

## 960 - QUALITY OF CARE CONCERNS

EFFECTIVE DATES: 10/01/94, 07/01/16, 09/20/17, 10/01/20, 10/01/21, 10/01/22, 01/01/23, 10/01/24, 10/01/25

APPROVAL DATES: 10/01/97, 10/01/01, 08/13/03, 04/01/05, 06/01/05, 02/01/07, 10/01/08, 10/01/09, 02/01/11, 04/01/12, 10/01/13, 10/01/15, 07/01/16, 07/20/17, 08/20/20, 04/29/21, 04/14/22, 10/06/22, 07/17/24, 05/23/25

### I. PURPOSE

This Policy applies to ACC, ACC-RBHA, ALTCS E/PD, DCS CHP (CHP), and DES DDD (DDD) Contractors. This Policy establishes standards and requirements for reporting, tracking, and trending of member and provider concerns, as well as reviewing, evaluating, and resolving Quality of Care (QOC) concerns and service concerns. For Fee-For-Service (FFS) QOC requirements refer to AMPM Policy 830.

### II. DEFINITIONS

Refer to the [AHCCCS Contract and Policy Dictionary](#) for common terms found in this Policy

For purposes of this Policy, the following terms are defined as:

#### ADVERSE ACTION

Any type of restriction placed on a provider's practice by the Contractor including but not limited to:

1. Contract termination.
2. Suspension.
3. Limitation.
4. Continuing education requirement.
5. Monitoring.
6. Supervision.

#### SEVERITY LEVELS

The severity levels are defined as follows:

Level 0: (Track and Trend Only) - No Quality issue Finding.

Level 1: Quality issue exists with minimal potential for significant adverse effects to the patient/recipient.

Level 2: Quality issue exists with significant potential for adverse effects to the patient/recipient if not resolved timely.

Level 3: Quality issue exists with significant adverse effects on the patient/recipient; is dangerous and/or life-threatening.

Level 4: Quality issues exist with the most severe adverse effects on the patient/recipient; no longer impacts the patient/recipient with the potential to cause harm to others.

**WELLNESS CHECK**

An unannounced and unscheduled in-person visit, phone call and/or video conference with a member should the concern not rise to the level of health and safety and/or immediate jeopardy situation. This engagement includes an assessment of the member's wellbeing and safety.

**III. POLICY**

The Contractor shall develop and implement policies and procedures to review, report, evaluate, and resolve Quality of Care (QOC) concerns, and service concerns raised by the member/Health Care Decision Maker (HCDM)/ Designated Representative (DR), contracted providers, and stakeholders. Concerns may be received from anywhere within the organization or externally from anywhere in the community including provider Incident, Accident, and Death (IAD) reports entered directly into the AHCCCS Quality Management (QM) Portal as specified in AMPM Policy 961. The Contractor shall provide methods (e.g., email address, phone number, mail) in which the Contractor's QM QOC team are able to receive concerns directly from the community, member/HCDM/DR. All concerns shall be addressed regardless of source (external or internal). All QOC concerns involving both physical and behavioral health providers or services shall be addressed in the same manner. The Contractor shall ensure the QOC, and resolution process is member-centric and prioritizes the member experience and member outcomes. Additionally, the Contractor shall evaluate if there are systemic concerns to be addressed as part of a QOC.

**A. DOCUMENTATION OF QUALITY OF CARE AND SERVICE CONCERNS**

As a part of the Contractor's process for reviewing and evaluating member and provider concerns, the Contractor shall establish written policies and procedures regarding the receipt, initial and ongoing processing of these matters that address the following:

1. Documenting each concern raised, and when and from whom it was received and the projected timeframe for resolution.
2. Promptly determining as to whether the concern is to be resolved through the Contractor's established:
  - a. Quality Management (QM) process,
  - b. Grievance and appeals process,
  - c. Both the Grievance and QM process (e.g., member rights violation that also includes a QOC concern; both processes can occur concurrently),
  - d. Process for making initial determinations on coverage and payment issues, or
  - e. Process for resolving disputed initial determinations.
3. Acknowledging receipt of the concern and providing explanation to the member/HCDM/DR or provider of the process that will be followed to resolve the reported concern through written correspondence within one business day of receipt of the concern.
4. For concerns that are submitted to the Contractor's QM QOC team, but are determined to not be a QOC concern, the Contractor shall inform the submitter of the process to be used to resolve the concern. The Contractor shall clearly document the rationale for the determination and the appropriate process that will be followed to address the concern.

5. All reported incidents, whether they result in a QOC investigation or not, are to be entered into the AHCCCS QM Portal.
6. Assisting the member/HCDM/DR or provider as needed to complete forms or take other necessary actions to obtain resolution of the concern.
7. Ensuring confidentiality of all member information including QOC investigative processes as specified in ARS 36-2917 and 42 CFR 431.300 et seq.
8. Informing the member/HCDM/DR or provider of all applicable mechanisms for resolving the concern external to the Contractor processes.
9. Documenting all processes (including detailed steps used during the investigation and resolution stages) implemented to ensure complete resolution of each complaint, grievance, or appeal, including but not limited to:
  - a. Corrective Action Plan(s) (CAP)(s) or action(s) taken to resolve and address the concern and/or prevent any other potential concerns,
  - b. Documentation that education/training was completed. This shall include, but is not limited to:
    - i. In-service attendance sheets, and
    - ii. Training objectives.
  - c. New policies and/or procedures, and
  - d. Follow-up with the member/HCDM/DR that includes, but is not limited to:
    - i. Assistance as needed to ensure that the members' immediate health care needs are met,
    - ii. A closure/resolution letter that provides sufficient detail to ensure all covered, medically necessary care needs are met and that includes a contact name and telephone number for the member/HCDM/DR to call for assistance or to express any unresolved concerns, and
    - iii. Referral by the Contractor to the Contractor's compliance department and/or AHCCCS Office of the Inspector General (OIG).
10. The QOC concerns that meet the reporting requirements specified in AMPM Policy 961 and that are received outside of the AHCCCS QM Portal shall be entered into the AHCCCS QM Portal as an Internal Referral within one business day if the event is considered sentinel and within two business days for all other reportable incidents. Refer to AMPM Policy 961 for additional information on sentinel and reportable incidents.

Refer to 9 AAC 34, ACOM Policy 444, ACOM Policy 446 and Contract for information regarding requirements for the grievance and appeal system for member/HCDM/DR and providers.

**B. PROCESS OF EVALUATION AND RESOLUTION OF QUALITY OF CARE AND SERVICE CONCERNS**

The QOC concern investigation and documentation process shall be completed within the AHCCCS QM Portal and shall include a summary of all applicable research, evaluation, intervention, and resolution details for each case. The Contractor shall refer to the QOC Quick Start Guide for additional information on utilization of the AHCCCS QM Portal for QOC Documentation at: [https://qmportal.azahcccs.gov/UserGuides/QuickStart\\_QOC\\_Report.pdf](https://qmportal.azahcccs.gov/UserGuides/QuickStart_QOC_Report.pdf). Resolution shall include both member/HCDM/DR and system interventions when appropriate.

The QOC and onsite investigation process shall be a stand-alone process completed through the Contractor's QM QOC department. The process shall not be combined with other agency meetings or processes. Work units outside of QM QOC Team do not have the authority to conduct QOC investigations but may provide subject matter expertise throughout the investigative process when appropriate. The Contractor can incorporate collateral information obtained from other departments and/or agencies outside of the Contractor's QM QOC team in the resolution process. However, collateral information obtained from other departments and/or agencies shall not be used as a substitute or as the sole justification to not move forward with the QOC investigative process.

1. The Contractor shall develop and implement policies and procedures that include, at minimum:
  - a. Identification of QOC concerns, initial assessment of the severity of each QOC concern,
  - b. Prioritization of action(s) needed to resolve a member's immediate care needs when appropriate,
  - c. Review of trend reports to determine possible trends related to members, providers, including organizational providers, involved in the allegation(s) considering type(s) and frequency of allegation(s), severity, and substantiation, etc.,
  - d. Research, including, but not limited to:
    - i. A review of the log of events,
    - ii. Documentation of conversations,
    - iii. Medical records review, and
    - iv. Mortality review, etc., including policies and procedures to receive and refer mortality cases to and from the Contractor's Mortality Review Committee. Refer to AMPPM Policy 910 for information on the Mortality Review Committee.
  - e. Quantitative and qualitative analysis of the research, which shall include root cause analysis,
  - f. Direct interviews of the member, HCDM, DR, family members, direct care staff, and other witness(es) to a reportable event, when applicable and appropriate,
  - g. The member interviews will include children and their HCDM/DR as applicable and appropriate, and
  - h. Review of all available and pertinent information including audio and visual recordings as applicable and appropriate.

2. The Contractor shall ensure that the Contractor's QM clinical staff are trained on QOC investigations prior to performing QOC investigations. All staff that perform onsite investigations shall complete training on how to conduct the investigation and avoid interference with substantiation and/or prosecution. All staff that may investigate alleged incidents in Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs), skilled Nursing Facilities (NF), Assisted Living Facilities (ALF), and group homes IIDs shall complete training on how to conduct investigations considering the specific special needs of individuals with intellectual and developmental disabilities regardless of the member's enrolled health plan. Attachment D provides guidance regarding the content requirements for this training for investigations involving individuals with intellectual and developmental disabilities.
3. The onsite visits shall be conducted by the Contractor's QM clinical staff when there are identified health and safety concerns, immediate jeopardy situation, or at the direction of AHCCCS. All onsite visits pertaining to the aforementioned onsite types shall be completed via an unannounced and unscheduled visit. Onsite visits that are identified and conducted by the Contractor after 5:00 pm on weekdays, during weekends, or on holidays shall be reported to the AHCCCS QM Manager or Supervisor by phone and followed up with an email to CQM@azahcccs.gov the following business day. The Subject Matter Experts (SMEs) outside the Contractor's QM Unit may participate in the onsite visit but shall not take the place of Contractor QM clinical staff during reviews. The SMEs may arrive onsite first if they are closer to the site; however, a clinical QM staff member shall be the lead for the review/investigation and shall participate in the onsite visits.

For Health and Safety visits initiated by the Contractor, the Contractor shall notify AHCCCS QM of the pending onsite visit via communication to the Contractors' assigned AHCCCS QM Coordinator, and the QM Manager and QM Supervisor via the CQM inbox CQM@azahcccs.gov.

4. AHCCCS may request that the Contractor complete an unannounced and unscheduled wellness check on a member should the concern not rise to the level of a health and safety concern and/or immediate jeopardy situation. The Contractor shall submit an update to AHCCCS via an email to CQM@azahcccs.gov and the assigned AHCCCS QM Coordinator no later than 24 hours after the completion of the visit. The update shall include the member's disposition, status, including information regarding the member's physical and mental status, safety concerns, and any other action items taken. AHCCCS reserves the right to request that the Contractor complete an in-person wellness check. Wellness checks are to be completed by the Contractor's QM QOC team and shall not be delegated. Should the Contractor note any QOC concerns at the conclusion of the wellness check, the Contractor shall initiate a systemic and/or individual QOC investigation as applicable. The Contractor shall elevate the concern to a Health and Safety concern and/or Immediate Jeopardy situation should a Health and Safety concern and/or Immediate Jeopardy situation be noted.
5. The Contractor shall not delegate QOC investigation processes including onsite QOC visits. QOC investigations shall not be delegated or performed by the staff of the provider agency/facility where the identified health and safety concern, immediate jeopardy situation, or AHCCCS requested review has occurred.

6. The Contractor shall complete and submit Attachment C for each Health and Safety Onsite Review conducted to AHCCCS QM within 24 hours of completing the review as specified in the Contract. Based on findings, the Contractor shall:
  - a. Take immediate action to ensure the health and safety of all members receiving services at the facility or provider site,
  - b. Ensure incident resolution and identify any immediate care or recovery needs,
  - c. Develop work plans and corrective action plans to ensure placement setting or service site compliance with Arizona Department of Health Services (ADHS) Licensure and/or AHCCCS requirements, including, but not limited to policy, training and signage requirements aimed at preventing and reporting abuse, neglect and exploitation as specified in AHCCCS Minimum Subcontract Provisions (MSPs),
  - d. Conduct scheduled and unscheduled monitoring of placement setting or service sites that are in an immediate jeopardy status, have serious identified deficiencies that may affect health and safety of members, or as directed by AHCCCS,
  - e. Assist in the identification of technical assistance resources focused on achieving and sustaining regulatory compliance,
  - f. Determine, implement, and document all appropriate interventions including an action plan to reduce or eliminate the likelihood of the concern reoccurring,
  - g. Monitor and document success of interventions,
  - h. Monitor placement settings or service sites upon completion of the activities and interventions to ensure that compliance is sustained,
  - i. Incorporate interventions into the Contractor's QM Program Plan if successful, and
  - j. Implement new interventions and approaches when necessary.
7. The Contractor shall ensure that investigation and resolution of member and systemic concerns are processed timely based on the nature and severity of each case or as requested by AHCCCS:
  - a. For high profile cases, an initial report of immediate findings shall be communicated to AHCCCS QM immediately but no later than 24 hours of the Contractor becoming aware of the concern and shall be followed up with an initial findings report within seven business days (e.g., media alerts/immediate jeopardy/high profile). For member specific concerns, the initial findings report shall be uploaded to the attachment section of the QOC file within the AHCCCS QM Portal. For systemic concerns, the initial findings report shall be submitted via secure email, to the AHCCCS QM Manager, Supervisor and assigned QM Coordinator when applicable,
  - b. For urgent concerns, the Contractor shall schedule a due date and assign an investigator within the Status and Assignment section of the AHCCCS QM Portal for the resolution of the case within 30 calendar days from the date of opening (e.g., member safety or placement concerns are present),
  - c. For non-urgent concerns, the Contractor shall schedule a due date and assign an investigator within the Status and Assignment section of the AHCCCS QM Portal for the resolution of the case within 60 calendar days from the date of opening (e.g., member safety or placement is not a current concern),
  - d. The Contractor shall track concerns that have aged to greater than 60 calendar days and shall develop an action plan to address these cases,
  - e. Member and systemic investigations and resolutions may occur concurrently and independently from one another,

- f. For systemic QOC concerns identified by the Contractor, the Contractor shall notify AHCCCS QM immediately but no later than 24 hours of the Contractor becoming aware of the concern and opening of the systemic QOC. Notifications will be sent to the AHCCCS QM email address at CQM@azahcccs.gov. Further, the Contractor shall set a due date of 30 days, from the date the systemic QOC was identified, to complete and provide a resolution report to AHCCCS QM. The Contractor shall send the systemic resolution report to CQM@azahcccs.gov and include the assigned AHCCCS QM Coordinator, and
  - g. In addition to verifying if a provider is contracted within the Contractor's provider network, the Contractor shall include a review of all paid claims within the last calendar year to identify the need to participate in systemic investigations when notified of a provider concern; this includes single case agreements and providers using subcontracted providers.
- 8. The Contractor shall ensure that all requests for extensions of timelines associated with a QOC investigation shall be submitted to AHCCCS QM for approval as soon as possible but no later than two business days prior to the assigned due date and shall include, at minimum:
  - a. The member's current placement and condition,
  - b. The current status of the investigation, and
  - c. The barrier to completing the investigation within the assigned timeframe.
- 9. The Contractor shall not update the AHCCCS QM Portal due date until approval has been received from AHCCCS QM. In the event the Contractor requires more than one extension request to complete a QOC investigation, AHCCCS QM may require additional information or may request a meeting to review the case and discuss barriers affecting the investigative process.
- 10. The Contractor shall ensure the case is updated within the AHCCCS QM Portal to reflect changes during the investigation as additional details and allegations are discovered and added. The Contractor shall ensure that a final severity level is assigned to the case at the conclusion of the investigation. The Contractor shall refer to the QOC Quick Start Guide for additional information on documentation of allegations and leveling at:  
[https://qmportal.azahcccs.gov/UserGuides/QuickStart\\_QOC\\_Report.pdf](https://qmportal.azahcccs.gov/UserGuides/QuickStart_QOC_Report.pdf).
- 11. The Contractor shall submit to AHCCCS QM all pertinent information regarding an incident of abuse, neglect, exploitation, serious incident (including suicide attempts), and unexpected death (including all unexpected transplant deaths). as specified in Contract and AMPM Policy 961. Pertinent information shall not be limited to autopsy results and shall include a broad review of all issues and possible areas of concern. Delays in receipt of autopsy results shall not result in a delay in the Contractor's investigation of a QOC concern. Delayed autopsy results shall be used by the Contractor to confirm the Contractor's resolution of the QOC concern when available.



12. The Contractor shall ensure that concerns are reported to the appropriate regulatory agency including but not limited to the Department of Child Safety (DCS), Adult Protective Services (APS), ADHS, the Attorney General’s Office, law enforcement, AHCCCS OIG, and AHCCCS QM for further research, review, or action. The Contractor shall submit the report to the regulatory agency as soon as possible but no later than 24 hours of becoming aware of a concern. The report shall be submitted to the regulatory agency verbally and/or electronically (e.g., email or online), as appropriate.
13. The Contractor shall ensure that all referrals made to a regulatory agency are documented in the AHCCCS QM Portal and include, at minimum, the following information:
  - a. Name and title of the person submitting the report,
  - b. Name of the regulatory agency (e.g., APS, DCS.) the report was submitted to,
  - c. Name and title of the person at the regulatory agency receiving the report,
  - d. Date and time reported,
  - e. Summary of the report, and
  - f. Tracking number, as applicable, received from the regulatory agency as part of the reporting process.
14. The Contractor shall refer QOC concerns to the Contractor’s Peer Review Committee when appropriate. Appropriate referrals shall include but are not limited to all high-profile cases. Referral to the Contractor’s Peer Review Committee is not a substitute for implementing interventions aimed at individual and systemic quality improvement. Peer review referrals as well as high-level summary information shall be documented in the QOC file within the AHCCCS QM Portal and shall include a statement of the specific credentials of the involved committee member(s) who attend as subject matter experts. The Contractor shall refer to AMPM Policy 910 for peer review requirements and timeliness of reporting.
15. If an adverse action is taken with a provider for any reason including reasons related to a QOC concern (including but not limited to Health and Safety, Systemic QOC investigations and Immediate Jeopardy), the Contractor shall report the actions to AHCCCS QM via the deliverable, “Adverse Action to the Provider with rationale (Such as but not limited to Limitations, Suspensions, Terminations, and denials, including Credentialing/Recredentialing Denials)” as well as to the National Provider Data Bank (NPDB) as specified in Contract Section F, Attachment F3, Contractor Chart of Deliverables.

The Contractor shall ensure a thoughtful process around member impact and care transition when acting on adverse actions. This is particularly important if a provider is suspended or terminated. The Contractor shall allow adequate time to address identification of new providers, transition of members to those providers, impact to members (e.g., service plans, medications, etc.), and timely communication to members to prepare for the transition. While there may be instances where a member transition must occur quickly, the Contractor shall work with AHCCCS to ensure member needs are met without gaps in care, service delivery, or treatment disruption.

16. The Contractor shall ensure that concerns identified including quality of service concerns are referred to the appropriate provider compliance unit and the Contractor’s QM/Performance Improvement (QM/PI) Committee for ongoing follow-up (refer to AMPM Policy 910 for additional QM/PI requirements).



17. The Contractor shall document the closure of the investigation within the AHCCCS QM Portal by submitting a QOC Resolution report, as specified in Contract Section F, Attachment F3, Contractor Chart of Deliverables that includes but is not limited to the following:
  - a. A description of all concerns, including new allegations or concerns identified during the investigation/review process,
  - b. The substantiation and severity level for each allegation as well as the case overall. The substantiation and severity level shall be congruent with definitions found in the AHCCCS QM Portal,
  - c. A summary of the documents received from the inquiries/referrals made to outside agencies such as but not limited to accrediting bodies, Medical Examiner, DCS, APS, ADHS, the Attorney General's Office, law enforcement, AHCCCS OIG, and
  - d. Interventions imposed as part of the investigation (e.g., provider education, root cause analysis, ongoing monitoring).
18. The Investigations that warrant ongoing monitoring or follow-up with the provider shall be documented in the QOC file within the AHCCCS QM Portal. All follow-up actions or monitoring activities as well as related observations or findings shall be documented in the QOC file within the AHCCCS QM Portal.
19. The Investigations that identify an adverse outcome, including mortalities, due to prescribing concerns or failure of the provider to check the Controlled Substance Prescription Monitoring Program (CSPMP), to coordinate care with other prescribers, or to refer for substance use treatment or pain management, the Contractor shall notify AHCCCS QM specified in Contract and take appropriate action with the provider including suspension or corrective action plans and referrals to appropriate regulatory boards including the Pharmacy Board. The case findings shall be taken to the Contractor's Peer Review Committee for discussion and review.

#### **C. TRACKING AND TRENDING OF QOC AND SERVICE CONCERNS**

The Tracking and Trending of member and provider concerns is crucial to quality assurance and quality improvement.

1. The Contractor shall develop and implement a system to document, track, trend, and evaluate complaints and allegations received from member/HCDM/DR and providers or as directed by AHCCCS, inclusive of QOC concerns, quality of service, and immediate care need:
  - a. The data from the tracking and trending system shall be analyzed and evaluated to identify and address any trends related to members, providers, the QOC process or services in the Contractor's service delivery system or provider network. The Contractor is responsible for incorporating trending of QOC concerns in determining systemic interventions for quality improvement,
  - b. The Contractor shall ensure that tracking and trending information is submitted, reviewed, and considered for action by the Contractor's local QM Committee and local Medical Director, as Chairman of the QM Committee,
  - c. If significant negative trends are noted, such as a decrease or lack of provider reporting, the Contractor shall consider developing performance improvement activities focused on the topic area to improve the concern resolution process itself, and to make improvements that address other system issues raised during the resolution process, and

- d. The Contractor shall ensure that tracking and trending information related to provider education, training, and staff credentialing is shared with the workforce development operation as specified in ACOM Policy 407.
2. The Contractor shall ensure that member health records are available and accessible to authorized staff of its organization and to appropriate Federal and State authorities, or their delegates, involved in assessing QOC/service or investigating member or provider QOC concerns, complaints, allegations of abuse, neglect, exploitation, serious incidents, grievances, provider preventable conditions and Health Care Acquired Conditions (HCACs). The Contractor shall comply with member record availability and accessibility standards and shall be in compliance with Federal and State confidentiality laws, including, but not limited to, Health Insurance Portability and Accountability Act (HIPAA) and 42 CFR 431.300 et seq.
3. The Information related to coverage and payment issues shall be maintained for at least six years following final resolution of the issue and shall be made available to the member, HCDM, provider, and/or AHCCCS authorized staff upon request.

In addition to care coordination, as specified in its Contract with AHCCCS, the Contractor shall proactively provide care coordination for members who have multiple complaints regarding services or the AHCCCS Program. This includes, but is not limited to, members who do not meet the Contractor's criteria for case management as well as members who contact governmental entities, including AHCCCS, for assistance.

#### **D. REQUESTS FOR COPIES OF DEATH CERTIFICATES**

As part of the QOC investigation process, the Contractor may request copies of member death certificates by submitting a request to the ADHS Bureau of Vital Records as specified in AAC R9-19-314 B (13) and AAC R9-19-315(E).

#### **E. REPORTING TO INDEPENDENT OVERSIGHT COMMITTEES**

1. AHCCCS Independent Oversight Committee (IOC) reporting (behavioral health):
  - a. The Contractor shall provide IAD Reports, IRF reports, and QOC concerns including, but not limited to, reports of possible abuse, neglect or denial of rights involving any behavioral health provider serving members with a Serious Mental Illness (SMI) determination, children, and anyone under court order for either Court Ordered Evaluation (COE) or Court Ordered Treatment (COT), to the IOC assigned to the region in which the IAD/IRF/QOC occurred within three business days of closure,
  - b. All IADs and IRFs that are triaged as potential QOC concerns shall be incorporated into the QOC record and shall be submitted to the IOC as part of the QOC documentation upon completion of the QOC investigation vs. as a standalone IAD/IRF as specified in Contract Section F, Attachment F3, Contractor Chart of Deliverables, and
  - c. The Contractor shall ensure that all reports provided to the IOCs shall have all Personally Identifiable Information (PII) redacted in accordance with Federal and State confidentiality laws.

2. The Division of Development Disabilities (DDD) IOC reporting (DDD enrolled member involvement):
  - a. The Contractor shall provide IAD Reports, IRF reports, and QOC concerns including, but not limited to, reports of possible abuse, neglect or denial of rights involving any DDD enrolled member to the DDD IOCs assigned to the region in which the IAD/IRF/QOC occurred within three business days of closure,
  - b. All IADs and IRFs that are triaged as potential QOC concerns shall be incorporated into the QOC record and shall be submitted to the IOC as part of the QOC documentation upon completion of the QOC investigation vs as a standalone IAD/IRF within three business days of completion of the investigation, and
  - c. The Contractor shall ensure that all reports provided to the IOCs shall have all PII redacted in accordance with Federal and State confidentiality laws.
3. General Requirements:
  - a. The Contractor is required to provide to IOCs member information and records in accordance with ARS 41-3804. The following items shall be routinely provided to the IOC in redacted format:
    - i. Seclusion and Restraint (SAR) reports, refer to AMPM Policy 962,
    - ii. Incident, Accident, and Death (IAD) reports, refer to AMPM Policy 961,
    - iii. Internal Referrals (IRF), and/or
    - iv. The QOC investigations.
  - b. The Contractor shall provide SAR, IAD, IRF, and QOC Reports including, but not limited to, reports of possible abuse, neglect, or denial of rights involving any behavioral health as specified in Contract Section F, Attachment F3, Contractor Chart of Deliverables, and
  - c. The Contractor and contracted providers who receive an IOC request for additional or unaltered documentation, supplemental information, or an investigation regarding an AHCCCS member, shall submit the request to AHCCCS via email at: [iocinquiries@azahcccs.gov](mailto:iocinquiries@azahcccs.gov).

**F. REQUESTS FOR PERSONALLY IDENTIFIABLE INFORMATION OR PROTECTED HEALTH INFORMATION OF A CURRENTLY ENROLLED MEMBER**

Upon review of the supplied information, the IOC may request additional unaltered documentation, supplemental information, or an investigation regarding alleged violation of rights:

1. When AHCCCS or an IOC requests information regarding the outcome of a report of possible abuse, neglect or violation of rights, the Contractor shall do one of the following:
  - a. Conduct an investigation of the incident if it has not already been conducted:
    - i. For incidents in which a person with an SMI designation is the possible victim, the investigation shall follow the requirements specified in AAC Title 9, Chapter 21, Article 4, and
    - ii. For incidents in which a currently or previously enrolled child or non-seriously mentally ill adult is the possible victim, the investigation shall be completed within 35 days of the request and shall determine: all information surrounding the incident, whether the incident constitutes abuse, neglect, or a violation of rights, and any corrective action needed as a result of the incident.

- b. If an investigation has already been conducted by the Contractor and can be disclosed without violating any confidentiality provisions, the Contractor shall provide the final investigation decision to AHCCCS and the IOC. The final investigation decision shall consist of, at a minimum, the following information:
        - i. The accepted portion of the investigation report with respect to the facts found,
        - ii. A summary of the investigation findings, and
        - iii. Conclusions and corrective action taken.- 2. When an IOC requests PII or Protected Health Information (PHI) concerning a currently or previously enrolled member, the IOC shall first demonstrate that the information is necessary to perform a function that is related to the oversight of the behavioral health system, or it shall have written authorization from the member to review PII and PHI.
- 3. In the event it is determined that the IOC needs PII or PHI and has obtained the member's or representative's written authorization, the Contractor shall first review the requested information and determine if any of the following types of information are present: The communicable disease related information, including confidential Human Immunodeficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) information, and/or information concerning diagnosis, treatment or referral from an alcohol or drug use program. If no such information is present, then the Contractor shall provide the information adhering to the requirements of this Policy. If communicable disease related information, including confidential HIV information, and/or information concerning diagnosis, treatment or referral from an alcohol or drug use program is found, then the Contractor shall:
  - a. Contact the member or representative if an adult, or the custodial parent or legal guardian if a child and ask if the member is willing to sign an authorization for the release of communicable disease related information, including confidential HIV information, and/or information concerning diagnosis, treatment or referral from an alcohol or drug use program. The Contractor shall provide the name and telephone number of a contact person with the IOC who can explain the Committee's purpose for requesting the protected information. If the member agrees to give authorization, the Contractor shall obtain written authorization as required below and provide the requested information to the IOC,
  - b. Authorization for the disclosure of records of deceased members may be made by the executor, administrator, or other personal representative appointed by will or by a court to manage the deceased member's estate. If no personal representative has been appointed, PII and/or PHI may be disclosed to a family member, other relative, or a close personal friend of the deceased member, or any other person identified by the deceased only that PII and/or PHI directly relevant to such person's involvement with the deceased members health care or payment related to the individual's health care,
  - c. If the member does not authorize the release of the communicable disease related information, including confidential HIV information, and/or information concerning diagnosis, treatment or referral from an alcohol or drug use program, this information shall not be included or shall be redacted from any documentation which is authorized to be disclosed, and
  - d. Requested information that does not require the member or representative's authorization shall be provided within 15 business days of the request. If the authorization is required, requested information shall be provided within five working days of receipt of the written authorization.

4. When the PII and/or the PHI is sent, the Contractor shall include a cover letter addressed to the IOC that states that the information is confidential, is for the official purposes of the Committee, and is not to be re-released under any circumstances.
5. In the event AHCCCS denies the IOCs request for PII and/or PHI:
  - a. AHCCCS shall notify the IOC within five business days that the request is denied, the specific reason for the denial, and that the Committee may request, in writing, that the AHCCCS Director, or designee, review this decision. The Committee's request to review the denial shall be received by the AHCCCS Director, or designee, within 60 days of the first scheduled committee meeting after the denial decision is issued,
  - b. The AHCCCS Director, or designee, shall conduct the review within five business days after receiving the request for review,
  - c. The AHCCCS Director's or designee's decision shall be the final agency decision and is subject to judicial review pursuant to ARS Title 12, Chapter 7, Article 6, and
  - d. No information or records shall be released during the timeframe for filing a request for judicial review or when judicial review is pending.

#### **G. CONSENT REQUIREMENTS**

A written authorization for disclosure of information concerning diagnosis, treatment or referral from an alcohol or substance use program and/or communicable disease related information, including confidential HIV information, shall include:

1. The specific name or general designation of the program or individual permitted to make the disclosure.
2. The name or title of the individual or the name of the organization to which the disclosure is to be made.
3. The name of the current or previously enrolled member.
4. The purpose of the disclosure.
5. How much and what kind of information is to be disclosed.
6. The signature of the current or previously enrolled member/legal guardian and, if the currently or previously enrolled member is a minor, the signature of an individual authorized to give consent.
7. The date on which the authorization is signed.
8. A statement that the authorization is subject to revocation at any time except to the extent that the program or individual which is to make the disclosure has already acted in reliance on it.
9. The date, event, or condition upon which the authorization will expire if not revoked before. This date, event, or condition shall ensure that the authorization will last no longer than reasonably necessary to serve the purpose for which it is given.

10. A statement that this information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR Part 2) and State statute on confidentiality of HIV/AIDS and other communicable disease information (ARS 36-664(F)) which prohibit further disclosure of this information unless further disclosure is expressly permitted by the written consent of the member to whom it pertains, or as otherwise permitted by 42 CFR Part 2 and ARS 36-664(F). A general authorization for the release of medical or other information is NOT sufficient for this purpose.

The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug use patient.

**H. DUTIES AND LIABILITIES OF BEHAVIORAL HEALTH PROVIDERS IN PROVIDING BEHAVIORAL HEALTH SERVICES**

1. The Contractor shall develop and make available written policies and procedures that provide guidance regarding the provider's duty to warn under ARS 36-517.02. This statute supplements other immunities of behavioral health providers or mental health treatment agencies that are specified in law. With respect to the legal liability of a behavioral health provider, ARS 36-517.02 provides that no cause of action or legal liability shall be imposed against a behavioral health provider for breaching a duty to prevent harm to a person caused by a patient unless both of the following occur:
  - a. The patient has communicated to the mental health provider an explicit threat of imminent serious physical harm or death to a clearly identified or identifiable victim or victims, and the patient has the apparent intent and ability to carry out such threat, and
  - b. The mental health provider fails to take reasonable precautions.
2. Furthermore, this statute provides that any duty of a behavioral health provider to take reasonable precautions to prevent harm threatened by a patient is discharged when the behavioral health provider:
  - a. Communicates, when possible, the threat to all identifiable victims,
  - b. Notifies a law enforcement agency in the vicinity where the patient or any potential victim resides,
  - c. Takes reasonable steps to initiate voluntary or involuntary hospitalization, if appropriate, or
  - d. Take other precautions that a reasonable, prudent behavioral health provider would take under the circumstances.
3. This statute also provides immunity from liability when the behavioral health provider discloses confidential communications by or relating to a patient under certain circumstances: The behavioral health provider has no liability resulting from disclosing a confidential communication made by or relating to a patient when a patient has explicitly threatened to cause serious harm to a person or when the behavioral health provider reasonably concludes that a patient is likely to cause harm, and the behavioral health provider discloses a confidential communication made by or relating to the patient to reduce the risk of harm.

- All providers, regardless of their specialty or area of practice, have a duty to protect others against a member's potential danger to self and/or danger to others. When a provider determines, or under applicable professional standards, reasonably should have determined, that a patient poses a serious danger to self or others, the provider has a duty to exercise care to protect others against imminent danger of a patient harming themselves or others. The foreseeable victim need not be specifically identified by the member but may be someone who would be the most likely victim of the member's dangerous conduct.
4. The responsibility of the behavioral health provider to take reasonable precautions to prevent harm threatened by a member may include any of the following:
    - a. Communicating, when possible, the threat to all identifiable victims,
    - b. Notifying a law enforcement agency in the vicinity where the member or any potential victim resides,
    - c. Taking reasonable steps to initiate proceedings for voluntary or involuntary hospitalization, if appropriate, and in accordance with AMPM Policy 320-U, or
    - d. Taking any other precautions that a reasonable and prudent provider shall take under the circumstances.

#### **I. PROVIDER-PREVENTABLE CONDITIONS**

Regulation 42 CFR 447.26 prohibits payment for services related to preventable provider conditions. provider preventable condition means a condition that meets the definition of an HCAC or an Other Provider-Preventable Condition (OPPC).

If a potential HCAC or OPPC is identified, the Contractor shall conduct a QOC investigation.