



801 E. Jefferson Street
Phoenix, AZ 85034
602.417.4000

KATIE HOBBS
GOVERNOR

CARMEN HEREDIA
DIRECTOR

March 21, 2025

Tad Gary
Chief Executive Officer
Mercy Care
4750 S. 44th Place
Phoenix, AZ 85040

SUBJECT: Administrative Action – Notice to Cure

Dear Mr. Gary:

The Arizona Health Care Cost Containment System (AHCCCS) has determined that Mercy Care is in violation of its AHCCCS Complete Care Contract with a Regional Behavioral Health Agreement (ACC-RBHA) YH19-0001R-05 for contract year ending 2025 as outlined below. As a result of these violations and pursuant to ACC-RBHA Contract, Section D, Paragraph 68, Administrative Actions, AHCCCS is imposing the following regulatory action:

Notice to Cure

Section D, Paragraph 9, Scope of Services provides:

The Contractor shall provide covered services to AHCCCS members in accordance with all applicable State and Federal laws, 1115 Waiver, regulations, Contract, and policies, including those incorporated by reference in this Contract. The services are specified in AHCCCS Rules including but not limited to AAC R9-22 Article 2, 12, and 13, the AMPM and the ACOM, all of which are incorporated herein by reference, and may be found on the AHCCCS website [42 CFR Part 457 and 42 CFR Part 438].

...

The Contractor shall ensure that the services are sufficient in amount, duration, and scope to reasonably be expected to achieve the purpose for which the services are furnished [42 CFR 434.6(a)(4)]. The Contractor shall not arbitrarily deny or reduce the amount, duration, or scope of a required service solely because of diagnosis, type of illness, or condition of the member [42 CFR 457.1230(d), 42 CFR 438.210(a)(3)(ii)]. The Contractor may place appropriate limits on a service on the basis of criteria such as medical necessity, or for utilization control, provided the services furnished can reasonably be expected to achieve their purpose [42 CFR 457.1230(d), 42 CFR 438.210(a)(3)(i), 42 CFR 438.210(a)(4)].

...

Transportation: *These services include emergency and non-emergency medically necessary transportation. Emergency transportation, including transportation initiated by an emergency response system such as 911, may be provided by ground, air, or water ambulance to manage an AHCCCS member's emergency medical condition at an emergency scene and transport the member to the nearest appropriate medical facility. Non-emergency transportation shall be provided for members who are unable to provide or secure their own transportation for medically necessary services using the appropriate mode based on the needs of the member. Refer to AMPM Policy 310-BB. The Contractor shall ensure that members have coordinated, reliable, medically necessary transportation to ensure members arrive on-time for regularly scheduled appointments and are picked up upon completion of the entire scheduled treatment.*

Section D, Paragraph 42, Material Change to Business Operations provides:

The Contractor is responsible for evaluating all operational changes, including unexpected or significant changes, and determining whether those changes are material changes to the Contractor's business operations [42 CFR 438.207(c)]. All material changes to business operations shall be approved in advance by AHCCCS.

AHCCCS has been made aware that Mercy Care has implemented changes to its non-emergent medical transportation (NEMT) services resulting in the ability for members to receive transportation to medically necessary services.

Mercy Care failed to submit this change to AHCCCS for review as a Material Change to Business Operations. A Material Change to Business Operations is defined as:

Any change in overall operations that affects, or can reasonably be foreseen to affect, the Contractor's ability to meet the performance standards as required in Contract including, but not limited to, any change that would impact or is likely to impact more than 5% of total membership and/or provider network in a specific Geographic Service Area (GSA). Changes to business operations may include, but are not limited to, policy, process, and protocol, such as Prior Authorization (PA) or retrospective review.

A February 10, 2025, Provider Communication posted to Mercy Care's website outlines changes to the NEMT protocols, which include:

- In Maricopa and Pima Counties, prior authorization is required for transportation over 20 miles (one way) or over 40 miles (round trip)
- For all other Counties, prior authorization is required for transportation over 50 miles (one way) or over 100 miles (round trip).
- Requirement of a three day notice for all NEMT services.

The February 10th communication makes no mention of any services excluded from this authorization requirement.

On March 5, 2025, AHCCCS was made aware of provider concerns around these new NEMT protocols. In response to an AHCCCS inquiry, Mercy Care provided the below information:

Recently we began requesting prior authorizations for transportation performed by non-provider type 28 organizations more than 40 miles. Additionally, we are implementing updated protocols requiring three-day advance scheduling and for transportation to be to the nearest appropriate location. Outliers to these protocols will require an authorization to be submitted prior to services being fulfilled. Urgent trips are excluded from updates protocols. Trips for dialysis, hospital discharge, behavioral discharges, To and From Urgent Care, Pharmacy Pick Up, and Chemotherapy/Radiation.

Further, AHCCCS received additional concerns on March 11, 2025, related to the new NEMT protocols, which included providers who reported not being able to be reimbursed for same day or next day transportation. This complaint also indicated the new requirements applied to both physical and behavioral health services and limits the ability for services to be provided in the community. A March 14, 2025, complaint indicated their ¼ of their patients reside more than 20 miles from a clinic and the new protocols were impacting access to ACT services. Further the provider indicated a PA was required for each visit, and there was no allowance for a single authorization to cover multiple trips. This concern also mentioned the three day advanced scheduling requirement to be a barrier to services for some members who are difficult to find and have appointments scheduled on short notice.

Upon further discussion with Mercy Care around the numerous concerns fielded by AHCCCS, Mercy Care provided an updated Provider communication from March 14, 2025. This communication is titled, "NEMT Transportation for Urgent Behavioral Health Services", and outlines the following updates:

- Transportation for "urgent behavioral health services" will be excluded from both the processes requiring a three day advance notice, and mileage limitation.
- Urgent behavioral health services are still in the process of being defined by the plan
- "This means that behavioral health services under the new process:
 - Do not require prior authorization
 - Are not subject to mileage limitation regardless of county or location
 - Are not subject to the 3-day advance notice requirement"
- "Other urgent service already included in this new process include:
 - Chemotherapy
 - Dialysis
 - Emergency Dental
 - Radiation
 - Hospital discharges (physical and behavioral)
 - Behavioral health discharges
 - To/from urgent care facilities
 - Pharmacy pickups"
- Updated process requirements for non-urgent services:
 - 3 calendar days advance notice for non-urgent transportation
 - Request made less than 3 days in advance should be urgent services only
- Mileage restrictions for non-urgent transportation

- Maricopa/Pima Counties – 20 miles per leg (40 miles round trip)
- All other counties – 50 miles per leg (100 miles round trip)

AHCCCS has numerous concerns with the details outlined in the March 14th clarification notice. It is not clear if the exclusion from the new protocols apply to all behavioral health services, or only those 'urgent' behavioral health services. Additionally, the statement regarding other urgent services indicates they *are* included in these new protocols. Additionally, the notice appears to fully limit the service array of NEMT services to within a 20 or 50 mile per leg radius. The notice does not mention that longer distances may be approved through a prior authorization process.

Additionally, ACC-RBHA Contractor Chart of Deliverables outlines the requirement for submission of the Provider Changes Due to Rates Report, which must be submitted within 30 days of the Contractor's awareness of a provider change due to rates. This submission, outlined in ACOM Policy 415, Attachment D, Provider Changes Report, is required when a provider terminates or limits the scope of their services related to rates.

AHCCCS is aware that a Behavioral Health Residential Facility (BHRF) provider limited the scope of services provided as a result of ongoing funding concerns. However, Mercy Care failed to submit the ACOM Policy 415, Provider Changes Report, deliverable.

Required Actions

Mercy Care must rescind the prior authorization required implemented specific to NEMT services. Prior to implementation of any future authorization requirements for NEMT services, Mercy Care must submit a Material Change to Business Operations submission for AHCCCS' review and approval, as required in Contract and ACOM Policy 439.

Mercy Care must submit a Provider change report, as required in Contract and ACOM Policy 415, outlining all providers who have terminated contracts or decreased their scope of services due to rates from October 1, 2024 to the date of this notice. This should be submitted to Mercy Care's assigned Operations Compliance Officer, Dawn Sica, no later than **April 4, 2025**.


Future Performance

Failure to correct the deficiencies as outlined in this letter may result in additional Administrative Actions, as outlined in the ACC-RBHA Contract, Section D, Paragraph 68, Administrative Actions, including, but not limited to monetary sanctions and/or cap on enrollment.

If you have any questions regarding this correspondence, please contact Christina Quast at Christina.Quast@azahcccs.gov.

Sincerely,

DocuSigned by:



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Meggan LaPorte, CPPO, MSW
Chief Procurement Officer

Cc: Bernadette Moreno, Mercy Care
Carissa Townsend, Mercy Care
Alisa Randall, AHCCCS
Christina Quast, AHCCCS
Dawn Sica, AHCCCS

Certificate Of Completion

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 Phoenix, AZ 85034
 anntonia.cota@azahcccs.gov
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Meggan LaPorte
 Meggan.LaPorte@azahcccs.gov
 Chief Procurement Officer
 AHCCCS
 Security Level: Email, Account Authentication (None)

Signature

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Christina Quast
 christina.quast@azahcccs.gov
 Deputy Assistant Director Managed Care Ops
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 Company Name: Carahsoft OBO Arizona Health Care Cost Containment System

Tracey Thomas
 Tracey.Thomas@azahcccs.gov
 Procurement Manager
 AHCCCS
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How to contact Arizona Health Care Cost Containment System:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: anthony.flot@azahcccs.gov

To advise Arizona Health Care Cost Containment System of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at anthony.flot@azahcccs.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

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