

1  
2 **CHAPTER 28 MEMBER RIGHTS**

3  
4 REVISION DATE: (XX/XX/XXXX), 5/26/2017, 3/25/2016, 4/16/2014  
5 REVIEW DATE: 10/1/2023  
6 EFFECTIVE DATE: March 29, 2013  
7 REFERENCES: 42 CFR 457.1220, 42 CFR 438.3(j)(3), 42 CFR 438.100, 42  
8 CFR 438.100(b)(2)(iii), 45 CFR 164.524 and 526; A.R.S § 36- 551.01,  
9 A.R.S. § 36-3205.C.1; Division Operations Manual Policy 1001-A; Qualified  
10 Vendor Contract

11 **PURPOSE**

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

17 **DEFINITIONS**

- 18  
19 1. "Developmental Disability" means as defined in A.R.S. § 36-551.  
20  
21 2. "Member" means the same as "Client" as defined in A.R.S. §  
22 36-551.  
23 3. "Provider" means any individual or entity contracted with the  
24 AdSS and the Division that is engaged in the delivery of  
25 services, or ordering or referring for those services, and is

- 26  
27 legally authorized to do so by the State.
- 28 4. “Qualified Vendor” means a provider of community  
29 Developmental Disability services that has applied for Qualified  
30 Vendor status, meets the criteria for Qualified Vendor status,  
31 and has entered into a Qualified Vendor Agreement with the  
32 Department.
- 33 5. “Support Coordinator” means the same as “Case Manager” under  
34 A.R.S. § 36-551.

## **POLICY**

### **A. PROVIDER RESPONSIBILITIES**

37 All members have the right to be treated with dignity and respect. The  
38 Division of Developmental Disabilities (Division) is committed to protecting  
39 the rights of all individuals who are receiving supports and services operated  
40 by, supervised by, or financially supported by, the Division.

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

- 45  
46       2.    Service Providers shall act in accordance ~~contractors must~~  
47            ensure compliance with any applicable federal and state laws  
48            that pertaing to Member Rights.
- 49       3.    Qualified Vendors shall require their ~~and ensure that its staff and~~  
50            subcontractors to comply with applicable federal and state laws  
51            pertaining to Member Rights. ~~take those rights into account~~  
52            ~~when furnishing services to members.~~
- 53       4.    Service Providers shall require employees to become ~~are familiar~~  
54            with the information in the rights outlined in ~~references listed~~  
55            this policy. ~~above,~~ and the Division's contractual agreements  
56            ~~below.~~
- 57            ~~Members have the right to:~~

58    **B.    RECOGNIZED MEMBER RIGHTS**

- 59       1.    Service Providers shall uphold~~recognize~~ Member Rights as  
60            outlined in Division Operations Policy 1001-A;
- 61       2.    Service Providers shall, in addition to the rights in (1) of this  
62            Section, uphold~~recognize~~ the following Member Rights to:
- 63            a.    Request and receive one copy of the Member's medical  
64            record at no cost to the Member and to request that the

- 65  
66 record be amended or corrected, as specified in 45 CFR  
67 164.524.
- 68 b. Receive information on available treatment options and  
69 alternatives, presented in a manner appropriate to the  
70 Member's condition and ability to understand.
- 71 c. Participate in treatment decisions regarding his or her  
72 health care, including the right to refuse treatment.
- 73 d. Have accommodations to actively participate in the  
74 provision of services and have physical access to facilities,  
75 procedures, and exams.
- 76 e. Be free from any form of restraint or seclusion used as a  
77 means of coercion, discipline, convenience, or retaliation.
- 78 f. File a grievance and obtain the grievance process in  
79 writing.
- 80 g. Exercise their rights without the exercise of those rights  
81 adversely affecting service delivery to the the the way the  
82 Provider or its subcontractors treat the Member [42 CFR  
83 438.100(c)].

84  
85            h.     Accept or refuse medical care and the right to execute an  
86            advance directive.

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

91            3.     ~~Service Qualified Vendors and their Providers shall:~~The Division's  
92            contractors and their subcontractors must:

93            a.     Offer to Members at least once annually, and advise them  
94            of their right to request more frequently, the following  
95            items: Inform Ensure Members and individuals with  
96            disabilities are annually informed of their right to request  
97            the following information and are offered:

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

100           ii.    A provider directory as described in the AHCCCS  
101           Contractor Operations Manual, Policy 404. This  
102           information may be sent in a separate written

- 103  
104 communication or included with other written  
105 information, such as in a Member newsletter; and  
106 iii. An updated copy of the DDD Member Rights and  
107 Responsibilities booklet.
- 108 b. Maintain written policies that:
- 109 i. Address the rights of adult Members to make  
110 decisions about medical care; and
- 111 ii. Explain any agency or organization's conscientious  
112 objection to carrying out an advanced directive.
- 113 ~~If the agency or /organization has a conscientious~~  
114 ~~objection to carrying out an advance directive, it~~  
115 ~~must be explained in policies. A health care provider~~  
116 ~~is not prohibited from making such objection when~~  
117 ~~made pursuant to A.R.S. § 36-3205.C.1.~~
- 118 c. Provide written information to adult Members regarding:
- 119 i. An individual's rights under state law to make  
120 decisions regarding medical care; and

- 121  
122           ii.    The health care provider's written policies concerning  
123                    advance directives including any conscientious  
124                    objections. ~~[42 CFR 438.3(j)(3)].~~
- 125           d.    ~~Guarantee Ensure that each Member has~~ guaranteed the  
126                    right to request and receive one copy of the Member's  
127                    medical record at no cost to the Member, and to request  
128                    that the record be amended or corrected, as specified in  
129                    45 CFR 164.526.
- 130           d.    Maintain written policies that reflect full compliance with  
131                    the Centers for Medicare and Medicaid Services (CMS)  
132                    Final HCBS Rules CMS 2249-F and CMS 2296-F.
- 133           e.    Provide individuals receiving services in residential and  
134                    non-residential settings ~~comply with guidance these rules~~  
135                    as outlined in Division Provider Manual Chapter 2.
- 136           f.    Comply with the Americans with Disabilities Act (ADA) and  
137                    Title VI of the Civil Rights Act of 1964. ~~This Act prohibits~~  
138                    discrimination on the basis of race, color, and national  
139                    origin in ~~programs receiving federal financial assistance.~~  
140                    The Americans with Disabilities Act (ADA) prohibits

141  
142 discrimination against people with disabilities in  
143 employment, public services, public accommodations, and  
144 telecommunications.

145 **SUPPLEMENTAL INFORMATION**

- 146 1. All Members have the right to be treated with dignity and respect. The  
147 Division is committed to protecting the rights of all individuals who are  
148 receiving supports and services operated by, supervised by, or  
149 financially supported by, the Division.
- 150 2. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the  
151 basis of race, color, and national origin in programs receiving federal  
152 financial assistance. The Americans with Disabilities Act (ADA)  
153 prohibits discrimination against people with disabilities in employment,  
154 public services, public accommodations, and telecommunications.  
155 Providers contracted with the Division shall comply with the Americans  
156 with Disabilities Act (ADA) and Title VI of the Civil Rights Act of 1964.  
157 Providers can find more information on the Americans with Disabilities  
158 Act in the Division Provider Manual Chapter 24.



- 159  
160 3. The information requirements for services that are not covered under  
161 the contract because of moral or religious objections are set forth in §  
162 438.10(g)(2)(ii)(A) and (B).
- 163 4. A health care provider is not prohibited from conscientious objection to  
164 carrying out advanced directives when made pursuant to A.R.S. §  
165 36-3205.C.1.

Draft Policy for Public Comment