

*Sent via electronic mail*

January 30, 2019

Lorry Bottrill  
Chief Executive Officer  
Mercy Care  
4350 E Cotton Center Blvd, Bldg. D  
Phoenix, AZ 85040

**Re: Notice of Mandated Corrective Action Plan – Arnold v. Sarn Requirements (Revised)**

Dear Ms. Bottrill,

The Arizona Health Care Cost Containment System (AHCCCS), Division of Health Care Management (DHCM), has determined that Mercy Care is in violation of Contract YH17-0001-03 for Regional Behavioral Health Authority (RBHA) services. Specifically, Mercy Care has failed to comply with critical areas of concerns related to fidelity standards contained in Arnold v. Sarn Maricopa County Superior Court, No. C-432355, as identified in a Letter of Concern issued to Mercy Care on August 23, 2017. According to Mercy Care’s RBHA Contract, Amendment #9, Section 18.12 Legislative, Legal and Regulatory Issues:

*“The Contractor shall comply with Legislative changes, directives, regulatory changes, or court orders related to any term in this Contract. The Contractor shall comply with requirements as directed by AHCCCS contained in Arnold v. Sarn, Maricopa County Superior Court, No. C-432355, comply with requirements as directed by AHCCCS contained in JK v. Humble, United States District Court, District of Arizona, No. CIV 91-261 TUC JMR. The Contractor shall comply with program changes based on Federal or State requirements that are unknown, pending or that may be enacted after Contract Award Date. Any program changes due to new or changing Federal or State requirements will be reflected in future Contract amendments.”*

The 2018 Annual Arnold v. Sarn Quality Service Review and Service Capacity Assessment completed by Mercer, and the SAMHSA Fidelity Review report completed by Western Interstate Commission for Higher Education – Mental Health Program (WICHE) demonstrates continued concerns with critical areas previously addressed with Mercy Care in the 2017. On September 14, 2018, AHCCCS discussed the findings of the 2018 Annual Reports with Mercy Care and identified two areas of continued noncompliance:

- Missing Individual Service plans (ISPs) in medical record reviews and;
- Appropriate application of behavioral health services identified as part of the Quality Service Reviews.

As a result, Mercy Care is required to submit a **Corrective Action Plan (CAP)** to remediate the following areas:

- **Medical Record Review - Assessment/Service Plans**  
The Mercer Service Capacity Assessment Priority Mental Health Services 2018 (page 5) identified 27% of the 121 Group 1 cases did not include a current assessment and/or was

missing an individual service plan. The service plans were not always based on the member's assessed needs and included generic language that did not differentiate the individual member's unique situation and needs.

- The most prevalent reason identified for why members do not access services identified on the Individual Service Plan is that there is a lack of documentation that the clinical team followed up with coordinating access to the services or with the referring provider.
- Identification of no systematic process in place to assess the validity of provider self-reported data.

- **Peer and Family Support**

The WICHE FY 2017-18 report (Year 4, page 7) identified the need for a more comprehensive and standardized certification and training for peer specialists. The identified training recommendations included how to maintain the principles and scope of peer work. The Mercer Service Capacity Assessment (page 54) identified the most prominent misunderstanding was recognizing that family support is an intervention directed to and performed with the member's family member(s) with the goal of promoting the family's ability to effectively interact and support the member.

Misapplication of priority mental health services by the member's assigned clinical team was identified when a member identified need for social/community integration with a specific objective to continue visits with family and friends with a service code of "family support".

- **ACT**

Based on medical records, a review of high cost data of members with the highest costs are not currently assigned to an ACT team, even when members placed in residential settings were excluded from the analysis, (WICHE FY 2017-18 (Year 4, page 14).

- ACT teams continue to introduce new clinic based groups into their member services which creates a concern that while this increases the intensity and frequency of service, agencies should ensure that these do not replace individualized treatment in the members' natural community setting.
- In some instances, ACT teams appear to be replicating day treatment by keeping members at the clinic all day and participate in both team and general clinic groups which provides them with more staff service time than those who choose not to stay at the clinic all day.
- Consistency issues with staff retention and turnover on ACT teams.
- Lack of continued offerings of education, training, and supervision to support ACT staff as a transition to an integrated approach of working with members with co-occurring challenges.

- **Supported Employment**

- The Mercer Service Capacity Assessment identified (page 71) that in 77 cases, reviewers were able to review progress notes and recorded the reasons the person did not access supported employment services after a need for those services was identified by a clinical team. There was a lack of evidence that the clinical team followed up with initiating a referral was noted in 40% of those cases in which the person did not access the service despite an identified need.

- The Mercer Quality Service Review (page 42) identified some assessments included contradictory information regarding the need for one or more of the targeted services. In one example, the clinical team documented that the member was “not currently employed, expresses not [sic] interested in employment at this time”. However, within the same assessment, the following statement is attributed to the member: “I want to get a job where I work alone”. While the member’s corresponding ISP included an identified need for the member to meet with the “rehab specialist to identify working interest”, the ISP did not include supported employment services.
- The WICHE Report (page 23) identified that some Employment Specialists do not provide the majority of services in the community, and primarily submit internet applications during employment searches. The report also identified that clinical teams do not consistently demonstrate an understanding of the appropriate role of the peer support specialist, peer or recovery navigator and/or family support specialist for supported employment.
- Job development remains an area for focused training, particularly job development provided in the community interacting directly with potential employers.

The CAP must be detailed and at a minimum include the following:


- Detailed actions to address identified areas of noncompliance including improvement goals and timelines and identification of any barriers to achieving compliance, as applicable;
- A review and analysis of Mercy Care’s Individual Service Planning policies and procedures to ensure that service plans are appropriately developed as determined upon the individual member’s need;
- Development of a comprehensive training curriculum for ACT teams including tracking and monitoring of caseload assignment of members placed in residential settings.

Mercy Care shall submit an initial CAP response **no later than February 5, 2019** to Judith Walker at [Judith.walker@azhacccs.gov](mailto:Judith.walker@azhacccs.gov) with a copy to Ena Binns, AHCCCS Operations Compliance Officer at [Ena.Binns@azahcccs.gov](mailto:Ena.Binns@azahcccs.gov). Mercy Care is also required to submit monthly CAP updates monthly on the 5<sup>th</sup> with the initial submission **due on March 5, 2019**. CAP submissions will be required until, AHCCCS determines that Mercy Care has met and sustained compliance with Contract requirements.

Failure to comply with these requirements may results in additional compliance actions pursuant to RBHA Contract Section 19.7, Administrative Actions, up to and including sanctions and/or terminations of the contract in whole or in part due to failure of the Contractor to comply with any terms or condition of this contract.

Should Mercy Care have any additional questions or concerns, please contact Judith Walker at the above referenced email or via phone at (602)417-4115.

Sincerely,

  
Meggan LaPorte, CPPO, MSW  
Chief Procurement Officer

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cc: Tad Gary, Mercy Care  
James Maguire, Mercy Care  
Carissa Townsend, Mercy Care  
Judith Walker, AHCCCS  
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