January 7, 2018

James Green, Ph.D.
Assistant Director
Division of Developmental Disabilities
Department of Economic Security
1789 W. Jefferson, 4th floor
Phoenix, AZ 85007

SUBJECT: Compliance Action – Notice to Cure

Dear Dr. Green:

The Arizona Cost Containment System (AHCCCS) Division of Health Care Management (DHCM) has determined that the Division of Economic Security/Division of Developmental Disabilities (DES/DDD) is in violation of its Contract YH06-0014 Section D Paragraph 40 Claims Payment/Health Information System. AHCCCS is issuing this Notice to Cure in response to DES/DDD's failure to utilize the Health Care Procedure Coding System (HCPCS) and standard claim forms (the Centers or Medicare and Medicaid Services (CMS) 1500 and UB 04 forms), for reimbursing DES/DDD subcontracted providers consistent with federal and state requirements. These requirements include, but are not limited to, the National Correct Coding Initiative provisions and federal requirements for health information systems set forth in 42 CFR 438.242, AHCCCS Contract YH6-0014, AHCCCS Administrative Rules 9 A.A.C. 22 Article 7, 9 A.A.C 28 Article 7, AHCCCS Contractor Operations Manual (ACOM) Chapter 200, Claims Processing, the AHCCCS Encounter Manual, and the AHCCCS Provider Participation Agreement.

In 2010, the Affordable Care Act (ACA) amended the Medicaid statute at 42 USC 1396b(r) to require that Medicaid Programs adopt National Correct Coding Initiative (NCCI) methodologies. Pursuant to amendments enacted by the ACA, states were required by the Centers for Medicare & Medicaid Services (CMS) to implement NCCI methodologies to promote correct coding and to control improper coding that could lead to improper payment of Medicaid claims. The NCCI coding policies were developed from coding conventions defined in the American Medical Association's Current Procedural Terminology (CPT) Manual, national and local Medicare policies and edits, coding guidelines developed by national societies, standard medical and surgical practice, and current coding practice. The CMS NCCI program consists of coding policies and edits in which providers report procedures and services performed on beneficiaries utilizing Healthcare Common Procedure Coding System (HCPCS)/Current Procedural Terminology (CPT) codes. This standardized uniform coding system is primarily used to identify medical services and procedures furnished by physicians and other health care professionals.

Among other requirements imposed on Contractors to comport with NCCI provisions, AHCCCS mandated Contractor submission of electronic encounters using the HIPAA compliant 837 format, the required format for electronic submission of healthcare information representing a single care encounter between patient and provider. Contractors were required to adopt billing

and coding practices and conventions using HIPAA standardized code sets, including the HCPCS/CPT codes. Utilization of the CMS 1500 and UB04 forms is also required as they are the HIPAA compliant electronic formats used for submission of the 837 transaction. These mandatory elements are also consistent with federal requirements set forth in 42 CFR 438.242 "Health Information Systems" which implements 42 USC 1396b(r)(1)(F). Among other provisions, 42 CFR 438.242 mandates Contractor collection of data from providers in standardized formats and submission of encounter data to the State in standardized formats to promote Medicaid program integrity. AHCCCS has delineated these requirements in contract, rule, policy, and manual.

Legal Authorities:

AHCCCS Contract Section D Paragraph 40 Claims Payment/Health Information System:

The Contractor shall develop and maintain claims processes and systems that ensure the accurate collection and processing of claims, analysis, integration, and reporting of data. These processes and systems shall result in information on areas including, but not limited to, service utilization and claim disputes and member grievances and appeals, and disenrollment for reasons other than loss of Medicaid eligibility [42 CFR 438.242(a)].
General Claims Processing Requirements: The Contractor must include nationally recognized methodologies to correctly pay claims including but not limited to:
1. Medicaid National Correct Coding Initiative (NCCI) for Professional, ASC and Outpatient services,
2. Multiple Procedure/Surgical Reductions, and
3. Global Day E & M Bundling standards.

AHCCCS Administrative Rules:

R9-22-710 (A) Payments for Non-hospital Services

A. Capped fee-for-service. The Administration shall provide notice of changes in methods and standards for setting payment rates for services in accordance with 42 CFR 447.205,
December 19, 1983, incorporated by reference and on file with the Administration and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW,
Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
1. Non-contracted services. In the absence of a contract that specifies otherwise, a contractor shall reimburse a provider or non-contracting provider for non-hospital services according to the Administration's capped-fee-for-service schedule.
2. Procedure codes. The Administration shall maintain a current copy of the National Standard Code Sets mandated under 45 CFR 160 (October 1, 2004) and 45 CFR 162 (October 1, 2004), incorporated by reference and on file with the Administration and available from the U.S.
Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.

a. A person shall submit an electronic claim consistent with 45 CFR 160 (October 1, 2004) and 45 CFR 162 (October 1, 2004).

R9-28-701.10(5) General Requirements

The following Sections of A.A.C. Chapter 22, Articles 2 and 7, are applicable to reimbursement for services provided under the ALTCS program, except that the term "program contractor" shall be substituted for "contractor."
5. Payment for Non-hospital services, R9-22-710;

ACOM Chapter 200, Policy 203, Section III:

The Contractor shall develop and maintain claims processes and systems that ensure the correct collection and processing of claims, analysis, integration, and reporting of data. These processes and systems shall result in information on areas including, but not limited to, service utilization, claim disputes and appeals [42 CFR 438.6].

Electronic Processing Requirements:
The Contractor is required to accept and generate required HIPAA compliant electronic transactions from or to any provider or their assigned representative interested in and capable of electronic submission. Electronic submissions to be accepted include eligibility verifications, claims, claims status verifications and prior authorization requests, along with generating an electronic remittance. The Contractor must also be able to make claim payments via electronic funds transfer and have the capability to accept electronic claim attachments.

AHCCCS Encounter Manual, Chapter 1. Encounter Formats and Claim Form Types:

There are four different types of encounter formats accepted by AHCCCS. Each format corresponds to a claim form type standard:
□ 837Professional (Form A=1500 claim) Encounters
Used primarily for professional services, i.e., all HCPCS Level I (0XXXX-99999) and Level II (AXXXX-VXXXX), excluding dental services. These services include but are not limited to: physician visits, nursing visits, surgical services, anesthesia services, free standing ambulatory surgical centers (ASC), laboratory tests, radiology services, home and community based services (HCBS), therapy services, durable medical equipment (DME), medical supplies and transportation services.

AHCCCS Provider Participation Agreement, Section B, Paragraph 17:

The Provider shall conform its billing practices to the International Classification of Diseases (ICD9 or ICD10), whichever is in effect on the date of service in accordance with 45 CFR 162.1002. The provider must comply with the Current Procedural Terminology (CPT), National Drug Codes (NDC), Health Care Financing Administration Common Procedure Coding System (HCPCS), the Code on Dental Procedures and Nomenclature, as maintained and distributed by the American Dental Association, for dental services, CDT and HIPAA TCS compliance standards as applicable. Upon request, the Provider must disclose to AHCCCS which code sets the Provider uses prior to any audit of the Provider. Any Provider changes to its methodology must be documented within the date of change.

Background:

DES/DDD has historically and currently requires HCBS vendors to submit claims to its FOCUS system (FOCUS), the automated service authorization and payment processing system developed specifically for DES/DDD. Although FOCUS uses nationally recognized standardized codes and HIPAA compliant formats for processing of acute care services, FOCUS lacks this capability for processing of HCBS claims. In contravention to state and federal requirements, DES/DDD instructs HCBS vendors to submit claims to DES/DDD on excel spreadsheets using codes developed specifically for DES/DDD. HCBS vendors do not submit claims using CMS 1500 forms. Of significant concern, DES/DDD then reassigns the unique DES/DDD codes furnished by the HCBS vendor to the HCPCS/CPT codes DES/DDD determines to be appropriate. The encounters that DES/DDD submits to AHCCCS for these services are not consistent with NCCI requirements.

DES/DDD continues to violate NCCI requirements which were developed, in part, to reduce the likelihood of improper coding and payment of Medicaid claims. DES/DDD has failed to use nationally recognized methodologies for processing of claims consistent with NCCI requirements. It is imperative that DES/DDD achieve compliance with the aforementioned requirements. The use of standard HCPCS/CPT coding and standard claims forms supports the integrity of the Contractor's claims system, decreasing the likelihood for errors and/or potential fraud. Nationally recognized coding standards and payment methodologies ensure consistent and proper payment to providers for the same Medicaid covered services. Moreover, Contractor and provider use of standardized codes enhances AHCCCS validation of data between source claims and submitted encounters and promotes complete, timely, and accurate reporting of encounter data which is critical to capitation rate setting, financial reconciliations, and evaluation of performance measures. In addition, adoption of standardized coding lessens the administrative burden placed on providers.

On October 31, 2016, more than two years ago, DES/DDD submitted a work plan to AHCCCS outlining the transition of the current noncompliant coding features in FOCUS to the nationally recognized HCPCS/CPT coding. At the time, DES/DDD informed AHCCCS that the transition would be completed by September 4, 2017. Although more than a year has elapsed since the DES/DDD scheduled transition date, DES/DDD has not adopted the HCPCS/CPT coding system, and HCBS vendors continue to submit claims on excel spreadsheets with the unique DES/DDD coding.

On September 29, 2018 AHCCCS requested an updated timeline for completion of HCPCS adoption and implementation, and on November 17, 2017, DES/DDD responded that the timeline has not been updated and that no anticipated implementation date exists. Additionally, DES/DDD informed AHCCCS that it is awaiting results of an Information Technology feasibility report from Berry Dunn prior to developing a revised implementation timeline.

Notice to Cure

DES/DDD shall be in compliance with all Contract, Policy and CMS requirements no later than **October 1, 2019**. DES/DDD shall immediately undertake all necessary actions to achieve compliance with the aforementioned requirements for provider billing, claims processing, and encounter submission.

DES/DDD shall develop a comprehensive **Action Plan** that identifies in detail all activities that will be instituted to successfully implement modifications to its HCBS claims processing system to comport with the aforementioned federal and state requirements. Completion dates for each identified activity must be specified in the **Action Plan**. Upon approval of the **Action Plan** by AHCCCS, DES/DDD shall submit updates of the progress made every two weeks until the activity is successfully completed. In addition, any modifications made to the **Action Plan** must be delineated for each two week interval. AHCCCS will provide written notification to DES/DDD of the due date of the initial two week deliverable.

DES/DDD shall submit the **Action Plan** and all requested information and reporting to Scott Jewart, Operations Compliance Officer, at scott.jewart@azahcccs.gov. The **Action Plan** shall be submitted by **COB Friday January 18, 2018.**

Failure to address these deficiencies as delineated in this letter may result in additional compliance action, in accordance with the Contract, Section D Paragraph 76, Arizona Administrative Rule R9-28-606, and AHCCCS Contractor Manual Policy 408, including but not limited to, imposition of sanctions.

If you have any questions or concerns, please contact Virginia Rountree at (602) 417-4122 or via email at virginia.rountree@azahcccs.gov.

Sincerely,

Meggan LaPorte
Chief Procurement Officer

cc:
Director Trailer, DES/DDD
Sean Price, DES/DDD
Pearlette Ramos, DES/DDD
Lyn Lingwall, DES/DDD
Director Snyder, AHCCCS
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