

## **418 PROVIDER AND AFFILIATE ADVANCES, EQUITY DISTRIBUTIONS, LOANS, & INVESTMENTS**

EFFECTIVE DATE: April 29, 2019

REFERENCES: ACOM 418 Provider and Affiliate Advances, Equity Distributions, Loans, and Investments.

### **Purpose**

This Policy applies to Department of Developmental Disabilities (the Division). This Policy establishes requirements for Division regarding advances, equity distributions loans, loan guarantees, and investments; including but not limited to, those to providers and related-parties or affiliates including another fund or line of business within the Division's organization.

### **Definitions**

- A. Advance - Includes but is not limited to payment to a provider or affiliate by a Contractor which is based on an estimate of Received but Unpaid Claims (RBUCS), an estimate of the value of erroneous claim denials (including underpayments), a loan, or as otherwise defined by the Contractor.
- B. Affiliate (Related Party) - A party that has, or may have, the ability to control or significantly influence a Division, or a party that is, or may be, controlled or significantly influenced by a Division. "Related parties" include, but are not limited to, agents, managing employees, individuals with an ownership or controlling interest in the Division and their immediate families, subcontractors, wholly-owned subsidiaries or suppliers, parent companies, sister companies, holding companies, and other entities controlled or managed by any such entities or individuals.
- C. Affiliate (Related Party) Transactions - Transactions with a party that has, or may have, the ability to control or significantly influence a Contractor, or a party that is, or may be, controlled or significantly influenced by the Contractor. Control, for purposes of this definition, means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an enterprise through ownership, by contract, or otherwise. "Related parties" or "Affiliates" include, but are not limited to, agents, managing employees, individuals with an ownership or controlling interest in the disclosing entity, and their immediate families, subcontractors, wholly-owned subsidiaries or suppliers, parent companies, sister companies, holding companies, and other entities controlled or managed by any such entities or individuals.
- D. Day - Calendar day unless otherwise specified.
- E. Provider - Any individual or entity that contracts with AHCCCS or a Contractor for the provision of covered services to members according to the provisions A.R.S. §36-2901 or any subcontractor of a provider delivering services pursuant to A.R.S. §36-2901

### **Policy**

AHCCCS reserves the right to evaluate and present all proposed Advances, equity distributions, loans, loan guarantees, and investments to the affected Providers(s), related parties, or Affiliates as part of the approval and/or notification process.

All requests must be submitted as specified in the Division Contract. AHCCCS will evaluate all requests for appropriateness and to resolve any future occurrences with accurate and timely claims payment. A written determination will be sent to the Division upon review of all required information from the Division.

Provider Advances, loans, and loan guarantees under \$50,000 do not require prior AHCCCS approval but will be tracked and made available to AHCCCS upon request. AHCCCS reserves the right to request tracking logs, collection policies, and any pertinent information for all Advances, loans, or loan guarantees.

### **Individual and Cumulative Provider Advances, Loans, and Loan Guarantees**

The Division must submit written notification to AHCCCS of any individual or cumulative Provider loans, loan guarantees, and Advances equal to or in excess of \$50,000 per Provider Tax Identification Number (TIN) within a contract year. All requests for prior approval are to be submitted as specified in the Division contract. Prior approval requests must be submitted 10 Days prior to the anticipated date of distribution. All requests for approval must be in the format detailed below:

- A. A detailed letter of explanation must be submitted that describes:
1. The Provider(s) name(s) and AHCCCS Identification Number(s),
  2. The date the Provider and the Division initiated discussions relating to the need for the loan.
  3. The systemic organizational causes resulting in the need for a loan including any mitigation strategies implemented prior to the request.
  4. The process that will be used for repayment including the timeline,
  5. The contingency plan for repayment should the Provider default on repayment,
  6. The corrective action(s) that will be implemented to avoid future occurrences,
  7. The total loan amount, and if applicable, the percentage that the Advance amount is of total estimated amount that should have been paid, and range of dates (month/year) for the impacted claims.
  8. A copy of the written communication that will serve as notification to the affected Provider(s).
- B. Upon completion of repayment or six months from the date of AHCCCS approval, whichever comes first, the Division will provide the following information to AHCCCS:
- Provider Name
  - AHCCCS Provider ID
  - Provider Tax Identification Number
  - Date of Payment

- Amount Paid
- Amount Loaned
- Balance Due to/from the Provider

Required documentation for loan guarantees will be determined on an individual basis and communicated to the Division as part of the approval.

**Routine or Scheduled Advances, Loans to Providers and Any Advances, or Loans to Affiliates**

Routine/scheduled Advances or loans to Providers as a result of contractual arrangements or any Advance or loans to an Affiliate must be submitted to AHCCCS for prior approval. The request for approval must be submitted as specified in the Division contract.

AHCCCS may request additional information or periodic reconciliations related to these Advances.

**Routine or Scheduled Advances, Equity Distributions, Loans, Loan Guarantees to Affiliates**

The Division must submit a written request for approval to AHCCCS for any Advances, equity distributions, loans, loan guarantees or investments in /to related parties or Affiliates. This includes other funds or lines of business within its organization, within a contract year. Prior approval requests must be submitted 30 days prior to the anticipated date of distribution.

All approval requests must be in the format detailed below:

- A. A detailed letter of explanation must be submitted that describes:
- The Related Party or Affiliate Name
  - The Amount
  - The Type of Request
  - The Purpose or Reason for Request
  - The Expected Date of Investment or Distribution.