

960 - TRACKING AND TRENDING OF MEMBER AND QUALITY OF CARE CONCERNS PROVIDER ISSUES¹

EFFECTIVE DATES: 10/01/94, 07/01/16, 09/20/17, 10/01/20²

REVISION

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, 08/20/20³

I. PURPOSE

This Policy applies to ~~Contractors and Arizona State Hospital (AzSH) as delineated within this document and establishes standards and requirements for the tracking and trending of member and provider issue~~The AHCCCS administration is responsible for investigating Quality of Care Concerns regarding Fee for Service (FFS)/American Indian Health Program (AIHP) members ACC, ALTCS E/PD, DCS/CMDP (CMDP), DES/DDD (DDD), and RBHA Contractors. This Policy establishes standards and requirements for tracking and trending of member and provider concerns⁴, as well as reviewing, evaluating, and resolving Quality of Care (QOC) concerns and service concerns.

~~For requirements applicable to Tribal ALTCS refer to the Intergovernmental Agreement (IGA).~~

II. DEFINITIONS

ADVERSE ACTION Any type of restriction placed on a provider’s practice by the Contractor such as but not limited to:

1. eContract termination,
2. sSuspension,
3. limitation,
4. eContinuing education requirement,
5. monitoring or
6. supervision.

¹ Title updated

² Date changes are effective

³ Date presented at APC Meeting or without APC review, the date Policy is approved by Assistant Director(s)/Designee

⁴ Updated issues to concerns throughout policy for consistency.

**HEALTH CARE ACQUIRED
CONDITIONS (HCAC)**

A Hospital Acquired Condition (HAC) which occurs in any inpatient hospital setting and is not present on admission (Refer to the current CMS list of Hospital-Acquired Conditions.)

**HEALTH CARE DECISION
MAKER⁶**

An individual who is authorized to make health care treatment decisions for the patient. As applicable to the particular situation, this may include a parent of an unemancipated minor or a person lawfully authorized to make health care treatment decisions pursuant to A.R.S. title 14, chapter 5, article 2 or 3; or A.R.S. §§8-514.05, 36-3221, 36-3231 or 36-3281.

**OTHER PROVIDER-
PREVENTABLE
CONDITION (OPPC)**

A condition occurring in the inpatient and outpatient health care setting which AHCCCS has limited to the following:

1. Surgery on the wrong member,
2. Wrong surgery on a member, and
3. Wrong site surgery.

**PERSONALLY
IDENTIFIABLE
INFORMATION
(PII)**

A person's name, address, date of birth, social security number, tribal enrollment number, telephone or fax number, e-mail address, social media identifier, driver license number, places of employment, school identification or military identification number or any other distinguishing characteristic that tends to identify a particular person as specified in A.R.S. §41-3804 (K).⁷

**QUALITY OF CARE
(QOC)**

An expectation that, and the degree to which the health care services provided to individuals and patient populations improve desired health outcomes and are consistent with current professionally recognized standards of care and service provision. (Definition adapted from The Institute of Medicine)^{8,9}

**QUALITY OF CARE (QOC)
CONCERN¹⁰**

An allegation that any aspect of care, or treatment, utilization of behavioral health services or utilization of physical health care services, (or lack thereof), which¹¹ caused or could have caused an acute medical/psychiatric condition or an exacerbation of a chronic medical/psychiatric condition and may ultimately cause the risk of harm to an AHCCCS member.

⁶ Added from Contract definition

⁷ Added definition for clarity and Statute citation.

⁸ POST APC CHANGE: updated definition to align with AMPM 920 and AMPM 830

⁹ Added definition for QOC to distinguish from QOC concern

¹⁰ Added to align with AMPM 830

¹¹ POST APC CHANGE: updated definition for clarity

RESTRAINT¹²

~~Means personal restraint, mechanical restraint or drug used as a restraint and is the following in accordance with 42 CFR 482.13(e)(1):~~

- ~~a. Any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a behavioral health recipient to move his or her arms, legs, body, or head freely; or 0~~
- ~~b. A drug or medication when it is used as a restriction to manage the behavioral health recipient's behavior or restrict the behavioral health recipient's freedom of movement and is not a standard treatment or dosage for the behavioral health recipient's condition.~~
- ~~c. A restraint does not include devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a behavioral health recipient for the purpose of conducting routine physical examinations or tests, or to protect the behavioral health recipient from falling out of bed, or to permit the behavioral health recipient to participate in activities without the risk of physical harm (this does not include a physical escort).~~

SECLUSION¹³

~~The involuntary confinement of a behavioral health recipient in a room or an area from which the person cannot leave.~~

**SECLUSION OF
INDIVIDUALS
DETERMINED TO HAVE
A SERIOUS MENTAL
ILLNESS¹⁴**

~~The restriction of a behavioral health recipient to a room or area through the use of locked doors or any other device or method which precludes a person from freely exiting the room or area or which a person reasonably believes precludes his/her unrestricted exit. In the case of an inpatient facility, confining a behavioral health recipient to the facility, the grounds of the facility, or a ward of the facility does not constitute seclusion. In the case of a community residence, restricting a behavioral health recipient to the residential site, according to specific provisions of an individual service plan or court order, does not constitute seclusion.~~

¹² ~~Removed; term is not used in policy and is defined in AMPM Policy 962~~

¹³ ~~Removed; term is not used in policy and is defined in AMPM Policy 962~~

¹⁴ ~~Removed; term is not used in policy and is defined in AMPM Policy 962~~

III. POLICY

Contractors shall develop and implement policies and procedures to review, evaluate, and resolve ~~quality-of-care~~QOC concerns and service issues raised by members/Health Care Decision Makers, contracted providers, and stakeholders. The issues may be received from anywhere within the organization or externally from anywhere in the community. All issues ~~must~~shall be addressed regardless of source (external or internal). References to a member in this Policy also include reference to a member's ~~guardian~~Health Care Decision Maker and/or representative.

A. DOCUMENTATION RELATED TO QUALITY OF CARE CONCERNS

As a part of the Contractor's process for reviewing and evaluating member and provider ~~issues~~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 ~~issue~~concern raised, and when and from whom it was received and the projected time frame for resolution.
2. Promptly determining as to whether the ~~issue~~concern is to be resolved through the Contractor's established:
 - a. Quality ~~m~~Management (QM) process,
 - b. Grievance and appeals process,
 - c. Process for making initial determinations on coverage and payment issues, or
 - d. Process for resolving disputed initial determinations.
3. Acknowledging receipt of the ~~issue~~concern and providing explanation to the member or provider of the process that will be followed to resolve his or her ~~issue~~concern through written correspondence.
4. For ~~issues~~concerns that are submitted to ~~the Quality Management QM~~¹⁵ ~~Unit~~ but are determined to not be a ~~Quality of Care (QOC)~~ concern, the Contractor shall inform the submitter of the process to be used to resolve the ~~issue~~concern. QOC related concerns shall be addressed in ~~the Quality Management QM~~Unit.
5. Assisting the member or provider as needed to complete forms or take other necessary actions to obtain resolution of the ~~issue~~concern.
6. Ensuring confidentiality of all member information.
7. Informing the member or provider of all applicable mechanisms for resolving the ~~issue~~concern external to the Contractor processes.

¹⁵ QM Unit and QM Team will be referred to as QM throughout Policy

8. Documenting all processes (include 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) or action(s) taken to resolve the concern,
 - b. Documentation that education/training was completed. This ~~may~~ shall include, but is not limited to, in-service attendance sheets and training objectives,
 - c. New policies and/or procedures,
 - d. Follow-up with the member that includes, but is not limited to:
 - i. Assistance as needed to ensure that the immediate health care needs are met,
 - ii. Closure/resolution letter that provides sufficient detail to ensure all covered, medically necessary care needs are met and a contact name/telephone number to call for assistance or to express any unresolved concerns, and
 - iii. Referral to the Contractor’s compliance department and/or AHCCCS Office of the Inspector General.

Refer to 9 A.A.C. 34 and the AHCCCS Contract for information regarding requirements for the grievance and appeal system for members and providers.

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

The ~~Quality of Care (QOC)~~ concern process ~~must~~ shall include documentation of identification, research, evaluation, intervention, resolution, and trending of member and provider ~~issues~~ concerns. Resolution ~~must~~ shall include both member and system interventions when appropriate.

The QOC and/or service concern process ~~must~~ shall be a stand-alone process completed through ~~the Quality Management QM Unit~~. The process shall not be combined with other agency meetings or processes. Work units outside of ~~the Quality Management QM Unit~~ do not have the authority to conduct ~~quality of care QOC~~ investigations but ~~may~~ shall provide subject matter expertise throughout the investigative process.

1. ~~The Contractor~~ Contractors shall ~~must~~ develop and implement policies and procedures that address analysis of the ~~quality of care QOC issues~~ concern through:
 - a. Identification of the ~~quality of care QOC issues~~ concern,
 - b. Initial assessment of the severity of the ~~quality of care QOC issue~~ concern,
 - c. Prioritization of action(s) needed to resolve immediate care needs when appropriate,
 - d. Review of trend reports obtained from the Contractor’s ~~QOC~~ quality of care data system to determine possible trends related to the provider(s), including organizational providers, involved in the allegation(s) including: type(s) of allegation(s), severity and substantiation, etc.,
 - e. Research, including, but not limited to: a review of the log of events, documentation of conversations, and medical records review, mortality review, etc.,

- f. Quantitative and qualitative analysis of the research, which ~~may~~ shall include root cause analysis, and
 - g. Direct interviews of members, direct care staff, and witness to a reportable event, when applicable and appropriate.
2. Contractors shall ensure that QM clinical staff are trained on QOC investigations prior to performing these investigations. All staff that may perform investigations onsite 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, assisted living facilities, and group homes shall complete training on how to conduct investigations considering the specific special needs of individuals with intellectual and developmental disabilities. Attachment D provides guidance regarding the content requirements for this training for investigations involving individuals with intellectual and developmental disabilities.¹⁶
- ~~2.3.~~ Onsite visits ~~must~~ shall be conducted by the Contractor's ~~QM Quality Management~~ clinical staff when there are identified health and safety concerns, Immediate Jeopardy, or at the direction of AHCCCS. Subject ~~mMatter e~~Experts (SMEs) outside the ~~QM Quality Management~~ Unit may participate in the onsite visit but ~~may~~ shall not take the place of ~~QM Quality Management~~ clinical staff during reviews. SMEs may arrive on site first if they are closer to the site, however, a clinical QM staff member ~~must~~ shall be the lead for the review/investigation and participate in the onsite visits.
- Contractors ~~may~~ shall¹⁷ not delegate ~~quality of care QOC~~ investigation processes or onsite ~~quality of care QOC~~ visits. Quality investigations ~~may~~ shall not be delegated or performed by the staff of the provider agency/facility where the identified health and safety concerns, Immediate Jeopardy, or AHCCCS-requested reviews have occurred.
- Contractors ~~must~~ shall complete and submit to AHCCCS Attachment ~~960~~-C for each onsite review. Based on findings, Contractors shall:
- a. Actively participate in meetings focused on ensuring incident resolution and health and safety of members, as well as identifying any immediate care or recovery needs,¹⁸
 - b. Actively participate in meetings scheduled to develop work plans and corrective action plans to ensure placement setting or service sites compliance with ADHS Licensure and/or AHCCCS requirements, including, but not limited to policy,

¹⁶ Added to ensure investigators are trained consistently.

¹⁷ Replaced 'may' with 'shall'

¹⁸ Added as required by the Report of the Abuse & Neglect Prevention Task Force to Governor Douglas A. Ducey (November 1, 2019)

- training and signage requirements aimed at preventing and reporting abuse, neglect and exploitation as specified in AHCCCS Minimum Subcontract Provisions.¹⁹
- c. Participate in 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,
 - d. Assist in the identification of technical assistance resources focused on achieving and sustaining regulatory compliance, and
 - e. Monitoring placement setting or service sites upon completion of the activities and interventions to ensure that compliance is sustained.
3. Contractors shall develop a process to assure that action is taken when needed by:
- a. Developing an action plan to reduce/eliminate the likelihood of the issue-concern reoccurring,
 - b. Determining, implementing and documenting appropriate interventions,
 - ~~b.c.~~ Monitoring and documenting the success of the interventions,
 - ~~c.d.~~ Incorporating interventions into the organization's Quality Management (QM) program if successful, or
 - ~~d.e.~~ Implementing new interventions/approaches when necessary.
4. Contractors shall develop a process to ensure resolution of the issueconcern. Member and system resolutions may occur independently from one another.
5. Contractors shall develop a process to determine the level of severity of the QOC issueconcern.
6. Contractors shall develop and document a process to refer/report the issue-concern to the appropriate regulatory agency including but not limited to the Department of Child Safety (DCS), ~~or~~ Adult Protective Services (APS), Arizona Department of Health Services (ADHS), the Attorney General's Office, law enforcement, and/or AHCCCS Clinical-QM Quality Management for further research, review or action. The Contractor shall submit an initial report as soon as possible but no later than 24 hours of becoming aware of a concern. ing may be made verbally, but Verbal notification is acceptable for reporting initial concerns. However, a written report shall be submitted to the regulatory agency within 24 hours of becoming aware of a concern.²⁰ ~~shall be followed by a written report within one business day.~~
- Additionally, the Contractor is to maintain documentation of referrals made to a regulatory agency as part of the QOC process. Any referrals made to a regulatory agency shall include, but is not limited to, the following information:

¹⁹ Adding for clarity of contract requirements.

²⁰ Rephrased for clarity

- a. Name and title of the person submitting the written report,
 - b. Name of the regulatory agency (e.g. APS, DCS, etc.) the report was submitted to
 - b. Name and title of the person at the regulatory agency receiving the report,
 - c. Date and time reported,
 - d. Summary of the report, and
 - e. Tracking number, as applicable, received from the regulatory agency (e.g. APS, DCS) as part of the reporting process²¹
7. Contractors shall have a process to refer the ~~issue-concern~~ to the Contractor's Peer Review Committee when appropriate. Appropriate referrals should include high-profile cases. Referral to the 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 ~~must-shall~~ be documented in the QOC file.
8. If an ~~A~~adverse ~~A~~action is taken with a provider for any reason including those related to a ~~quality-of-care~~QOC concern, the Contractor shall report the ~~A~~adverse ~~A~~action to ~~the AHCCCS Quality Management (QM) Unit~~ within 24 hours of the determination to take an ~~A~~adverse ~~A~~action as well as to the National Practitioner Data Bank as outlined in Contract.
- ~~The~~Contractors ~~must-shall~~ ensure a thoughtful process around member impact and care transition when acting on ~~A~~adverse ~~A~~actions. This is particularly important if a provider is being suspended or terminated. The Contractor ~~must-shall~~ allow adequate time for identification of new providers, transition of members to those providers, impact to members (such as service plans, medications, etc.), and timely communication to members to prepare for the transition. While there may be instances where a move or transition ~~must-shall~~ occur quickly, the MCO should work with AHCCCS to ensure member needs are met without potential gaps in care/services and or treatment disruption.
9. The Contractor shall have a process to document the criteria and process for closure of the review or investigation including, but not limited to the following:
- a. A description of the problems, including new allegations identified during the investigation/review process, and the substantiation and severity level for each allegation as well as the case overall,
 - b. Written response from or summary of the documents received from referrals made to outside agencies such as accrediting bodies, or Medical Examiner, and
 - c. Interventions imposed as part of the investigation (such as education, root/cause analysis, ongoing monitoring, ~~etc.~~).

²¹ adapted and updated this from the previous AMPM Policy 960.

10. Investigations that warrant ongoing monitoring or follow-up with the provider ~~must~~shall be documented in the QOC file. All follow-up actions or monitoring activities as well as related observations or findings ~~must~~shall be documented in the QOC file.
11. Investigations that identify an adverse outcome, including mortalities, due to prescribing ~~issues~~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 CQM 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. REQUESTS FOR COPIES OF DEATH CERTIFICATES

As part of the QOC investigation process, AHCCCS Contractors may request copies of member death certificates by submitting a request to AHCCCS at CQM@azahcccs.gov.

When making the request, the Contractor is required to submit the following information:

1. The decedent's (member's) first and last name.
2. AHCCCS ID.
3. Date of Birth.
4. Date of Death.
5. Purpose of the request (i.e. QOC investigation process).
6. Name of the Contractor submitting the request.
7. Documentation showing that the decedent was a member of the Contractor making the request (copy of an eligibility screen with the Contractor's name, member's name and date of eligibility is acceptable).
8. Name of the Contractor's QM Staff who is to receive the document, their title, and email and phone number where confidential information can be received.²²
9. Contact information where secured documents can be sent, such as email and mailing addresses.²³

²² Added for clarity

C. REQUESTS FOR COPIES OF DEATH CERTIFICATES

As part of the quality of care investigation process, AHCCCS Contractors may request copies of member death certificates from the ADHS Office of Vital Statistics. The following process shall be followed:

1. AHCCCS Contractors shall send a letter, on Contractor letterhead, providing one or two names of Contractor employees who are authorized to make a request for a copy of the death certificate. The Contractor employees shall be at a manager or supervisory level position.
2. The letter must be sent to:

Arizona Department of Health Services
Office of Vital Records
Office Chief
P.O. Box 3887
Phoenix, Arizona 85030

3. The letter will be kept on file with the Office of Vital Records. Only those individual(s) listed on the letter are eligible to apply/request a copy of the death certificate.
4. The following information is required from the Contractor, submitted on Contractor letterhead, when making the request for a copy of the death certificate:
 - a. The decedent's (member's) name,
 - b. Date of death,
 - c. Purpose of request (i.e. quality of care investigation process),
 - d. Signature of the authorized employee,
 - e. Requests must be mailed with original ink signatures, and
 - f. Documentation showing that decedent was a member of the Contractor making the request (copy of an eligibility screen with the Contractor's name, member's name and date of eligibility is acceptable)
5. Payment of the required fee of \$5.00 for each copy requested in the form of a business check, money order or credit card. All requests should be sent to:

Office of Vital Records
Attention: Office Chief
P.O. Box 3887
Phoenix, Arizona 85030

²³ Restated due to process change in requesting a death certificate.

- ~~6. Contractors shall notify the ADHS Office of Vital Statistics in writing of any termination of employment of those listed on the original letter. Included in the notification should be the name of the replacement managerial or supervisory staff person (s). These changes should be mailed to:~~
- ~~Operations Section Manager
Arizona Department of Health Services
Office of Vital Records
Operations Section Manager
P.O. Box 3887
Phoenix, Arizona 85030²⁴~~

D. REPORTING TO ~~HUMAN RIGHTS COMMITTEE~~ INDEPENDENT OVERSIGHT COMMITTEES²⁵

1. AHCCCS Independent Oversight Committee (IOC) reporting (behavioral health):
 - a. Contractors and the Arizona State Hospital²⁶ shall provide Incident, Accident and Death-IAD Reports, Internal Referral (IRF) reports²⁷ –and QOCs concerning issues including, but not limited to, reports of possible abuse, neglect or denial of rights to AHCCCS and involving any behavioral health provider to the Human Rights Independent Oversight Committees (HRCsIOC), assigned to the region in which the IAD/IRF/QOC occurred within three business days of closure, as outlined in this Policy
 - b. IADs and IRFs that are triaged as potential QOCs shall be incorporated into the QOC record and must 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, and²⁸
 - c. All incident, accident and death reports provided to the IOCs²⁹ shall have all Personally Identifiable Information (PII) redacted in accordance with federal and state confidentiality laws.
2. DDD IOC reporting (DDD enrolled member involvement):
 - a. Contractors³⁰ shall provide IAD Reports, Internal Referral (IRF) reports³¹ and QOCs including, but not limited to, reports of possible abuse, neglect or denial of rights involving any DDD enrolled member to the DDD Independent Oversight Committees (IOCs) assigned to the region in which the IAD/IRF/QOC occurred within three business days of closure,
 - b. IADs and IRFs that are triaged as potential QOCs shall be incorporated into the QOC record and must be submitted to the IOC as part of the QOC documentation

²⁴ Language has been restated above

²⁵ Updating name of committee throughout policy to match Statutory changes A.R.S. 41-3803 and 3804.

²⁶ Removing ASH as AHCCCS AMPM is not applicable.

²⁷ Added throughout for consistency with requirements.

²⁸ Added from clarification letter sent to all contractors in October 2019.

²⁹ Added for clarity.

³⁰ Removing ASH as AHCCCS AMPM is not applicable.

³¹ Added throughout for consistency with requirements.

- upon completion of the QOC investigation vs. as a standalone IAD/IRF within three business days of completion of the investigation, and³²
- c. All reports provided to the IOCs³³ shall have all PII redacted in accordance with federal and state confidentiality laws.

- ~~1. When AHCCCS or a HRC requests information regarding the outcome of a report of possible abuse, neglect or violation of rights, the RBHA, or Arizona State Hospital 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 currently or previously enrolled as seriously mentally ill is the possible victim, the investigation shall follow the requirements in A.A.C. Title 9, Chapter 21, Article 4.~~
- ~~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 Contractors or Arizona State Hospital and can be disclosed without violating any confidentiality provisions, the RBHA or Arizona State Hospital shall provide the final investigation decision to AHCCCS and the HRC. 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.³⁴~~

~~Personally identifiable information regarding any currently or previously enrolled person shall not be included in the final investigation decision provided to the HRC, unless otherwise allowed by law.³⁵~~

~~4.3. General Requirements~~

- ~~a. RBHA³⁶ Contractors are required to provide to HRC's IOCs member information and records in accordance with A.R.S. §41-3804. The following items shall be routinely provided to the HRC IOC in redacted format:~~
- ~~i. Seclusion and Restraint reports, refer to AMPM Policy 962³⁷,~~
- ~~ii. Incident/Accident/Death (IAD) reports,~~
- ~~iii. IRF³⁸ and/or~~

³² Added from clarification letter sent to all contractors in October 2019.

³³ Added for clarity.

³⁴ Moved to section E for flow.

³⁵ Redundant as stated above.

³⁶ Removed as applicable to all contractors.

³⁷ Added in reference to AMPM 962 for Seclusion and Restraint

~~iii.iv. Quality of Care (QOC) investigations as applicable.~~

~~Upon review of supplied information the HRC may request documentation, supplemental information, or an investigation regarding alleged violation of rights.³⁹~~

- b. The Contractor shall provide Seclusion and Restraint ~~Reports, and IAD, IRF, and QOC-R reports concerning~~ including, but not limited to, reports of possible abuse, neglect, or denial of rights involving any behavioral health as specified in RBHA Contract, Exhibit 9, Deliverables. All Seclusion and Restraint Reports and IAD reports shall have all information removed that personally identifies members, in accordance with federal and state confidentiality laws, and⁴⁰
- e. ~~If a QOC investigation has already been conducted by the Contractor and can be disclosed without violating any confidentiality provisions, the Contractor shall provide the requested documentation to the HRC via the Secured Quality Management System Portal.⁴¹~~

E. REQUESTS FOR PERSONALLY IDENTIFIABLE INFORMATION OR PROTECTED HEALTH INFORMATION (PHI)⁴² OF A CURRENTLY ENROLLED MEMBER

Upon review of 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 a **Serious Mental Illness (SMI) designation**⁴³ is the possible victim, the investigation shall follow the requirements in A.A.C. 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 Contractors 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:

³⁸ Added to include reports entered by Contractors (IRF).

³⁹ Moved to requests for information section.

⁴⁰ Removed, redundant- Stated above.

⁴¹ Removed, redundant. Stated above.

⁴² Removed; formatting – not to use acronyms in sectional title

⁴³ POST APC CHANGE: updated for clarity

- 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.⁴⁴
2. When an HRC-IOC requests PII or Protected Health Information (PHI) concerning a currently or previously enrolled member, the HRC-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 ~~must~~ shall have written authorization from the member to review PII and PHI.
3. In the event it is determined that the HRC-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: Communicable disease related information, including confidential HIV 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.
 - a. 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:
 - i. 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 HRC-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 HRC-IOC,
 - ii. 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,
 - iii. 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

⁴⁴ Moved from section D for flow.

- program, this information shall not be included or shall be redacted from any PHI documentation⁴⁵ which is authorized to be disclosed, and
- iv. Requested information that does not require the member or representative's authorization shall be provided within 15 working 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 PII and/or PHI is sent, the Contractor shall include a cover letter addressed to the HRC-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 that AHCCCS denies the HRC's-IOCs request for PII and/or PHI:
 - a. AHCCCS shall notify the HRC-IOC within five working 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 must 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 A.R.S. 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.

F. AUTHORIZATION REQUIREMENTS

1. 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:
 - a. The specific name or general designation of the program or person permitted to make the disclosure,
 - b. The name or title of the individual or the name of the organization to which the disclosure is to be made,
 - c. The name of the currently or previously enrolled member,
 - d. The purpose of the disclosure,
 - e. How much and what kind of information is to be disclosed,
 - f. The signature of the currently or previously enrolled member/legal guardian and, if the currently or previously enrolled member is a minor, the signature of a person authorized to give consent,
 - g. The date on which the authorization is signed,

⁴⁵ Changed for clarity.

- h. A statement that the authorization is subject to revocation at any time except to the extent that the program or person which is to make the disclosure has already acted in reliance on it,
- i. The date, event, or condition upon which the authorization will expire if not revoked before. This date, event, or condition ~~must~~ shall ensure that the authorization will last no longer than reasonably necessary to serve the purpose for which it is given, and,
- j. 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 (A.R.S. §36-664(H)) 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 A.R.S. §36-664(H). 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.

G. PROBLEM RESOLUTION

If any problems with receipt of requested information as provided in this Policy arise, the Contractor shall notify AHCCCS and the ~~HRC-IOC~~ in writing within the first 30 days. If the problem is not resolved, the ~~HRC-IOC~~ may shall then address the problem to the AHCCCS Director or designee.

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

1. Contractors shall develop and make available written policies and procedures that provide guidance regarding the provider's duty to warn under A.R.S. §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, A.R.S. §36-517.02 provides that no cause of action or legal liability may 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. Takes 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 him/herself 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.

The responsibility of 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 would take under the circumstances.

I. TRACKING AND TRENDING OF QUALITY OF CARE ISSUES/CONCERNS

Tracking and trending of member and provider issues 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 members and providers or as directed by AHCCCS, inclusive of ~~quality of care~~ QOC concerns, quality of service, and immediate care need issues.
 - a. The data from the ~~quality of care~~ QOC data system shall ~~must~~ be analyzed and evaluated to determine any trends related to the ~~quality of care~~ QOC or service in the Contractor’s service delivery system or provider network. Contractors are responsible for incorporating trending of ~~quality of care~~ QOC issues ~~concerns~~ in determining systemic interventions for quality improvement,
 - b. The Contractor shall document quality tracking and trending information as well as documentation that the information was submitted, reviewed, and considered for action by the Contractor’s local Quality Committee and local Medical Director, as Chairman of the Quality Management QM Committee,
 - c. Quality tracking and trending information from all closed ~~quality of care~~ QOC issues ~~concerns~~ within the reporting quarter shall ~~must~~ be submitted to AHCCCS/Division of Health Care Management/ ~~Clinical~~ Quality Management (AHCCCS/DHCM/CQM) utilizing the Quarterly Quality Management QM Report (Attachment 960-A). The report is due 45 days after the end of each quarter, reported separately by line of business and shall ~~must~~ include the following reporting elements:
 - i. Types and numbers/percentages of substantiated QOC ~~quality of care~~ issues ~~concerns~~,
 - ii. Interventions implemented to resolve and prevent similar incidences, and
 - iii. Resolution status of “substantiated,” “unsubstantiated” and “unable to substantiate” QOC ~~quality of care~~ issues ~~concerns~~.
 - d. If significant negative trends are noted, the Contractor should consider developing performance improvement activities focused on the topic area to improve the issue resolution process itself, and to make improvements that address other system issues raised during the resolution process, and
 - e. The Contractor shall submit to AHCCCS CQM all pertinent information regarding an incident of abuse, neglect, exploitation, serious incident (including suicide attempts), and unexpected death (including all unexpected transplant deaths) as soon as the Contractor is aware of the incident, and no later than 24 hours. Pertinent information shall ~~must~~ not be limited to autopsy results, and shall ~~must~~ 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 ~~quality of care~~ concern. Delayed autopsy results shall be used by the Contractor to confirm the Contractor’s resolution of the ~~quality of care~~ QOC concern. RBHA⁴⁶—Contractors shall ensure that subcontracted providers follow procedures for reporting incidents, accidents, and deaths.

⁴⁶ Removed RBHA. Applicable to all Contractors

- i. Upon receipt of an ~~Incident, Accident and Death (IAD)~~ Report from providers, the ~~RBHA~~⁴⁷ Contractor shall take action necessary to ensure the safety of the persons involved in the incident. The Contractor shall review the IAD within 24 hours of receipt to make a determination of whether the incident includes a ~~quality of care concern (QOC) concern~~. The Contractor shall ensure that the IAD Form is fully and accurately completed. If the IAD Form is returned to the Contractor's subcontracted provider for corrections, the subcontracted provider shall return the corrected version of the report to the Contractor within 24 hours of receipt, ~~and~~.
 - ii. ~~RBHA~~⁴⁸ Contractors shall submit copies of the IAD reports no later than three business days after its receipt, or as otherwise specified, to the appropriate regional Human Rights Committee for reports concerning all enrolled persons. Personally identifying information concerning the enrolled person ~~shall~~must be redacted from the report prior to forwarding to the Human Rights Committee.
2. The Contractor shall ensure that member health records are available and accessible to authorized staff of its organization and to appropriate State and Federal authorities, or their delegates, involved in assessing quality of care/service or investigating member or provider ~~QOC quality of care~~ concerns, complaints, allegations of abuse, neglect, exploitation, serious incidents, grievances, Provider Preventable Conditions and ~~Health Care Acquired Conditions (HCAC)~~. Member record availability and accessibility ~~shall~~must 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. Information related to coverage and payment issues ~~shall~~must be maintained for at least five years following final resolution of the issue, and ~~shall~~must be made available to the member, provider, and/or AHCCCS authorized staff upon request.
4. 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.

J. PROVIDER-PREVENTABLE CONDITIONS

42 CFR 447.26 prohibits payment for services related to Provider-Preventable conditions. Provider-Preventable Condition means a condition that meets the definition of an ~~Health~~

⁴⁷ ~~Removed RBHA. Applicable to all Contractors~~

⁴⁸ ~~Removed RBHA. Applicable to all Contractors~~

~~Care Acquired Condition⁴⁹ (HCAC) or an Other Provider Preventable Condition⁵⁰ (OPPC).~~

If a potential HCAC or OPPC is identified, the Contractor shall conduct a quality of care QOC investigation and report the occurrence and results of the investigation to ~~the~~ AHCCCS Clinical Quality Management QM Unit.

~~Health Care Acquired Conditions (HCAC) and Other Provider Preventable Conditions (OPPC)⁵¹ shall~~ must be reported to ~~the~~ AHCCCS Quality Management QM Team ~~on a quarterly basis~~ utilizing Attachment ~~960~~-B as specified in Contract. Contractors are expected to investigate and maintain case files that contain findings.

⁴⁹ Removed; term has been spelled out above, using acronym throughout Policy

⁵⁰ Removed; term has been spelled out; using acronym

⁵¹ Acronyms are already outlined in definitions