



Division of Health Care Advocacy and Advancement Office of Human Rights

Special Assistance

What? Special Assistance is the support provided to an individual who is unable - due to a specific condition - to communicate his/her preferences and/or to participate effectively in the development of his/her service plan, discharge plan, the appeal process and/or grievance/investigation process.

Why? To identify and assist individuals with a Serious Mental Illness (SMI) who are unable to independently take advantage of the services and rights protections provided for by the SMI rules (A.A.C. R9-21-101, *et seq.*).

When? The Tribal or Regional Behavioral Health Authority (T/RBHA), contractor or provider must assess individuals with SMI to determine if the person meets the Special Assistance criteria on an on-going basis, but at a minimum prior to:

- 1) Individual Service Plan (ISP) planning and review,
- 2) Inpatient Treatment and Discharge Plan (ITDP) planning (and when the person goes into an inpatient psychiatric setting), and
- 3) Investigation, grievance or appeal process (and when conditions exist to file a grievance or appeal).

The details of the assessment must be documented in the clinical record, noting if the individual meets criteria and how or how not.

Who? The T/RBHA, contractor or provider makes the clinical decision about whether an individual meets criteria for Special Assistance. The first step is to determine if the individual meets the following criteria:

- 1) The individual has been determined to have a Serious Mental Illness, and
 - 2) The individual is unable to communicate preferences and/or participate effectively in ISP, ITDP, grievance and/or appeal processes; and
 - 3) The individual's inability is due to a specific condition: cognitive ability/intellectual capacity, language barriers that an interpreter/translator cannot address, and/or medical condition (including severe psychiatric symptoms).
- Individuals who have been deemed incapacitated pursuant to a guardianship (not including limited guardianship) automatically meet criteria for Special Assistance.
 - Proper application of the criteria will generally **not result** in identifying individuals who 1) need things explained in more basic terms, 2) are able but not willing to participate, 3) can speak and advocate for themselves but present with interpersonal issues that make working with them challenging, 4) simply need

more regular and effective engagement from the team or 5) have special needs (see page 3).

- The criteria do not include whether someone is currently assisting the individual or if the individual would benefit from or has requested the assistance of an OHR advocate.

How? If the above criteria are met, the second step is to complete and submit the AHCCCS 320R attachment F (Notification of a member in need of Special Assistance) within five (5) days to notify OHR* – including any information on whether someone is currently involved assisting the individual on a regular basis – such as a guardian, family member, or friend.

OHR reviews the form to ensure that it states the basis for meeting criteria, contacts the provider for clarification when needed, and then designates a person – a guardian, family member, friend or OHR - to provide assistance to the individual determined in need of Special Assistance in the following areas:

- 1) the development and implementation of their Individual Service Plan (ISP),
- 2) the development and implementation of their Inpatient Treatment Discharge Plan (ITDP) when inpatient at a psychiatric facility,
- 3) the appeal and/or grievance/investigation processes, when warranted.

*Unless the individual is already identified as Special Assistance.

Responsibilities of the T/RBHA, Contractor, Provider, Clinical Team

- Reply promptly to Office of Human Rights (OHR) requests for additional information regarding the notification of need for Special Assistance. OHR cannot process the form without all the necessary information.
- Once processed, maintain the Notification of Need for Special Assistance form (all pages) in a prominent place in the individual's comprehensive clinical record and document the individual as Special Assistance on the ISP. If the provider cannot locate the form, contact the designated OHR T/RBHA or contractor contact to obtain a copy.
- Inform the individual in need of Special Assistance and explain the benefits of having another person involved to provide Special Assistance.
- Ensure open communication is maintained with the person providing Special Assistance (guardian, family member, friend or OHR advocate).
- Contact the person providing Special Assistance to involve them as required:
 - In ISP planning and review (includes anytime the person is making decisions about service options or proposed changes)
 - When a person goes to an inpatient psychiatric setting and for ITDP planning
 - In a pending investigation, grievance or appeal (or when conditions exist that may support filing a grievance or appeal, such as a possible rights violation or failure to implement the ISP or ITDP, denial of or change to a service, etc.).
- For individuals already identified as in need of Special Assistance whose guardian, family member, or friend is providing Special Assistance, periodically review whether the assigned person is meeting the Special Assistance needs, and if not, promptly address it (either with the person or with OHR).

Responsibilities of the Designated Person Providing Special Assistance

- Maintain regular contact with the individual to discuss their needs and effectiveness of services received. When OHR is designated to provide assistance, the assigned OHR advocate communicates with the individual on a regular basis and works with the clinical team to ensure services are provided and the individual's rights are protected.
- Attend team meetings with the individual in need of Special Assistance, when the meeting involves decisions about service options or proposed changes.
- Attend discharge planning meetings to help develop the ITDP when the individual in need of Special Assistance is in an inpatient psychiatric setting.
- While the clinical team is primarily responsible for communication, maintain regular contact with the clinical team, especially the individual's case manager.
- Be familiar with A.A.C. R9-21-101 *et seq.* and the grievance/investigation and appeals processes to know 1) what rights the individual has and 2) how to enforce these rights.
- For guardians, family members or friends, contact OHR for information or assistance with advocacy when needed.

Responsibilities of the Office of Human Rights

- Maintain a database on Special Assistance.
- Review grievances and appeals filed by individuals in need of Special Assistance and provide assistance in resolving them, when needed and appropriate.
- Prepare reports on Special Assistance as follows:
 - Monthly reports for the Human Rights Committee for each region
 - Quarterly reports for each T/RBHA and contractor for data reconciliation.
- Provide advocacy as needed to assigned Special Assistance clients (see previous section).
- If an individual's guardian, family member or friend is providing Special Assistance, share information with them about OHR advocacy and provide technical or direct assistance, when needed and appropriate.

Other Requirements

- Special needs are different from Special Assistance - special needs involve a person not speaking English, not knowing how to read/write, being deaf, hard of hearing, blind, or having a physical disability. The T/RBHA, contractors or provider must accommodate special needs – **no notification to OHR is required.**
- The Human Rights Committee (HRC) for the region is responsible for making regular visits to the residential settings of Special Assistance individuals to ensure that their needs are being met and to determine their satisfaction with the care. HRC members do not need an Authorization for Release of Information (ROI) in order to visit individuals in need of Special Assistance, but they generally need a ROI to view records or obtain any information about the individual.
- The individual, a guardian or a designated representative can appeal the determination that an individual needs (or does not need) Special Assistance through the SMI appeal process.

- The T/RBHA Administration maintains data on individuals in need of Special Assistance to support the T/RBHA, contractor and providers in meeting their responsibilities.

Please visit the OHR webpage for other

resources: <https://www.azahcccs.gov/AHCCCS/HealthcareAdvocacy>.