

**DATE:** September 22, 2022

**RE:** CYE 2022 American Rescue Plan (ARP) Act Home and Community Based Services and Behavioral Health Outpatient Services Directed Payment – Change of Ownership

In April 2022, the Arizona Health Care Cost Containment System (AHCCCS) began making time-limited directed payments through its Managed Care Organizations (MCO). AHCCCS made these payments to eligible providers of Home and Community Based Services (HCBS), Behavioral Outpatient Services (BHOP), and Rehabilitative services. Payments are meant as one-time payment for HCBS and Rehabilitation providers. AHCCCS intends to make two additional rounds of directed payments to the providers outlined in this guidance for contract year ending CYE 2023 and CYE 2024.

AHCCCS identified several eligible providers who have either purchased or undergone a change of ownership (i.e., sale, transfer, acquisition, lease, change of sponsorship, or other means of transferring control) between April 1, 2021 and March 31, 2022. The guidance below is intended for providers in all lines of business, who have purchased an eligible provider agency or changed ownership and wish to claim the ARP funds designated for the entity.

The April 2022 directed payments provided a 17.8% increase for select provider types and select procedure codes which was applied to actual utilization for Quarters Ending (QE) December 2020 and March 2021. AHCCCS computed the directed payment amount based on claims and encounter data in the AHCCCS database for the period of October 1, 2020 through December 31, 2021, to determine the directed payment amount for each provider. Only approved and adjudicated AHCCCS encounters were utilized in identifying providers that meet these criteria. AHCCCS did not consider any other data when determining which providers qualify for the directed payment.

### **Eligible Providers Receiving Directed Payments that Have Purchased a Provider or Undergone Change of Ownership**

Eligible providers, as discussed above, who have legally purchased or acquired ownership of an eligible provider that had been identified by AHCCCS for directed payments may be eligible to receive funds. These providers must provide proof of purchase or documents indicating a change of ownership during the timeframe.

For providers to receive directed payments allocated for an eligible provider identified by AHCCCS for payments due to a purchase of the provider or change of ownership, they must:

1. Submit an [attestation](#) indicating understanding of eligible use of funds.
2. Provide the date that the change in ownership was reported to AHCCCS Provider Enrollment and the AHCCCS Provider Enrollment Approval Notice if the provider was issued a new provider ID as a result of the ownership change.
3. Submit a minimum of two (2) types of documents supporting proof of purchase or a change of ownership. Examples of types of documents that can be submitted include: Tax records demonstrating proof of purchase, Sales Agreement or Contract, Financial Statements, Arizona Secretary of State documentation confirming ownership, an unredacted copy of the transaction agreement and all referenced attachments, disclosures, exhibits and schedules, etc.
4. If the acquiring entity is able to demonstrate 1, 2, and 3 above, they may be eligible for the funds that AHCCCS has previously determined and allocated to the entity that was purchased.

AHCCCS will review the submitted attestation as well as applicable documents provided by the eligible provider. Once the change of ownership is verified, AHCCCS will provide the funds to allow the managed care organization to distribute payment to the entity that purchased the eligible provider previously identified by AHCCCS and posted.

<https://www.azahcccs.gov/AHCCCS/downloads/Initiatives/ARPA/IndividualEligibleProviderListwithNPINon-DDD.pdf>

All attestations and required documentation must be received by October 6, 2022.

With the exception of extending the timeframe for expenditures of the funds, the requirements included below are consistent, with minor adjustments, with the guidelines previously distributed related to ARP HCBS payments. Acquiring entities must also meet these requirements.

### **Financial Accountability for Eligible Non ALTCS-DD Providers**

All eligible providers receiving directed payments will be required to distribute at least **80%** of the directed payment amount to direct care staff, as defined by AHCCCS, in the form of a temporary increase in salary, wages, and/or stipends, including employee related expense costs. The remaining **20%** of the directed payment amount may be expended on costs associated with enhancing, expanding, and strengthening HCBS services such as recruitment of direct care workers. Additional guidance on allowable uses of funds is provided in the Frequently Asked Questions document on the AHCCCS website: <https://www.azahcccs.gov/AHCCCS/downloads/Initiatives/ARPA/FrequentlyAskedQuestionsFAQ.pdf>. All funds must be used for expenditures that occur from January 1, 2022 to May 31, 2023. Per Sec. 2201 of ARP, directed payment funds must be used to supplement and not supplant existing funding. Please note, funds not spent by May 31, 2023, may be subject to recoupment.

## Attestation Required from Eligible Providers Who Have Acquired or Experienced Change of Ownership

Any individual or entity that has purchased or changed ownership of an identified eligible provider and desires to claim the ARP funds allocated to the purchased entity must complete and submit an attestation. Providers must complete an HCBS ARP attestation form to receive payments. The online form can be found at the following link: [AHCCCS ARP Change of Ownership Attestation Form](#).

By completing the aforementioned form, providers will attest to the following:

- I agree to the following and attest that the information provided herein is true and accurate to the best of my knowledge.
- I understand that directed payments are subject to recoupment if an audit determines that services reimbursed from October 1, 2020, through March 31, 2021, which formed the basis for the directed payment calculation, were not provided in the specified utilization periods, if billing or payment was improper, or duplicate payments for services occurred.
- I attest that this provider will spend by May 31, 2023, at least **80%** of the directed payment for Direct Service Provider staff expenses, including increases to salary, wages, bonuses, hiring/retention incentives, stipends, over-time, and/or employee related expense costs (like coverage of medical, dental, and vision insurance and retirement plans) associated with Direct Service Provider staff expense. (See below for definition.)
- I attest that this provider will spend by May 31, 2023, no more than **20%** of the directed payment for other expenses that enhance, expand, and/or strengthen HCBS. Examples of such distributions include, but are not limited to: mileage reimbursement, tuition or continuing education reimbursement, childcare and/or enhanced insurance coverage reimbursement, recruitment costs, staff recognition and appreciation events, training, technology expansions or expanded capacity.
- I attest that the funds will be used for expenses incurred from January 1, 2022, to May 31, 2023, and the funds will be used to supplement and not supplant existing funding.
- I understand that if this provider violates this agreement or spends this payment in a manner that does not comply with these guidelines, some or all of the payment may be recouped, and further action may be taken.
- I acknowledge that this funding is a one-time payment.
- I acknowledge that additional one-time payments may be made for two (2) additional years, but may be reduced in value, subject to funding availability and legislative and CMS approval.
- I acknowledge that the following expenses are unallowable: Cash and gift card distributions and distributions to owners or their spouses.

AHCCCS reserves the right to audit providers who receive this directed payment to ensure funds were spent in the manner outlined above. If funds are not spent in the manner outlined above, or the provider cannot demonstrate compliance with this agreement through appropriate documentation, AHCCCS may recoup the directed payment from the provider.

Providers shall maintain all necessary documentation and records regarding the use of these funds for auditing purposes for a period of seven (7) years.

**Direct Service Provider staff Definition:**

For the purposes of this directed payment, AHCCCS uses the term Direct Service Provider staff to describe a vocationally diverse workforce of licensed and unlicensed personnel who provide a wide range of covered health care services directly to AHCCCS members in their home or community based settings.

The HCBS covered services that are delivered by Direct Service Provider staff include services such as; attendant, personal care and homemaker services; home health, habilitation and rehabilitation and behavioral health services that support mental health and substance use treatment. Under these broad service designations, job titles of staff of the Direct Service Provider staff vary by employer or population served. For example,

- Home health aides provide non-skilled services under the direction and supervision of an RN and include monitoring of a member's medical condition, health maintenance or continued treatment services, and activities of daily living.
- Intermittent Nursing Services are provided by RNs or LPNs under the supervision of an RN or physician. LPNs may only provide Intermittent Nursing Services if they are employed by a Home Health Agency.
- Direct Care Workers, providing direct service assistance to people with intellectual and developmental disabilities are called direct support professionals while their counterparts serving people with physical disabilities or age related support needs, are generally called direct care workers or caregivers when serving individuals in assisted living settings.
- Personnel who serve members with behavioral health needs may be employed as licensed behavioral health professionals (BHPs) providing direct service to members, in roles such as: social worker, nurse, or behavioral analyst. BHPs also provide clinical oversight or supervision to unlicensed behavioral health technicians (BHTs) or behavioral health paraprofessionals (BHPPs). Unlicensed BHTs and BHPPs are employed in jobs such as; case manager, rehabilitation specialist, job developer or peer support specialist.

**Provider Payments - Health Plans**

**No later than November 16, 2022**, AHCCCS will provide lists to each of the Health Plans showing the directed payment amounts to be paid for providers eligible for this directed payment via SFTP server. AHCCCS requests that the Health Plans make payments to providers **by December 2, 2022**

## Timeline

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| September 22, 2022 | Guidance on acquisition or change of ownership posted to AHCCCS website.                                     |
| October 6, 2022    | Last day for providers to submit attestations via link.  |
| November 16, 2022  | AHCCCS to provide a list of eligible providers and payment to fund additional directed payments to the MCOs. |
| December 2, 2022   | Directed payments to be distributed to eligible providers by MCOs.   |
| January 9, 2023    | Reconciliation to AHCCCS from MCOs confirming all payments made to providers.                                |

Additional information regarding ARP can be found at the following webpage:

<https://www.azahcccs.gov/AHCCCS/Initiatives/ARPA/index.html>.

More information about provider payments can be found on the [AHCCCS Provider Payment web page](#).

Provider attestation can be found at the following link: [AHCCCS ARP Change of Ownership Attestation Form](#).

Frequently Asked Questions (FAQ) for Providers can be found at the following link: [AHCCCS ARP Provider Payment Resources](#)

If a provider has questions and/or concerns regarding the directed payment, please use the following email address: [ARPADirectedPayments@azahcccs.gov](mailto:ARPADirectedPayments@azahcccs.gov).