CHAPTER 28 MEMBER RIGHTS

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REFERENCES: 42 CFR 457.1220, 42 CFR 438.3(j)(3), 42 CFR 438.100, 42 CFR 438.100(b)(2)(iii), 45 CFR 164.524 and 526; A.R.S § 36- 551.01, A.R.S. § 36-3205.C.1; Division Operations Manual Policy 1001-A; Qualified Vendor Contract

PURPOSE

This policy sets forth guidance for Providers of Division of Developmental Disabilities (Division) services to Division Members to identify the rights and responsibilities that an individual has by virtue of being enrolled in programs operated or overseen by the Division of Developmental Disabilities (Division).

DEFINITIONS

1.   "Developmental Disability" means as defined in A.R.S. § 36-551.

2.   "Member" means the same as "Client" as defined in A.R.S. § 36-551.

3.   "Provider" means any individual or entity contracted with the AdSS and the Division 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.

4. "Qualified Vendor" means a provider of community Developmental Disability services that has applied for Qualified Vendor status, meets the criteria for Qualified Vendor status, and has entered into a Qualified Vendor Agreement with the Department.

5. "Support Coordinator" means the same as "Case Manager" under A.R.S. § 36-551.

POLICY

A.   PROVIDER RESPONSIBILITIES

1. Service Providers shall uphold an individual with a Developmental Disability as having the same rights, benefits, and privileges guaranteed by the constitutions and laws of the United States and the State of Arizona.

2. Service Providers shall act in accordance with applicable federal and state laws pertaining to Member Rights.

3. Qualified Vendors shall require their subcontractors to comply with applicable federal and state laws pertaining to Member Rights.

4.   Service Providers shall require employees to become familiar with the rights outlined in this policy.

B.   RECOGNIZED MEMBER RIGHTS

1.   Service Providers shall uphold Member Rights as outlined in Division Operations Policy 1001-A;

2.   Service Providers shall, in addition to the rights in (1) of this Section, uphold the following Member Rights to:

   a.   Request and receive one copy of the Member's medical record at no cost to the Member and to request that the record be amended or corrected, as specified in 45 CFR 164.524.

   b.   Receive information on available treatment options and alternatives, presented in a manner appropriate to the Member's condition and ability to understand.

   c.   Participate in treatment decisions regarding his or her health care, including the right to refuse treatment.

   d.   Have accommodations to actively participate in the provision of services and have physical access to facilities, procedures, and exams.

e.   Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation.

f.   File a grievance and obtain the grievance process in writing.

g.   Exercise their rights without the exercise of those rights adversely affecting service delivery to the Member.

h.   Accept or refuse medical care and the right to execute an advance directive.

i.   Be integrated into their communities and have full access to the benefits of community living and services in the most integrated setting when receiving Home and Community Based Services (HCBS).

3.   Service Providers shall:

a.   Offer to Members at least once annually, and advise them of their right to request more frequently, the following items:

i.   An updated Member handbook at no cost to the Member; and

ii.   A provider directory as described in the AHCCCS

        Contractor Operations Manual, Policy 404. This

        information may be sent in a separate written

        communication or included with other written

        information, such as in a Member newsletter; and

iii.   An updated copy of the DDD Member Rights and

        Responsibilities booklet.

b. Maintain written policies that:

    i.   Address the rights of adult Members to make

            decisions about medical care; and

    ii.   Explain any agency or organization's conscientious

            objection to carrying out an advanced directive.

c. Provide written information to adult Members regarding:

    i.   An individual's rights under state law to make

            decisions regarding medical care; and

    ii.   The health care provider's written policies concerning

            advance directives including any conscientious

            objections.

     d.   Maintain written policies that reflect full compliance with the Centers for Medicare and Medicaid Services (CMS) Final HCBS Rules CMS 2249-F and CMS 2296-F.

     e.   Provide individuals receiving services in residential and non-residential settings with guidance as outlined in Division Provider Manual Chapter 2.

     f.   Comply with the Americans with Disabilities Act (ADA) and Title VI of the Civil Rights Act of 1964.

SUPPLEMENTAL INFORMATION

1. All Members have the right to be treated with dignity and respect. The Division is committed to protecting the rights of all individuals who are receiving supports and services operated by, supervised by, or financially supported by, the Division.

2. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in programs receiving federal financial assistance. The Americans with Disabilities Act (ADA) prohibits discrimination against people with disabilities in employment, public services, public accommodations, and telecommunications. Providers contracted with the Division shall comply with the Americans

with Disabilities Act (ADA) and Title VI of the Civil Rights Act of 1964.

Providers can find more information on the Americans with Disabilities

Act in the Division Provider Manual Chapter 24.

3.   The information requirements for services that are not covered under

the contract because of moral or religious objections are set forth in §

438.10(g)(2)(ii)(A) and (B).

4.   A health care provider is not prohibited from conscientious objection to

carrying out advanced directives when made pursuant to A.R.S. §

36-3205.C.1.