

**442 – MEMBER WITH A SERIOUS MENTAL ILLNESS REQUEST TO OPT OUT FROM A REGIONAL BEHAVIORAL HEALTH AUTHORITY TO AN AHCCCS COMPLETE CARE CONTRACTOR**

EFFECTIVE DATES: 07/01/16, 04/01/17, 10/01/18

REVISION DATES: 02/02/17, 03/15/18

**I. PURPOSE**

This Policy applies to RBHA Contractors. This Policy defines the criteria, process and timeframes that apply when a member designated with a Serious Mental Illness (SMI) requests to transfer his or her physical health services from the assigned Regional Behavioral Health Authority (RBHA) Contractor to an AHCCCS Complete Care (ACC) Contractor.

**II. DEFINITIONS**

<b>AHCCCS COMPLETE CARE CONTRACTOR</b>	A contracted Managed Care Organization (also known as a health plan) that, except in limited circumstances, is responsible for the provision of both physical and behavioral health services to eligible Title XIX/XXI persons enrolled by the administration.
<b>COURSE OF CARE</b>	A period of time determined by a healthcare professional for the completion of treatment.
<b>REGIONAL BEHAVIORAL HEALTH AUTHORITY (RBHA)</b>	A contracted Managed Care Organization (also known as a health plan) responsible for the provision of comprehensive behavioral health services to all eligible individuals assigned by the administration and provision of comprehensive physical health services to eligible individuals with a Serious Mental Illness enrolled by the Administration.
<b>SERIOUS MENTAL ILLNESS (SMI)</b>	A designation as defined in A.R.S. § 36-550 and determined in an individual 18 years of age or older.

**III. POLICY**

The RBHA Contractor shall ensure the provision of physical health services for all enrolled members who are determined SMI and shall work collaboratively to address and resolve member concerns. A member determined SMI (hereafter “member”), who is currently enrolled with the RBHA Contractor, may opt out of receiving physical health services from the RBHA Contractor and be transferred to an ACC Contractor for his/her physical health

services if one or more of the applicable opt out criteria are satisfied. Members who meet the opt out criteria will continue to receive behavioral health services through the RBHA Contractor.

#### **A. OPT OUT CRITERIA**

A member may receive his/her physical health services from an ACC Contractor rather than the RBHA Contractor under the following conditions only:

1. The transfer is necessary due to the RBHA Contractor's network limitations and restrictions. This occurs where a member does not have a choice for a Primary Care Physician (PCP) from at least two in-network PCPs, and have access to at least one specialty provider for each specialty area, to meet his/her medical needs,
2. The transfer is necessary to continue or to fulfill a current physician's or provider's Course of Care recommendation, and/or,
3. The member has demonstrable evidence which establishes that due to the enrollment and affiliation with the RBHA Contractor, actual harm or the potential for discriminatory or disparate treatment exists with regard to:
  - a. Access to, continuity, or availability of acute care covered services,
  - b. Exercising member choice,
  - c. Privacy rights,
  - d. Quality of services provided, and
  - e. Member rights under A. A. C. R9-21-201.

With respect to 3(b), a member, or his/her designee, shall demonstrate that discriminatory or disparate treatment has occurred or shall establish the plausible potential of such treatment. It is insufficient for a member to establish actual harm or the potential for discriminatory or disparate treatment solely on the basis that he/she is enrolled in the RBHA Contractor.

#### **B. PROCEDURES**

1. The RBHA Contractor shall develop and maintain a process allowing members to request to transfer their physical health services to an ACC Contractor in accordance with the opt out criteria and requirements herein.
2. The process shall be initiated when the member, the member's legal representative, or a medical provider with the member's consent, contacts the RBHA Contractor's Member Services department verbally or in writing to request a change in the member's health plan for physical health services. If the member's concern cannot be resolved to his/her satisfaction, the process shall be facilitated through a centralized administrative functional area, such as Grievances and Appeals, and coordinated to include individuals who have the knowledge necessary to resolve the concern.

3. Upon receipt of a member's request to transfer to an ACC Contractor, the RBHA Contractor shall explore all options and act to promptly resolve the member's concerns regarding:
  - a. The availability and accessibility of services,
  - b. The course of medical care or delivery issues, and/or
  - c. Any policy or practice that results in the actual or perceived discriminatory or disparate treatment of the member as a result of his/her enrollment with the RBHA Contractor.
  
4. All requested plan changes shall be processed as follows:
  - a. The RBHA Contractor shall enter all required information into the SMI Member Request to Transfer Form (Opt Out) located on the AHCCCS SMI Web Portal. This form shall be submitted for each member requesting to transfer to an ACC Contractor for physical health services and shall include the elements below:
    - i. Confirm and document that the member is designated as SMI and enrolled in the RBHA Contractor,
    - ii. The member's request to opt-out (whether submitted in writing or taken verbally from the member),
    - iii. If received verbally, write the basis of the member's opt out request,
    - iv. All documentation provided by the member related to his/her request,
    - v. Attach any documentation provided by the member, including evidence establishing actual or potential harm,
    - vi. Any relevant documentation obtained by the RBHA Contractor in response to the request (e.g. information regarding availability of services, treatment records, etc.),
    - vii. Any additional findings or information obtained by the RBHA Contractor,
    - viii. Review completed opt out request packets, including all information received from the member or his/her designee, as described above, and
    - ix. Ensure that a decision to deny the request, or a recommendation to approve the request, is made by the RBHA Contractor's Medical Director or designee.
  - b. In the event the RBHA Contractor denies a member's opt out request:
    - i. The RBHA Contractor shall submit the completed decision packet to the AHCCCS SMI Web Portal and issue written notice to the member within 10 calendar days from the date of receipt of the member's request. A complete decision packet shall include, at a minimum:
      - 1) The member's request to opt-out (whether submitted in writing or taken verbally from the member),
      - 2) All documentation provided by the member related to his/her request,
      - 3) Any relevant documentation obtained by the RBHA Contractor in response to the request (e.g. information regarding availability of services, treatment records, etc.), and
      - 4) Any additional findings or information obtained by the RBHA Contractor.
    - ii. The denial notice issued by the RBHA Contractor shall list the information submitted by the member with his/her request to opt out, include the specific reasons for denial and advise the member of his/her right to appeal. This

- notice shall also include instructions to the member detailing how to file the appeal with the RBHA Contractor,
- iii. In the event a member appeals a denial of his/her request to opt out, the RBHA Contractor shall, within five business days of receipt of such appeal, provide the following documentation to AHCCCS:
    - 1) The member's name, AHCCCS ID number, current address and telephone number (if applicable),
    - 2) The member's initial opt out request,
    - 3) The member's written appeal, and
    - 4) The decision of the RBHA Contractor denying such request.
  - iv. When a member files an appeal of the denial of an opt out request, the RBHA Contractor shall appear at the administrative hearing prepared to defend its denial of the request. This includes legal representation at the administrative hearing and any subsequent proceedings.
- c. In the event the RBHA Contractor recommends that a member's request to opt out be approved:
- i. The RBHA Contractor shall submit to the AHCCCS SMI Web Portal the completed packet, together with all supporting documentation of the approval, to AHCCCS within seven calendar days from the date of receipt of the member's request,
  - ii. AHCCCS will issue a decision to approve or deny the request in writing within three calendar days from the date of receipt of the completed packet from the RBHA Contractor,
  - iii. For such requests that are denied by AHCCCS, AHCCCS will issue a notice to the member that includes the reasons for the denial and the member's right to appeal, and
  - iv. In the event the member files an appeal and requests a hearing, AHCCCS shall defend its decision to deny the request, which includes legal representation at the administrative hearing and any subsequent proceedings. The RBHA Contractor shall provide AHCCCS with all requested information within a timeframe identified by AHCCCS. The RBHA Contractor shall also allow its employee(s) to appear and testify at such hearing.
- d. For any transfer of a member enrolled with a RBHA Contractor to an ACC Contractor for physical health services, the RBHA Contractor shall:
- i. Collaborate with the ACC Contractor to ensure appropriate transition and continuity of care, and
  - ii. Maintain a record of all approved and denied requests to transfer to an ACC Contractor.
5. Requests for an Administrative Hearing:
- a. A member, or his/her designee, who is dissatisfied with the decision to transfer physical health services to an ACC Contractor may request a hearing to dispute the decision,
  - b. For RBHA Contractor denials of an opt out request, the member's request for hearing shall be in writing and received by the RBHA Contractor no later than 30 calendar days from the date the member receives the decision,

- c. For AHCCCS denials of an opt out request, the member's request for hearing shall be in writing and received by AHCCCS no later than 30 calendar days from the date the member receives the decision,
- d. The member may request that the hearing be expedited. The hearing shall be expedited if it is determined from the supporting documentation provided, or a provider asserts, that taking the time for a standard resolution could seriously jeopardize the member's life, health or ability to attain, maintain or regain maximum function,
- e. Upon receipt of a timely request for hearing, the AHCCCS Office of Administrative Legal Services (OALS) will schedule a hearing and issue a Notice of Hearing,
- f. The AHCCCS Director or designee will issue a final agency decision no later than 30 days from the date of the Administrative Law Judge's recommended decision,
- g. For requests for a hearing addressed pursuant to an expedited resolution timeframe, the Director or designee's decision will be issued no later than three business days after receipt of the Administrative Law Judge's recommended decision, and
- h. The RBHA Contractor shall fully cooperate with implementation of the Director or designee's decision, and ensure that coordination and continuity of care for the member is maintained throughout the process.