

442 – OPT OUT REQUEST FOR A MEMBER WITH A SERIOUS MENTAL ILLNESS DESIGNATION

EFFECTIVE DATES: 07/01/16, 04/01/17, 10/01/18, 10/01/22

APPROVAL DATES: 02/02/17, 03/15/18, 05/05/22

I. PURPOSE

This Policy applies to ACC-RBHA Contractors. This Policy defines the criteria, process and timeframes that apply when a member with a Serious Mental Illness (SMI) designation requests to transfer their physical health services from the assigned ACC-RBHA Contractor to an ACC Contractor. This Policy does not affect a member’s SMI designation.

II. DEFINITIONS

Definitions are located on the AHCCCS website at: [AHCCCS Contract and Policy Dictionary](#).

III. POLICY

The ACC-RBHA Contractor shall ensure the provision of physical health services for all enrolled members who have an SMI designation shall work collaboratively, as indicated, to address and resolve member concerns. A member with an SMI designation (hereafter “member”), who is currently enrolled with the ACC-RBHA Contractor, may opt out of receiving physical health services from the ACC-RBHA Contractor and be transferred to an ACC Contractor for their physical health services if one or more of the applicable opt out criteria are satisfied. Members who meet the opt out criteria will continue to receive behavioral health services through the ACC-RBHA Contractor.

A. OPT OUT CRITERIA

A member may receive their physical health services from an ACC Contractor rather than the ACC-RBHA Contractor under the following conditions only:

1. The transfer is necessary due to the ACC-RBHA Contractor’s network limitations and restrictions. This occurs where a member does not have a choice for a Primary Care Physician (PCP) from at least two in-network PCPs, and does not have access to at least one specialty provider for each specialty area, to meet their medical needs,
2. The transfer is necessary to continue or to fulfill a current physician’s or provider’s Course of Care recommendation, and/or,
3. The member has demonstrable evidence which establishes that due to the enrollment and affiliation with the ACC-RBHA Contractor, actual harm, or the potential for discriminatory or disparate treatment exists with regard to:
 - a. Access to, continuity, or availability of covered physical health services,
 - b. Exercising member choice,
 - c. Privacy rights,

- d. Quality of services provided, and/or
- e. Member rights under A. A. C. R9-21-201.

With respect to paragraph 3, a member, or their designee, shall demonstrate that discriminatory or disparate treatment has occurred or shall establish the plausible potential of such treatment. It is insufficient for a member to establish actual harm or the potential for discriminatory or disparate treatment solely on the basis that they are enrolled in the ACC-RBHA Contractor.

B. PROCEDURES

1. The ACC-RBHA Contractor shall develop and maintain a process allowing members to request to transfer their physical health services to an ACC Contractor in accordance with the opt out criteria and requirements herein.
2. The process shall be initiated when the member, the member's Health Care Decision Maker (HCDM), or a medical provider with the member's consent, contacts the ACC-RBHA Contractor's Member Services department verbally or in writing to request a change in the member's health plan for physical health services. If the member's concern cannot be resolved to their satisfaction, the process shall be facilitated through a centralized administrative functional area, such as Grievances and Appeals, and coordinated to include individuals who have the knowledge necessary to resolve the concern.
3. Upon receipt of a member's request to transfer to an ACC Contractor, the ACC-RBHA Contractor shall explore all options and act to promptly resolve the member's concerns regarding:
 - a. The availability and accessibility of services,
 - b. The course of medical care or delivery issues, and/or
 - c. Any policy or practice that results in the actual or perceived discriminatory or disparate treatment of the member as a result of their enrollment with the ACC-RBHA Contractor.
4. All requested plan changes shall be processed as follows:
 - a. The ACC-RBHA Contractor shall enter all required information into the Opt Out Form located on the AHCCCS Behavioral Health Portal. This form shall be submitted for each member requesting to transfer to an ACC Contractor for physical health services and shall include the following:
 - i. Confirm and document that the member has an SMI designation and is enrolled in the ACC-RBHA Contractor,
 - ii. The member's/HCDMs request to opt-out (whether submitted in writing or taken verbally from the member),
 - iii. If received verbally, write the basis of the member's/HCDMs opt out request,
 - iv. All documentation provided by the member/HCDM related to their request,
 - v. Attach any documentation provided by the member/HCDM, including evidence establishing actual or potential harm,
 - vi. Any relevant documentation obtained by the ACC-RBHA Contractor in response to the request (e.g., information regarding availability of services, treatment records, etc.),

- vii. Any additional findings or information obtained by the ACC-RBHA Contractor,
 - viii. Review completed opt out request forms, including all information received from the member/HCDM, as described above, and
 - ix. Ensure that a decision to deny the request, or a recommendation to approve the request, is made by the ACC-RBHA Contractor's Medical Director or designee.
- b. In the event the ACC-RBHA Contractor denies a member's/HCDMs opt out request:
- i. The ACC-RBHA Contractor shall submit the completed decision packet to the AHCCCS Behavioral Health Portal and issue written notice to the member within 10 calendar days from the date of receipt of the member's/HCDMs request as specified in this policy. A complete decision packet shall include, at a minimum:
 - 1) The member's/HCDM request to opt-out (whether submitted in writing or taken verbally from the member/HCDM),
 - 2) All documentation provided by the member/HCDM related to their request,
 - 3) Any relevant documentation obtained by the ACC-RBHA Contractor in response to the request (e.g., information regarding availability of services, treatment records, etc.), and
 - 4) Any additional findings or information obtained by the ACC-RBHA Contractor.
 - ii. The denial notice issued by the ACC-RBHA Contractor shall list the information submitted by the member/HCDM with their request to opt out, include the specific reasons for denial and advise the member/HCDM of their right to appeal. This notice shall also include instructions to the member/HCDM detailing how to file the appeal with the ACC-RBHA Contractor,
 - iii. In the event a member/HCDM appeals a denial of their request to opt out, the ACC-RBHA Contractor shall, within five business days of receipt of such appeal, provide the following documentation to AHCCCS:
 - 1) The member's name, AHCCCS ID number, current address and telephone number (if applicable),
 - 2) The member's/HCDMs initial opt out request,
 - 3) The member's/HCDMs written appeal, and
 - 4) The decision of the ACC-RBHA Contractor denying such request.
 - iv. When a member/HCDM files an appeal of the denial of an opt out request, the ACC-RBHA Contractor shall appear at the administrative hearing prepared to defend its denial of the request. This includes legal representation at the administrative hearing and any subsequent proceedings.
- c. In the event the ACC-RBHA Contractor recommends that a member's/HCDMs request to opt out be approved:
- i. The ACC-RBHA Contractor shall
 - 1) Submit to the AHCCCS Behavioral Health Portal the completed packet, together with all supporting documentation of the approval, to AHCCCS within seven calendar days from the date of receipt of the member's/HCDMs request, and
 - 2) Enter whether the opt out recommendation is for an open-ended or a defined segment of time.
 - ii. AHCCCS will issue a decision to approve or deny the request in writing within three calendar days from the date of receipt of the completed packet from the ACC-RBHA Contractor,

- iii. For such requests that are denied by AHCCCS, AHCCCS will issue a notice to the member that includes the reasons for the denial and the member's right to appeal, and
 - iv. In the event the member/HCDM files an appeal and requests a hearing, AHCCCS shall defend its decision to deny the request, which includes legal representation at the administrative hearing and any subsequent proceedings. The ACC-RBHA Contractor shall provide AHCCCS with all requested information within a timeframe identified by AHCCCS. The ACC-RBHA Contractor shall also allow its employee(s) to appear and testify at such hearing.
 - d. For any transfer of a member enrolled with an ACC-RBHA Contractor to an ACC Contractor for physical health services, the ACC-RBHA Contractor shall:
 - i. Collaborate with the ACC Contractor to ensure appropriate transition and continuity of care as specified in ACOM Policy 402 and AMPM Policy 520, and
 - ii. Maintain a record of all approved and denied requests to transfer to an ACC Contractor.
5. Requests for an Administrative Hearing:
- a. A member/HCDM, who is dissatisfied with the decision to transfer physical health services to an ACC Contractor may request a hearing to dispute the decision,
 - b. For ACC-RBHA Contractor denials of an opt out request, the member's request for hearing shall be in writing and received by the ACC-RBHA Contractor no later than 30 calendar days from the date the member receives the decision,
 - c. For AHCCCS denials of an opt out request, the member's/HCDMs request for hearing shall be in writing and received by AHCCCS no later than 30 calendar days from the date the member receives the decision,
 - d. The member/HCDM may request that the hearing be expedited. The hearing shall be expedited if it is determined from the supporting documentation provided, or a provider asserts that taking the time for a standard resolution could seriously jeopardize the member's life, health, or ability to attain, maintain or regain maximum function,
 - e. Upon receipt of a timely request for hearing, the AHCCCS Office of the General Counsel (OGC) will schedule a hearing and issue a Notice of Hearing,
 - f. The AHCCCS Director or designee will issue a final agency decision no later than 30 days from the date of the Administrative Law Judge's recommended decision,
 - g. For requests for a hearing addressed pursuant to an expedited resolution timeframe, the Director or designee's decision will be issued no later than three business days after receipt of the Administrative Law Judge's recommended decision, and
 - h. The ACC-RBHA Contractor shall fully cooperate with implementation of the Director or designee's decision and ensure that coordination and continuity of care for the member is maintained throughout the process.