

421 CONTRACT TERMINATION: NURSING FACILITIES AND ALTERNATIVE HOME AND COMMUNITY BASED SETTINGS

EFFECTIVE DATE: October 1, 2019

REFERENCES: A.A.C. R9-28-101 et seq.; 42 CFR 483; AMPM Chapter 1200, Section 1230

This policy applies to the Administrative Services Subcontractors (AdSS) of the Division of Developmental Disabilities (Division). This policy is limited to, and defines, the relationship between a Nursing Facility (NF) and/or an Alternative Home and Community Based Setting (AHCBS) and an AdSS following the termination of a contract between these entities, regardless of which entity terminates the contract or the reason for contract termination. This policy delineates how the AdSS, NF, and AHCBS collaborate to provide for the needs of the members residing in the facility at the time of contract termination.

Definitions

- A. Add-On - Generally refers to contract standards that an AdSS may have with a NF to establish criteria for additional payment to the Class 1, 2, or 3 levels determined by the Universal Assessment Tool (UAT).
- B. Alternative Home and Community Based Setting - Under the Home and Community Based Services (HCBS) program, members may receive certain services while they are living in an alternative HCBS setting. HCBS settings as defined in A.A.C. R9-28-101 et seq., and AMPM Chapter 1200, Section 1230. Alternative residential settings include but are not limited to Assisted Living Centers (ALC), Assisted Living Homes (ALH), Behavioral Health Residential Facilities, and Behavioral Health Supportive Homes.
- C. Bed Hold Day - A 24 hour per day unit of service that is authorized by the Division Support Coordinator or the AdSS, which may be billed despite the member's absence from the facility for the purposes of short term hospitalization leave and/or therapeutic leave.
 - 1. Short Term Hospitalization Leave - This service may be authorized for members residing in a Nursing Facility (NF), Intermediate Care Facility for individuals with intellectual disabilities (ICF/IID) or Residential Treatment Center (RTC) that is licensed as a Behavioral Health Inpatient Facility when short-term hospitalization is medically necessary. The total number of days available for each member per year is limited to 12 days per contract year except as in #3 below.
 - 2. Therapeutic Leave - If included in the member's care plan, this service may be authorized for members residing in an NF, ICF/IID or RTC that is licensed as a Behavioral Health Inpatient Facility due to a therapeutic home visit to enhance psychosocial interaction or on a trial basis as a part of discharge planning. The total number of therapeutic leave days available for each member per year is limited to nine days per contract year except as in #3 below.

3. Members under 21 years of age may use any combination of bed hold days and therapeutic leave days per contract year with a limit of 21 days per year.
- D. Nursing Facility (NF) - A health care facility that is licensed and Medicare/Medicaid certified by the Arizona Department of Health Services in accordance with 42 CFR 483 to provide inpatient room, board and nursing services to members who require these services on a continuous basis but who do not require hospital care or direct daily care from a physician. Contracted NFs are those facilities that have a contract with an AdSS. Non-contracted NFs are those facilities that do not have a contract with an AdSS.
- E. Subacute or Specialty Care - Generally refers to contract standards that an AdSS may have with a NF to establish criteria for paying a rate higher than the Class 1, 2 and 3 levels determined by the UAT.
- F. Uniform Assessment Tool (UAT) - A standardized tool that is used by the AdSS to assess the acuity of NF residents and commonly used for HCBS residents residing in Assisted Living Centers (ALC) or Assisted Living Homes (ALH) settings. The use of the UAT is not intended to impact how the AdSS determine authorizations for specialty levels of care (e.g., wandering dementia, medical sub-acute and behavioral management). This tool is located in Chapter 1600 of the AHCCCS Medical Policy Manual.

Policy

A. Member/Resident Options When an NF or AHCBS Contract is Terminated

Affected members residing in an NF and/or HCBS at the time of a contract termination may continue to reside in that facility until their open enrollment period, at which time they must either choose an available AdSS that is contracted with the facility, or move to a setting that is contracted with their current AdSS.

A meeting between the AdSS, NF and/or HCBS and the Division will be held prior to the effective date of the contract termination to plan all aspects related to the change in contract status and impact on members and representatives.

The AdSS in collaboration with the NF and/or AHCBS and the Division must develop a member/representative communication plan. The purpose of the communication plan is to provide affected or impacted members and/or their representatives with consistent information regarding the contract termination. The AdSS must receive approval of their member/representative communication plan from the Division.

The plan must be submitted to the Division within five business days of the termination decision. All member communications must be consistent with guidelines found in the AdSS Operations Manual, Policy 404.

B. Reimbursement

1. Nursing Facilities

The AdSS must reimburse the NF at the previously contracted rates or the AHCCCS fee for service schedule rates, whichever are greater. Should AHCCCS increase its fee schedule, the AdSS must reimburse the NF at the greater of the increased AHCCCS fee for service schedule rates or the AdSS's previously contracted rates. Should AHCCCS reduce its fee schedule, the AdSS must reduce its previously contracted rates by the same percentage, and pay the greater of the adjusted rates.

If the AdSS had in place a provision for subacute, specialty care or add-on rates at the time of the contract termination, then the AdSS must apply those rates. If AHCCCS adjusts its fee schedule, the AdSS will adjust its subacute or add-on rate(s) by the average adjustment to the NF fee schedule rates.

2. Alternative Home and Community Based Settings

The AdSS must reimburse the Alternative Home and Community Based Setting at the previously contracted rate. If AHCCCS adjusts its HCBS Fee Schedule rates, the AdSS will adjust its ARS rates by the average percentage that the HCBS Fee Schedule rates are adjusted.

C. Quality of Care

If an AdSS or other entity, such as Arizona Department of Health Services (ADHS) Licensure, the Division, or AHCCCS identifies instances where the overall quality of care delivered by an NF or AHCBS places residents in immediate jeopardy, the AdSS will inform members/representatives of the problems and offer members alternative placement. Members may have the option to continue to reside in the NF or AHCBS.

In some cases, ADHS, the Division, or AHCCCS may require that the AdSS find new placements for members. In such cases, the AdSS must work with the members/representative to identify an appropriate placement that meets the needs of the member. The Division may require the AdSS to increase monitoring of facilities identified as having health or safety issues until the Division is assured that the issues have been resolved or members have been transitioned to a placement setting that can meet their needs.

In the event of a bankruptcy or foreclosure order of an NF or HCBS, the AdSS must notify the Division. In these instances, the AdSS should review the financial, health and safety status prior to placing a member in a placement owned by the same entity. If an AdSS identifies a member specific quality of care concern, the AdSS must identify the concern to the NF or ARS for resolution. The AdSS must also report to external entities and to the Division as required by Division Medical Policy Manual Chapter 900.

D. Admissions/Discharges/Readmissions

1. NFs or AHCBSs are not required to accept new admissions of members who are not enrolled with the AdSS.
2. NFs are required to otherwise follow admission, readmission, transfer, and discharge rights, as specified in 42 CFR 438.12.
3. The AdSS may authorize bed hold days up to the allowed limit as specified in 9 A.A.C. 28.