

## **960 Quality Of Care Concerns**

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References: Medical Policies 910, 961, 320-U; AdSS Operations Policies 444, 446; 9 A.A.C. 34, A.A.C. R9-19-314 (B)(13), R9-19-315(E), R9-21-4, R9-21-101(B), R9-21-401 et seq., A.R.S. §§ 8-412(A), 12-901 et seq., 13-3620, 36-664(H), 36-517.02, 36-664, 41-3801, 41-3804, 46-454; 42 CFR Part 2, 42 CFR 447.26, 42 CFR 431.300 et seq., 42 CFR 482.13(e)(1); A.R.S. §§ 8-514.05, 36-3221, 36-3231 or 36-3281; 45 CFR 160.103; 20 U.S.C. 1232g.

### **Purpose**

This policy outlines the standards and requirements for the Division's Administrative Services Subcontractors (AdSS) for reporting, tracking, and trending of Member and Provider concerns, as well as reviewing, evaluating, and resolving Quality of Care Concerns and service concerns.

### **Definitions**

1. "Adverse Action" means any type of restriction placed on a Provider's practice by the Division.
2. "Business Day" means 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays listed in A.R.S. § 1-301.

3. "Calendar Day" means every day of the week including weekends and holidays.
4. "Health Care Acquired Condition" means a hospital-acquired condition which occurs in any inpatient hospital setting and is not present on admission.
5. "High-Profile Case" means a concern that attracts or is likely to attract public or media attention.
6. "Immediate Jeopardy" means a situation in which the Provider's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a Member.
7. "Incident, Accident, Death" means an incident report entered into the Arizona Health Care Cost Containment System (AHCCCS) Quality Management (QM) Portal to document an occurrence that caused harm or may have caused harm to a Member or to report the death of a Member.
8. "Internal Referral" or "IRF" means a report entered into the AHCCCS QM Portal by an employee of a health plan to document an occurrence that caused harm or may have caused harm to a Member or to report the death of a Member.

9. "Investigation" means collection of facts and information to describe and explain an incident.
10. "Member" means the same as "Client," a person receiving developmental disabilities services from the Division, as specified in A.R.S. § 36-551.
11. "Other Provider-Preventable Condition" means a condition occurring in an inpatient or outpatient health care setting which AHCCCS has limited to the following:
  - a. Surgery on the wrong Member;
  - b. Wrong surgery on a Member;
  - c. Wrong site surgery.
12. "Personally Identifiable Information" or "PII" means a person's name, address, date of birth, social security number, trial enrollment number, telephone or fax number, email address, social media identifier, driver's 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).
13. "Protected Health Information" or "PHI" means individually identifiable information as specified in 45 CFR 160.103(5) about

an individual that is transmitted or maintained in any medium where the information is:

- a. Created or received by a health care Provider, health plan, employer, or health care clearinghouse.
  - b. Relates to the past, present or future physical or mental health condition of an individual, provision of health care to an individual.
14. "Provider" means any individual or entity contracted with the AdSS that is engaged in the delivery of services, or ordering or referring for those services, and is legally authorized to do so by the State.
  15. "Provider-Preventable Condition" means a condition that meets the definition of a Health Care Acquired Condition or an Other Provider-Preventable Condition.
  16. "Quality Management" or "QM" means the evaluation and assessment of standards of care and appropriateness of services at a Member, Service Provider, or population level of Member care and services.
  17. "Quality Management Unit /Performance Quality Improvement Team" or "QM/PI" means Division staff who:

- a. Oversee the QOC Concern process;
  - b. Evaluate Administrative Services Subcontractors Quality Management/Performance Improvement Programs;
  - c. Monitor and evaluate adherence with required quality and performance improvement standards through standardized Performance Measures, Performance Improvement Projects, and Quality Improvement specific Corrective Action Plans; and
  - d. Provides technical assistance for performance improvement-related matters.
18. "Quality of Care" or "QOC" means 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 provisions.
19. "Quality of Care Concern" or "QOC Concern" means an allegation that any aspect of care, treatment, utilization of behavioral health services, or utilization of physical health care services that:
- a. Caused or could have caused an acute medical or

psychiatric condition or an exacerbation of a chronic medical or psychiatric condition; and

- b. May ultimately cause the risk of harm to a Member.
20. “Responsible Person” means an adult with a developmental disability who is a Member or an applicant for whom no guardian has been appointed, the parent or guardian of a minor with a developmental disability, or the guardian of an adult with a developmental disability.
21. “Restraint” means personal restraint, mechanical restraint, or drug used as a restraint.
22. “Seclusion” means the involuntary confinement of a behavioral health recipient in a room or an area from which the person cannot leave.
23. “Sentinel Event” means a Member safety event that results in death, permanent harm, or severe temporary harm.
24. “Severity Levels” means the level of acuity of a QOC which is described in the following ranking:
- a. Level 0: (Track and Trend Only) - No Quality issue Finding.
  - b. Level 1: Quality issue exists with minimal potential for significant adverse effects to the Member.

- c. Level 2: Quality issue exists with significant potential for adverse effects to the Member if not resolved timely.
  - d. Level 3: Quality issue exists with significant adverse effects on the Member; is dangerous or life-threatening.
  - e. Level 4: Quality issue exists with the most severe adverse effects on the Member; no longer impacts the Member with the potential to cause harm to others.
25. "Support Coordinator" means a person who coordinates the implementation of the individual program plan of goals, objectives and appropriate services for persons with developmental disabilities, the same as "Case Manager" under A.R.S. § 36-551
26. "Wellness Check" means an unannounced and unscheduled in-person visit, phone call or video conference with a Member should the concern not rise to the level of a health and safety or Immediate Jeopardy. This engagement includes an assessment of the Member's well-being and safety

## **Policy**

### **A. QOC Program Requirements**

- 1. The AdSS shall develop and implement policies and procedures

to review, report, evaluate, and resolve Quality of Care (QOC) Concerns and service concerns reported by Members, Responsible Persons, contracted Providers, stakeholders, the Division and AHCCCS.

2. The AdSS shall ensure concerns are received from anywhere within the organization or externally from the community, including Provider-submitted Incident Accident Death (IAD) reports entered directly into the AHCCCS QM Portal.
3. The AdSS shall provide methods for the AdSS QM team to receive concerns directly from community Members and Responsible Persons.
4. The AdSS shall ensure all QOC concerns involving both physical and behavioral health are handled in the same manner.
5. The AdSS shall ensure the QOC Concern and resolution process is Member-centric and prioritizes the Member experience and Member outcomes.
6. The AdSS shall evaluate if there are systemic concerns to be addressed as part of a QOC Concern.

## **B. Documentation Of Quality Of Care And Service Concerns**

1. The AdSS shall develop and implement written policies and

procedures regarding the receipt, initial and ongoing processing, and resolution of QOC or service concerns that address the following:

- a. Documenting each issue raised, from whom it was received, and the projected time frame for resolution.
- b. Determining whether one of the following processes will be used to resolve the issue:
  - i. Quality Management (QM) process;
  - ii. Grievance and appeals process;
  - iii. Both the Grievance and QM processes concurrently;
  - iv. Process for making initial determinations on coverage and payment issues; or
  - v. Process for resolving disputed initial determinations.
- c. Acknowledging receipt of the concern and providing an explanation of the process to be used to resolve the reported concern through written correspondence within one Business Day of receipt of the concern.
- d. Informing the submitter of the process to be used to resolve the concern if the Quality Management Unit determines the concern not to be a Quality of Care

Concern.

- e. Entering all QOC concerns, both reportable and non-reportable, including those that are not investigated, into the AHCCCS QM Portal.
- f. Assisting the Member, Responsible Person or Provider, as needed, to complete forms or take other necessary actions to obtain resolution of the issue.
- g. Ensuring confidentiality of all Member information.
- h. Informing the Member, Responsible Person or Provider of all applicable mechanisms for resolving the issue that are external to the AdSS processes.
- i. 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:
  - i. Corrective action plan(s) or action(s) taken to resolve and address the concern and prevent any other potential concerns;
  - ii. Documentation that training and education were completed, such as in-service attendance sheets and

- training objectives; and
- iii. New policies or procedures.
- j. Follow up with the Member or Responsible Person that includes:
  - i. Assistance to ensure that the Member's 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 that includes a contact name and telephone number for the Member or Responsible Person to call for assistance or to express any unresolved concerns; and
  - iii. Referral to the AdSS' Corporate Compliance Unit, the Division, or AHCCCS Office of the Inspector General.
- 2. QOC Concerns that meet the reporting requirements specified in AdSS Policy 961, and that are received outside of the AHCCCS QM Portal, shall be entered into the Portal as an Internal Referral (IRF) within one Business Day if the event is considered sentinel and two Business Days for all reportable incidents.

## **C. Process Of Evaluation And Resolution Of QOC And Service Concerns**

1. The AdSS shall complete the QOC Concern Investigation and documentation process within the AHCCCS QM Portal and include a summary of all applicable research, evaluation, intervention, and resolution details for each case.
2. The AdSS shall ensure resolution includes Member and system interventions when appropriate.
3. The AdSS shall maintain a QOC and onsite Investigation process that is a stand-alone process completed through the AdSS Quality Management QOC Department and not combined with other agency meetings or processes.
4. Work units outside of the AdSS QM QOC team:
  - a. Shall not conduct QOC Investigations.
  - b. Shall provide subject matter expertise throughout the investigative process when appropriate.
5. The AdSS may collect but shall not use collateral information obtained from other departments and agencies outside of the AdSS QMU process as a substitute or as the sole justification to

not move forward with the QOC investigative process.

6. The AdSS shall develop and implement policies and procedures that include the following at a minimum:
  - a. Identification of QOC Concerns.
  - b. Initial assessment of the severity of each QOC Concern.
  - c. Prioritization of action(s) needed to resolve a Member's immediate care needs when appropriate.
  - d. Review of trends related to Members, Providers, including organizational Providers, involved in the allegations, considering types and frequency of allegation(s), severity, and substantiation status, as well as systemic QOC Concerns, and referrals to Quality Management and Peer Review committees as appropriate.
  - e. Research including:
    - i. Review of the log of events;
    - ii. Documentation of conversations;
    - iii. Medical records review; and
    - iv. Mortality review, including policies and procedures to receive and refer mortality cases to and from the AdSS Mortality Review Committee.

- f. Quantitative and qualitative analysis of the research, which may include root cause analysis.
  - g. Direct interviews of Members, Responsible Persons, family members, direct care staff, and other witnesses to a reportable event, when applicable and appropriate, to include children and their Responsible Persons as applicable and appropriate.
  - h. Review of available and pertinent information, including audio and visual records, as applicable and appropriate.
7. The AdSS shall provide training to QM clinical staff on QOC Investigations prior to performing these Investigations.
- a. All clinical staff who may perform onsite Investigations shall complete training on how to conduct the Investigation and avoid interference with substantiation or prosecution.
  - b. All clinical staff who may investigate alleged incidents in skilled nursing facilities, assisted living facilities, and behavioral health residential settings shall complete training on how to conduct Investigations considering the specific needs of individuals with intellectual and developmental disabilities.

- c. The AdSS shall incorporate AMPM 960 Attachment D as guidance in the content requirements for its training for Investigations involving individuals with intellectual and developmental disabilities.
8. The AdSS Quality Management staff shall conduct onsite visits when there are identified health and safety concerns, Immediate Jeopardy, or at the direction of AHCCCS or the Division.
  - a. Onsite visits shall be completed via an unannounced and unscheduled visit.
9. The AdSS shall report onsite visits that are identified and conducted by the AdSS after 5:00 p.m. on weekdays, during weekends, or on holidays to the Division's QMU by phone and follow up with an email to [dddahcccsnotifications@azdes.gov](mailto:dddahcccsnotifications@azdes.gov) the following Business Day.
10. The AdSS Clinical Quality Management staff shall be the lead responsible for the review and Investigation, and participate in the onsite visits.
11. The AdSS shall notify the Division's QMU of pending onsite visits with an email to [dddahcccsnotifications@azdes.gov](mailto:dddahcccsnotifications@azdes.gov).
12. The AdSS shall complete an unannounced and unscheduled

wellness check on a Member should the concern not rise to the level of a health and safety concern or Immediate Jeopardy at the Division or AHCCCS request.

- a. The AdSS shall provide an update to the Division via [dddahcccsnotifications@azdes.gov](mailto:dddahcccsnotifications@azdes.gov) no later than 24 hours after completion of the visit. The update shall include:
    - i. Member's disposition;
    - ii. Status, including Member's physical and mental status;
    - iii. Safety concerns; and
    - iv. Any other actions taken.
  - b. The AdSS QM QOC team shall complete the wellness checks, which shall not be delegated.
  - c. The AdSS shall initiate a systemic or individual QOC Investigation if concerns are identified during the onsite wellness check.
13. The AdSS QOC Investigations or onsite visits may not be delegated or performed by the staff of the Provider agency or facility where the identified health and safety concerns, Immediate Jeopardy, or Division-requested reviews have

occurred.

14. Subject matter experts outside of the AdSS QM Unit:
  - a. May participate in the onsite visit when necessary and appropriate; but
  - b. Shall not take the place of Quality Management staff during reviews.
15. The AdSS shall complete and submit to the Division the AMPM 960 Attachment C for each health and safety conducted within 24 hours of completing the onsite review.
16. The AdSS shall, based on findings of the review:
  - a. Take immediate action to ensure the health and safety of all Members receiving services at the facility or Provider site;
  - b. Identify any immediate care or recovery needs and ensure incident resolution.
  - c. Develop work plans and corrective action plans to ensure placement setting or service site compliance with ADHS Licensure and Division requirements regarding policy, training, and signage requirements aimed at preventing and reporting abuse, neglect, and exploitation as specified

- in AHCCCS Minimum Subcontract Provisions (MPSs).
- d. Conduct scheduled and unscheduled monitoring of placement settings or service sites in any of the following circumstances:
    - i. In an Immediate Jeopardy status;
    - ii. Multiple identified deficiencies that may affect the health and safety of Members; or
    - iii. As determined by the Division.
  - 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 recurring.
  - g. Monitor and document success of interventions.
  - h. Monitor placement setting or service sites upon completion of the activities and interventions to ensure that compliance is sustained.
  - i. Implement new interventions and approaches when necessary.

- j. Incorporate interventions into the AdSS's QM Program Plan if successful.
- 17. The AdSS shall ensure that the investigation and resolution of Member and systemic concerns are processed timely based on the nature and severity of each case or as requested by the Division and AHCCCS.
  - a. For High-Profile Cases, the AdSS shall communicate initial reports of immediate findings to the Division immediately, but no later than 24 hours of the AdSS becoming aware of the concern, and follow up with an initial finding report within seven Business Days.
    - i. Member-specific concerns, the initial findings report shall be uploaded to the attachment section of the QOC file within the AHCCCS QM Portal;
    - ii. Systemic concerns, the initial findings report shall be submitted to the Division's QMU via email at [dddahcccsnotifications@azdes.gov](mailto:dddahcccsnotifications@azdes.gov).
  - b. For Member safety or placement concerns, the AdSS 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.

- c. For other concerns, the AdSS shall schedule a due date and assign an investigator within the Status and Assignment Section of the AHCCCS QM Portal for resolution of the case within 60 Calendar Days from the date of opening.
- d. The AdSS shall track concerns that have aged to greater than 60 Calendar Days and must develop an action plan to address these cases.
- e. Member and systemic Investigations and resolutions shall occur concurrently and independently from one another.
- f. Systemic concerns identified by the AdSS shall be reported to the Division QMU no later than 24 hours of becoming aware of the concern and opening the systemic concern.
  - i. Notifications shall be sent to the Division's QMU via email at [dddahcccsnotifications@azdes.gov](mailto:dddahcccsnotifications@azdes.gov);
  - ii. A due date shall be set to 30 days from the opening date of the systemic concern;
  - iii. Systemic resolution report shall be sent to the



reflect changes during the Investigation as additional details and allegations are discovered and added to the QOC.

21. The AdSS shall ensure the final Severity Level is assigned to the case at the conclusion of the Investigation.
22. The AdSS shall submit to the Division all pertinent information regarding an incident of abuse, neglect, exploitation, serious incident, including suicide attempts, unexpected death, including all unexpected transplant deaths, and other serious incidents as specified in Contract and AdSS Medical Policy 961.
  - a. The AdSS shall not limit pertinent information to autopsy results;
  - b. The AdSS shall include a broad review of all issues and possible areas of concern;
  - c. The AdSS shall not delay the Investigation of QOC Concern based on delays in receipt of autopsy results; and
  - d. The AdSS shall, when available, use delayed autopsy results to confirm the resolution of the QOC Concern.
23. The AdSS shall ensure that concerns are reported to the appropriate regulatory agency including:
  - a. The Department of Child Safety;

- b. Adult Protective Services;
  - c. Arizona Department of Health Services;
  - d. The Attorney General's Office;
  - e. Law enforcement;
  - f. AHCCCS Office of the Inspector General;
  - g. The Division; or
  - h. Other entities as necessary.
24. The AdSS shall submit the initial report in the format required by the regulatory agency as soon as possible but no later than 24 hours of becoming aware of a concern.
25. The AdSS shall document all referrals made to a regulatory agency in the AHCCCS QM Portal and include, at a minimum, the following information:
- a. Name and title of the person submitting the report;
  - b. Name of the regulatory agency 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.
- 26. The AdSS shall have a process to refer issues to the AdSS' Peer Review Committee when appropriate.
  - a. The AdSS shall ensure that appropriate referrals include all High-Profile Cases.
  - b. The AdSS shall not consider a referral to the Peer Review Committee as a substitute for implementing interventions aimed at individual and systemic quality improvement.
- 27. The AdSS shall document Peer Review referrals as well as high-level summary information in the QOC file within the AHCCCS QM Portal and must include documentation of the specific credentials of the involved Committee members.
- 28. If an Adverse Action is taken with a Provider for any reason, including those related to a QOC Concern, the AdSS shall report the Adverse Action, including limitations and terminations, credentialing/recredentialing denial, and the rationale for the Adverse Action to the Division's QM Unit within 24 hours of the determination to take an Adverse Action and to the National Practitioner Data Bank as specified in the Division contract.

29. The AdSS shall ensure continuity of care, health and safety, and Member well-being in transition of care when acting on Adverse Actions.
30. The AdSS shall allow adequate time for identification of new Providers, transition of Members to those Providers, impact to Members, and timely communication to Members to prepare for a transition.
31. If a move or transition must occur quickly, the AdSS shall work with the Division to ensure Member needs are met without potential gaps in care or service delivery and without treatment disruption.
32. The AdSS shall ensure concerns identified, including service concerns, are referred to the appropriate Provider compliance unit and the AdSS QM/Performance Improvement (QM/PI) Committee for ongoing follow-up.
33. The AdSS shall document the closure of the Investigation within the AHCCCS QM Portal by submitting a resolution report that includes:
  - a. A description of all concerns, including new allegations or concerns identified during the Investigation process;

- b. The substantiation and severity level for each allegation as well as case overall;
  - c. A summary of documents received from inquiries/referrals made to outside agencies, including:
    - i. Accrediting bodies,
    - ii. Medical Examiner,
    - iii. APS/DCS,
    - iv. ADHS,
    - v. Attorney General's Office;
    - vi. Law enforcement agencies;
    - vii. AHCCCS OIG; and
  - d. Interventions imposed as part of the Investigation, including Provider education, root cause analysis, and ongoing monitoring.
34. The AdSS shall document all follow-up actions or monitoring activities, as well as related observations or findings, in the QOC file and within the AHCCCS QM Portal.
35. The AdSS shall notify the Division's QM Unit as 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, when an Investigation identifies an adverse outcome, including mortalities, due to prescribing issues or failure of the Provider to:

- a. Check the CSPMP
  - b. Coordinate care with other prescribers
  - c. Refer for substance use treatment or pain management.
36. The AdSS shall present the case finding, as appropriate, to the AdSS' Peer Review Committee for review and recommendation to the QM/PI Committee for discussion and recommendations to AdSS leadership.
37. The AdSS shall present findings to the AdSS Credentialing Committee if the case finding may have a direct impact on the credentialing or recredentialing of a Provider.

#### **D. Inter-Rater Reliability For Triage And QOC**

1. The AdSS shall perform Inter-Rater Reliability for all clinical staff prior to making determinations related to incidents and QOC Concerns.
2. The AdSS shall perform the testing at least quarterly for all clinical staff with a required passing grade of 90 percent.

3. The AdSS shall use test scenarios pertinent to its covered membership and approved by its local Chief Quality Officer and Medical Director.
4. The AdSS shall require staff members who do not receive a passing grade of 90% to retake the exam.
5. The AdSS shall develop and implement an education plan for staff members who do not attain a passing grade of 90 percent on the repeat testing until a passing grade is achieved or the staff member is reassigned to a different position for which the training requirement is not pertinent.

#### **E. Tracking And Trending of QOC and Service Complaints**

1. The AdSS shall conduct oversight through tracking and trending of Member and Provider concerns and making appropriate referrals for independent review as described in this section.
2. The AdSS shall develop and implement a system to document, track, trend, and evaluate complaints and allegations received from Members and Providers, or as requested by the Division or AHCCCS, inclusive of quality care, immediate jeopardy, quality of service, and immediate care need issues.
3. The AdSS shall analyze and evaluate the data from the tracking

and trending system to identify and address any trends related to Members, Providers, the QOC process, or services in the AdSS service delivery system or Provider network.

4. The AdSS shall incorporate trending of QOC issues in determining systemic interventions for quality improvement.
5. The AdSS shall submit tracking and trending information to be reviewed and considered for action by the AdSS local Quality Management Committee and local Chief Medical Officer as Chairman of the QM/PI Committee.
6. If significant negative trends are noted in the tracking and trending, the AdSS shall develop 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. Tracking and trending may also identify promising practices that resulted in better outcomes for Members.
7. The AdSS shall ensure tracking and trending information related to Provider education, training, and staff credentialing is shared with the workforce development operation as specified in AdSS Operations Policy 407.

8. The AdSS shall ensure that Member health records are available and accessible to authorized staff of its organization and to the 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.
9. The AdSS shall comply with federal and state confidentiality laws, including Health Insurance Portability and Accountability Act (HIPAA) and 42 CFR 431.300 et seq.
10. The AdSS shall maintain information related to coverage and payment issues for at least six years following final resolution of the issue and must be made available to the Member, Responsible Person, Provider, Division, or AHCCCS authorized staff upon request.
11. The AdSS shall proactively provide care coordination for Members who have multiple complaints regarding services or the Division and AHCCCS programs.
12. The AdSS care coordination staff shall work with the Division's Support Coordination staff to facilitate and address Member

complaints as a proactive measure to promote better service delivery and health outcomes.

## **F. Reporting To Independent Oversight Committee**

1. The AdSS shall provide IAD Reports, IRF Reports, and QOC Concerns, including reports of possible abuse, neglect, or denial of rights involving any DDD enrolled Member, to the DDD Independent Oversight Committee (IOC) established by A.R.S. § 41-3801 and as outlined in this policy within three Business Days of closure.
2. The AdSS shall incorporate the IADs and IRFs that are triaged as potential QOC Concerns into the QOC record and submit to the IOC as part of the QOC documentation upon completion of the QOC Investigation in place of a standalone IAD/IRF within three Business Days of completion of the Investigation.
3. The AdSS shall redact all PII from reports provided to the IOC in accordance with federal and state confidentiality laws.
4. The AdSS shall provide Member information and records to the IOCs in accordance with A.R.S. § 41-3804.
5. The AdSS shall provide Seclusion and Restraint Reports, IAD Reports, IRF Reports, and QOC Investigation reports, including

reports of possible abuse, neglect, or denial of rights involving any behavioral health Provider, to the IOC as specified in the Division contract.

6. If the AdSS receive an IOC request for additional or unaltered documentation, supplemental information, or an Investigation regarding an AHCCCS Member, the AdSS shall submit the request to AHCCCS via email at: [iocinquiries@azahcccs.gov](mailto:iocinquiries@azahcccs.gov).

#### **G. Requests for PII or PHI of Current Enrolled Member**

1. The AdSS shall do one of the following if the Division, AHCCCS, or the IOC requests information regarding the outcome of a report of possible abuse, neglect, or violation of rights:
  - a. Conduct an Investigation of the incident if one has not been conducted.
    - i. For incidents in which a Member with a serious mental illness designation is the possible victim, the Investigation shall follow the requirements specified in AAC 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, from all information surrounding the incident, whether the incident constitutes abuse, neglect, exploitation, 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 AdSS and can be disclosed without violating any confidentiality provisions, the AdSS shall provide the final Investigation decision to the Division, AHCCCS, and the IOC. The final Investigation decision shall consist of, at a minimum, the following:
  - 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 actions taken.
2. The AdSS shall only release PII or PHI concerning a currently or previously enrolled Member to the IOC if:
  - a. The IOC demonstrates that the information is necessary to perform a function that is related to the IOC's oversight, or
  - b. The IOC has written authorization from the Responsible

Person to review PII or PHI.

3. If the AdSS determine that the IOC needs PII or PHI, or has obtained the Member's or Responsible Person's written authorization, the AdSS shall first review the requested information and determine if it contains any 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, or as described in A.R.S. §41-3804.
  - a. If no information detailed in (3) of this Section is found, the AdSS shall provide the information adhering to the requirements of this policy.
  - b. If information detailed in (3) of this Section is found, the AdSS shall contact the Member or Responsible Person and ask if they are willing to sign an authorization for the release of communicable disease related information, including confidential HIV information, information concerning diagnosis, treatment, or referral from an alcohol or drug use program, and 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.

- i. If the Member or Responsible Person agrees to give authorization, the AdSS shall obtain written authorization as outlined below and provide the requested information to the IOC.
  - ii. If the Member or Responsible Person does not agree to give authorization, the information is not included or is redacted from any documentation which is authorized to be disclosed.
4. The AdSS shall accept authorization for the disclosure of records of deceased Members 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, the AdSS shall, upon request, disclose PII and PHI to a family member, other relative or a close personal friend of the deceased Member, or any other person identified by the deceased, only to the extent that the PHI is directly relevant to such person's involvement with the

deceased Member's health care or payment related to the individual's health care.

5. The AdSS shall provide requested information that does not require authorization within 15 Business Days of the request.
6. The AdSS shall provide the requested information that does not require authorization within five Business Days of receipt of the written authorization.
7. When PII or PHI is sent, the AdSS 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.
8. The AdSS shall not release any information or records during the timeframe for filing a request for judicial review or when judicial review is pending.

## **H. Consent Requirements**

1. The AdSS shall only accept a written authorization for disclosure of information concerning diagnosis, treatment, or referral from an alcohol or substance use program or communicable disease-related information, including confidential HIV information, that contains the following information:

- a. The specific name or general designation of the program or individual 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 an individual authorized to give consent.
- g. The date on which the authorization is signed.
- h. 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.
- i. The date, event, or condition upon which the authorization will expire if not revoked before. This date, event, or condition must ensure that the authorization will last no longer than reasonably necessary to serve the purpose for

which it is given.

- j. A statement that this information has been disclosed from records protected by federal confidentiality rules and state statute on confidentiality of HIV/AIDS and other communicable disease information 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).

## **H. Duties And Liabilities Of Behavioral Health Providers In Providing Behavioral Health Services**

1. The AdSS 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 which supplements other immunities of behavioral health Providers or mental health treatment agencies that are specified in law.
2. The AdSS shall incorporate the following in policies, procedures, and Provider training related to (1) of this Section:
  - a. 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 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:

- i. 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.
  - ii. The mental health Provider fails to take reasonable precautions.
- b. That 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:
- i. Communicates, when possible, the threat to all identifiable victims;
  - ii. Notifies a law enforcement agency in the vicinity where the patient or any potential victim resides;
  - iii. Takes reasonable steps to initiate voluntary or

- involuntary hospitalization, if appropriate; or
- iv. Takes other precautions that a reasonable, prudent behavioral health Provider would take under the circumstances.
  - c. That this statute also provides immunity from liability when the behavioral health Provider discloses confidential communications by or relating to a Member under certain circumstances: The behavioral health Provider has no liability resulting from disclosing a confidential communication made by or relating to a Member when a Member has explicitly threatened to cause serious harm to a person or when the behavioral health Provider reasonably concludes that a Member is likely to cause harm, and the behavioral health Provider discloses a confidential communication made by or relating to the Member to reduce the risk of harm.
  - d. That 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 Member poses a danger to self or others, the Provider must exercise care to protect others against imminent danger of a Member harming themselves or others. The foreseeable victim need not be specifically identified by the Member, but he/she may be someone who would be the most likely victim of the Member's dangerous conduct.

- e. That the responsibility of the behavioral health Provider to take reasonable precautions to prevent harm threatened by a Member may include any of the following:
  - i. Communicating, when possible, the threat to all identifiable victims,
  - ii. Notifying a law enforcement agency in the vicinity where the Member or any potential victim resides,
  - iii. Taking reasonable steps to initiate proceedings for voluntary or involuntary hospitalization, if appropriate, and in accordance with AMPM Policy 320-U, or

- iv. Taking any other precautions that a reasonable and prudent Provider would take under the circumstances.

## **I. Provider-Preventable Conditions**

1. The AdSS shall not provide payment for services related to Provider-Preventable Conditions as outlined in 42 CFR 447.26.
2. If the AdSS identify a Provider-Preventable Condition, the AdSS shall:
  - a. Conduct a QOC Investigation within the AHCCCS QM Portal.
  - b. Report the occurrence and results of the Investigation to the Division's QMU quarterly, as specified in the Contract.
  - c. Report the occurrence to the appropriate regulatory boards and agencies in accordance with the provisions of this policy following the outcome of the Investigation.

## **Supplemental Information**

1. As part of the QOC Investigation process, the AdSS 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 and AAC R9-19-315(E).
2. If AHCCCS denies the IOC request for PII or PHI, AHCCCS shall

notify the IOC within five working days of the decision that a 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.

3. The Committee's request to review the denial must be received by the AHCCCS Director or designee within 60 days of the first scheduled committee meeting after the denial decision is issued.
4. The AHCCCS Director or designee shall conduct the review within five Business Days after receiving the accepted request for review.
5. 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.

*Vivian A. Copeland, MD*

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Signature of Chief Medical Officer

**April 5, 2026**

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Date