317 – CHANGE IN CONTRACTOR ORGANIZATIONAL STRUCTURE

EFFECTIVE DATE: 06/01/14, 06/01/15, 10/01/15, 07/01/16

REVISION DATE: 05/07/15, 10/27/15, 04/28/16

STAFF RESPONSIBLE FOR POLICY: DHCM OPERATIONS AND DHCM FINANCE

I. PURPOSE

This Policy applies to the Acute Care, ALTCS/EPD, CRS, DCS/CMDP (CMDP), DES/DDD (DDD), and RBHA Contractors. This Policy establishes the procedure for approval of Contractor changes in Organizational Structure as defined below, including changes in a Management Service Agreement (MSA) subcontractor.

II. DEFINITIONS

ACQUISITION

One company acquires all of another target company's assets, capital, or stock.

ADMINISTRATIVE SERVICES SUBCONTRACTS

An agreement that delegates any of the requirements of the contract with AHCCCS, including, but not limited to the following:

1. Claims processing, including pharmacy claims,
2. Credentialing, including those for only primary source verification (i.e. Credential Verification Organization).
3. Management Service Agreements;
4. Service Level Agreements with any Division or Subsidiary of a corporate parent owner;
5. DDD acute care subcontractors;

Providers are not Administrative Services Subcontractors.

ARTICLES OF INCORPORATION

The basic legal instrument required to be filed with the state upon incorporation of a business (sometimes also referred to as the Certificate of Incorporation or the Corporate Charter).

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Any of the following:

- Acquisition
- Change in Articles of Incorporation,
- Change in Ownership,
- Change of MSA Subcontractor (to the extent management of all or substantially all plan functions has been delegated to meet AHCCCS contractual requirements).
- Joint Venture,
- Merger,
- Reorganization,
- State Agency reorganization resulting from an act of the Governor of the State of Arizona or the Arizona State Legislature,
- Other applicable changes which may cause:
  - A change in the Employer Identification Number/Tax Identification Number (EIN/TIN),
  - Changes in critical member information, including the website, member or provider handbook and member ID card, or
  - A change in legal entity name.

CHANGE IN OWNERSHIP

Any change in the possession of equity in the capital, stock, profits, or voting rights with respect to a business such that there is a change in the persons or entities having the controlling interest of an organization, such as changes that result from a merger or acquisition, or, with respect to non-stock corporations (e.g., non-profit corporations), a change in the members or sponsors of the corporation or in the voting rights of the members or sponsors of the corporation.

JOINT VENTURE

A business arrangement in which two or more parties agree to pool their resources for the purpose of accomplishing a specific task. This task can be a new project or any other business activity. In a joint venture, each of the participants is responsible for profits, losses and costs associated with it. However, the venture is its own entity, separate and apart from the participants' other business.

MANAGEMENT SERVICE AGREEMENT (MSA)

A type of subcontract with an entity in which the owner of the Contractor delegates all or substantially all management and administrative services necessary for the operation of the Contractor.

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MERGER Two companies join together to form a single entity, using both companies' assets or stock, or, for non-stock corporations (e.g., non-profit corporations), the conversion of memberships, sponsors or their voting rights. Both companies cease to exist separately and new stock is issued for the resulting organization or, for non-stock corporations (e.g., non-profit corporations), memberships or sponsors are combined or their voting rights are transferred to the new corporation.

PERFORMANCE BOND A cash deposit with the State Treasurer or a financial instrument secured by the Contractor in an amount designated by AHCCCS to guarantee payment of Contractor claims.

REORGANIZATION An arrangement where a company attempts to restructure its business to ensure it can continue operations. A company restructuring may work with its creditors to restate its assets and liabilities which may be an attempt to avoid a bankruptcy.

III. POLICY

A. CHANGE IN CONTRACTOR ORGANIZATIONAL STRUCTURE

A change in Contractor Organizational Structure shall require notification and prior approval of AHCCCS. When submitting for prior approval or upon State Agency reorganization, AHCCCS will review documentation to ensure the following:

1. Uninterrupted services and ongoing adequate access to care and choice for members;
2. The new entity's ability to maintain and support the contract requirements including the commitments in the proposal submitted to AHCCCS during the procurement process;
3. Major functions of the Contractor's organization, as well as AHCCCS programs, are not adversely affected; and
4. The integrity of a fair, competitive AHCCCS procurement process for managed care contracts, which is one of the core founding principles of the AHCCCS program.

AHCCCS reserves the right to obtain stakeholder input on the proposed ownership change through a public notice and feedback process. In addition, AHCCCS reserves the right to temporarily suspend a Contractor's new member enrollment including, but not limited to, auto-assignment pending AHCCCS review and final determination regarding a Contractor's Change in Organizational Structure. The Contractor shall submit a written notification to AHCCCS of any proposed merger, acquisition, reorganization or change

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in ownership 180 days prior to the effective date as specified in Contract, Section F, Attachment F3, Contractor Chart of Deliverables and RBHA Contract, Exhibit-9, Deliverables. This notification shall include:

1. A detailed description of the type of change or new corporate structure and the purpose thereof; and

2. A detailed transition plan as outlined below.

B. TRANSITION PLAN

The transition plan shall be submitted 180 days prior to the effective date, as specified in Contract, Section F, Attachment F3, Contractor Chart of Deliverables and RBHA Contract, Exhibit-9, Deliverables. Items for which information is not yet available for submission, or is still considered draft, shall be noted and must be submitted or resubmitted no later than 90 days prior to the effective date, as specified in Contract, Section F, Attachment F3, Contractor Chart of Deliverables and RBHA Contract, Exhibit-9, Deliverables.

All transition plan documents are to be submitted electronically via the secured File Transfer Protocol (FTP) server to the designated DHCM Operations Compliance Officer.

The Contractor must submit the following as part of the transition plan, as applicable:

1. A letter of explanation which includes the following information:
   a. The type of entity if a new entity will be formed and/or any changes to existing entity,
   b. Any material change to operations as specified in ACOM Policy 439 and Contract, and
   c. In the case of a State Agency, any state or federal legislation, rule or action that necessitates a change in Organizational Structure.

2. Proof that any performance bond requirements have been met by the new entity, if the original entity is no longer a going-concern. The Performance Bond shall be in a form acceptable to AHCCCS. See ACOM Policy 305. (This may be submitted at the 90 day timeframe noted above).

3. Documents including the following:
   a. The formal name and any proposed logo used by the resulting organization,
   b. The organizational chart of the new resulting organization or proposed changes to the existing organizational chart if a new entity is not being formed,
   c. Current audited financial statements of current Contractor and merging entity, and
   d. Pro-forma financial statements of entity resulting from the change in-organizational structure which shall include at a minimum a balance sheet, statement of revenues and expenses and statement of cash flows for the

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subsequent three years as well as enrollment projections and footnotes detailing assumptions. The format can be the same as the audit format; however the AHCCCS lines of business should be detailed separately just as is required in the annual audit report.

4. A description of the following:
   a. An assessment of any potential interruption of services to members, and steps the Contractor is taking to ensure there are no interruptions,
   b. Any changes to the management and staffing of the organization currently overseeing services provided under the contract,
   c. Any changes to existing Administrative Services Subcontracts,
   d. Any changes to the administration of critical components of the organizations, including but not limited to information systems, prior authorization, claims processing or grievances,
   e. The Contractor's plan for communicating the change to members, including a draft notification to be distributed to affected members and providers,
   f. The Contractor's plan for changes to critical member information, including the website, member and provider handbook and member ID card,
   g. Any anticipated changes to the network, and
   h. In the case of a State Agency, any changes in federal or state funding that directly impact the AHCCCS line of business.

5. Upon AHCCCS approval of the Transition Plan, the following documents must be submitted within 120 days of the change, as specified in Contract, Section F, Attachment F3, Contractor Chart of Deliverables and RBHA Contract, Exhibit-9, Deliverables:
   a. The articles of incorporation, if applicable, including copies of all affiliation agreements. An affiliate refers to an entity that directly or indirectly controls, is controlled by, or is under common control with another entity; also, a party with which the entity may deal if one party has the ability to exercise significant influence over the other's operating and financial policies. The affiliation agreement (also referred to as a member agreement) defines and governs the affiliate relationship.
   b. Any proposed change to the Employer Identification Number/Tax Identification Number (EIN/TIN).
      (NOTE: change in the EIN/TIN will automatically trigger a change in the AHCCCS health plan identification number).

6. Any additional information requested by AHCCCS

C. ADDITIONAL SUBMISSION REQUIREMENTS

1. The Contractor shall submit the following to the appropriate AHCCCS division no later than 45 days prior to the effective date of the change in organizational structure and commencement of operations under the new structure, as specified in Contract,

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Section F, Attachment F3, Contractor Chart of Deliverables and RBHA Contract, Exhibit-9, Deliverables:

a. Automatic Clearing House (ACH) Vendor Authorization Form. The ACH form is to be submitted as directed on the form in order for the Contractor to begin receiving reimbursement.
b. Information regarding Disclosure of Ownership and Control and Disclosure of Information on Persons Convicted of a Crime in accordance with the 42 CFR 101 through 106, the Corporate Compliance Contractual Provisions and ACOM Policy 103. The information is to be submitted via secured FTP server to the Office of Inspector General (OIG).

2. For a change of MSA Subcontractor, the Contractor is also required to follow the process for the review and approval of the new subcontract as outlined in ACOM Policy 438.

AHCCCS reserves the right to request additional items deemed necessary to complete the evaluation.

D. AHCCCS Disposition of Request

AHCCCS will review and respond to the Contractor within 30 days of the Notification and submission of the Transition Plan. Incomplete submissions may require additional information before the request is approved. Upon completion of the review, AHCCCS may:

1. Approve the proposal
   a. Without conditions, or
   b. With conditions which may include but are not limited to:
      i. Allowing an open enrollment for plan membership,
      ii. More rigorous oversight for a specified period of time,
      iii. A cap on enrollment.

2. Deny the proposal

   If AHCCCS denies the proposal, and if the Contractor moves forward, AHCCCS may terminate some or all of the Geographic Service Areas that are part of the contract.

IV. REFERENCES

- Acute Care Contract, Section D
- ALTCS/EPD Contract, Section D
- CRS Contract, Section D
- DCS/CMDP Contract, Section D
- DES/DDD Contract, Section D

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- Contract, Section F, Attachment F3, Contractor Chart of Deliverables
- RBHA Contract, Scope of Work
- RBHA Contract, Exhibit-9, Deliverables
- ACOM Policy 103
- ACOM Policy 305
- ACOM Policy 439
- ACOM Policy 438
- 42 CFR 455.101 through 106
- Automatic Clearing House (ACH) Vendor Authorization Form

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