
1780 W Jefferson, 4<sup>th</sup> Floor  
Phoenix, AZ 85007

**SUBJECT: Notice of Mandated Corrective Action Plan – Assessments for Attendant Care and Parents as Paid Caregivers**

Dear Mr. Garcia Ramadan:

The Arizona Health Care Cost Containment System (AHCCCS), Division of Health Care Services (DHCS) has determined the Department of Economic Security/Division of Developmental Disabilities (DDD) is not in compliance with its Contract YH6-0014, Section D, Paragraph 9 Scope of Services and Paragraph 15 Case Management, as well as the 1115 Waiver, Appendix K Amendment, specific to Parents as Paid Caregivers, and as a result DDD is required to submit a Corrective Action Plan (CAP) to remediate concerns outlined in this notice.

The DES/DDD Contract Section D, Paragraph 9, Scope of Services, provides:

*The Contractor shall be responsible for providing the following acute care, Long Term Care (LTC), and case management services in accordance with AMPM ACOM, and as approved by the AHCCCS Director, all of which are incorporated herein by reference, and may be found on the AHCCCS website [ 42 CFR Part 457, 42 CFR Part 438]. The Contractor shall ensure that the services are sufficient in amount, duration, or scope to reasonably be expected to achieve the purpose for which the services are furnished [42 CFR 438.210(a)(4)]. The Contractor shall not arbitrarily deny or reduce the amount, duration, or scope of a required service solely because of diagnosis, type of illness or condition of the member [42 CFR 457.1230(d), 42 CFR 438.210(a)(3)(ii)].*

*The Contractor may place appropriate limits on a service on the basis of criteria such as medical necessity, or for utilization control, provided the services furnished can be reasonably expected to achieve their purpose [42 CFR 457.1230(d), 42 CFR 438.210(a)(3)(i), 42 CFR 438.210(a)(4)]...*

The DES/DDD Contract Section D, Paragraph 15, Case Management, provides:

*Case Management is a collaborative process which assesses, plans, implements, coordinates, monitors, and evaluates options and services to meet an individual's health needs through communication and available resources to promote quality and cost-*

*effective outcomes. The Case Management process involves review and assessment of the ALTCS member's strengths, preferences, and service and support needs with the member and the planning team. The review shall result in an individualized, mutually agreed upon, appropriate and cost effective PCSP that meets the medical, functional, social, and behavioral health needs of the member in the most integrated and least restrictive setting [42 CFR 438.208(c)(3)(i) - (v), 42 CFR 441.301(c)(1) - (3)].*

*The PCSP is a written plan developed through an assessment of functional need that reflects the services and supports (paid and unpaid) that are important for and important to the member in meeting the identified needs and preferences for the delivery of such services and supports...*

The AHCCCS Medical Policy Manual (AMPM) Exhibit 1620-17, Home and Community Based Services (HCBS) Member Needs Assessment - Guidelines, provides:

*There can be no differentiation or discrimination in the types of frequencies of service authorized simply because the member's caregiver will be a family member or other live-in individual.*

...

*Upon completion, the case manager is required to sign and date the HNT and must attest that "I have contacted the IFS/s named above (top of Page 1) and s/he voluntarily agree/s to provide the services indicated, with no compensation" by checking the box above the signature line.*

The 1115 Waiver, Appendix K Amendment for Parents as Paid Caregivers (PPCG) permits parents of minor children to receive payment for direct care services. Eligible individuals include members eligible for and enrolled with the Arizona Long Term Care System (ALTCS) under the age of 18 and who require home and community-based services (HCBS). AHCCCS has submitted a permanent addition to its 1115 Waiver Demonstration to continue this program on September 27, 2023. CMS has extended the Appendix K authority through March 29, 2024, pending negotiation and approval of the waiver proposal. The benefits allow legally responsible parents to receive payment for "extraordinary" direct care services (attendant care and habilitation). The parents must be employed/contracted by an AHCCCS Registered Direct Care Service Agency and meet all the direct care worker requirements in AHCCCS policy. The number of hours authorized for a parent to provide care are assessed and determined through the person-centered planning process and must meet medical necessity requirements. Additional policy will be issued once the Waiver proposal has been approved by CMS, including a standard assessment to determine "extraordinary" care.

AHCCCS has been made aware of numerous member concerns related to the implementation of the current Parents as Paid Caregivers program through various avenues, including the public comment period for the Waiver proposal. In light of the number and substance of these continuing concerns, AHCCCS noted them as a public comment theme in the Waiver proposal itself. Concerns center around Support Coordinators refusing to conduct assessments and/or to properly perform assessments to evaluate home and community-based services, including attendant care. Some of the concerns report that members (and families) have been denied or reduced in the amount or duration of attendant care and/or habilitation services due to the Support Coordinator's view that the parent is responsible for these services as a natural provider in contravention to the flexibility available under the parents as paid caregiver program. On numerous occasions AHCCCS has communicated to DDD the requirements for proper implementation of the Appendix K flexibility and AHCCCS' expectations to ensure prompt compliance.

The Contractor is again reminded that it is prohibited from requiring parents, or other household members, to provide natural support above and beyond typical parenting responsibilities. In addition, as outlined in Contract and Policy, DES/DDD is obligated to assess needed services for members, provide those services determined medically necessary, and, thereafter, affirmatively allow for choice of provider, including parents providing paid care if the member and family decide it is the most appropriate service delivery modality for their situation. Parents and other household members must be clearly informed of these available opportunities and flexibility.

As a result of the concerns outlined in this notice, DDD must provide a detailed Corrective Action Plan (CAP) to remediate these concerns, including at minimum, the following:

- Overview of training provided to support coordinator staff and leadership around appropriate assessments for HCBS services, and the PPCG benefit.
- Plan for ongoing training and evaluation of performance of support coordinators, including how DDD will promptly address any identified deficiencies.
- Proposed revisions and/or clarifications being made to policies around this benefit.

In addition, DDD must report the following information:

- An ongoing monthly report of NOAs issued regarding HCBS/attendant care services. This report should include, at a minimum, the requested service(s) and reason for denial, limitation, reduction, suspension or termination of the service.
- A summary of all appeals received related to HCBS/attendant care services between March 2023 and October 2023, including the outcome of each appeal.
- A secondary review and evaluation of authorization requests received between June 2023 and October 2023, specific to HCBS/attendant care services, including the outcome of the secondary review and any additional action taken on these authorization requests.

- A summary of all communications received by DDD from families and/or advocates presenting concerns related to HCBS/attendant care services between June 2023 and October 2023, including information on who submitted the concern as well as resolutions to concerns raised.

The above response shall be submitted to DDD's assigned AHCCCS Operations Compliance Officer, Jenna Girdosky, no later than **November 27, 2023**. After the initial response, monthly reporting will be due the last business day of the month for each following month.

There will be a subsequent notice forthcoming which will include associated issues with utilizing the assessment tools in an appropriate manner.

If you have any questions or concerns, please contact me at (602) 417-4229 or by email at [Jakenna.Lebsock@azahcccs.gov](mailto:Jakenna.Lebsock@azahcccs.gov).

Sincerely,



Meggan LaPorte, CPPO, MSW  
Chief Procurement Officer

Cc: Kristen Moore, DDD  
Jakenna Lebsock, AHCCCS  
Christina Quast, AHCCCS  
Dr. Eric Tack, AHCCCS  
Michelle Holmes, AHCCCS  
Jenna Girdosky, AHCCCS