5160-26-05 **Managed health care programs: provider panel and subcontracting requirements.**

(A) ~~Obligations~~Subcontracts.

~~(1) Managed care plans (MCPs) must provide or arrange for the delivery of covered health care services and must assure that all the requirements of Chapter 5101:3-26 of the Administrative Code, the MCP provider agreement, and all applicable federal, state, and local regulations are met.~~

~~(2)~~(1) For the purposes of this rule, ~~the following terms are~~ delegated entity means ~~defined as follows:~~a subcontractor that has been provided the authority by the MCP to conduct any of the following functions or related services or both: claims processing, network development, care coordination, quality management and improvement, care management, member materials distribution and fulfillment, interpreter services, reinsurance, fraud and abuse identification, benefit management, utilization management, credentialing and recredentialing, or any other program function that may affect a member's safety, welfare or access to medicaid covered services. In the event of inconsistency or ambiguity and upon the MCP's request of a determination from ODM, ODM will make the final determination of program functions or related services that may affect a member's safety, welfare or access to medicaid covered services.

~~(a) "Subcontractor" means providers and delegated entities contracted with the MCP and providers employed by the MCP.~~

~~(b) "Fully executed" means that the legal written agreement between an MCP and its subcontractors includes dated signatures by both parties. These signatures must be by persons legally authorized to represent those parties, including each signee's formal title.~~

~~(3)~~(2) ~~For the direct provision of health care services,~~ An MCP~~MCPs~~ must provide or arrange for the delivery of covered health care services described in rule 5160-26-03 ~~meet the obligations specified in paragraph (A)(1) of this rule~~ either through ~~employment~~ the use of employees or through subcontracts ~~current fully-executed subcontracts with providers~~. Subcontractors include the MCP's parent company or its subsidiaries. All subcontracts must be in writing and in accordance with paragraph (D) of this rule and 42 C.F.R. 434.6 and 438.6 (October 1, 2013)~~, as applicable~~. The MCP's execution of a subcontract with a subcontractor does not terminate the MCP's legal responsibility to ODM to assure that all of the MCP's activities and obligations are performed in accordance with Chapter 5160-26 or Chapter 5160-58 of the Administrative Code, as applicable, or both, the MCP provider agreement, and all applicable federal, state, and local regulations.

~~(4)~~(3) ~~For delegated entities used to meet any program requirement, other than the direct provision of health care services, MCPs must meet the obligations specified in paragraph (A)(1) of this rule by entering into fully executed subcontracts. All subcontracts must be in writing and in accordance with paragraph (D) of this rule and 42 C.F.R. 434.6 and 438.6, as applicable. In addition, MCPs~~The MCP must do all of the following for any delegated entity:

(a) Evaluate the entity prior to executing a subcontract to assure that the entity is capable of performing the delegated activity in accordance with all applicable program requirements and provide a copy of the evaluation summary to ~~ODJFS~~ODM upon request.

(b) Provide the delegated entity with all information, materials, and documentation the entity will need to meet the delegated program requirement(s).

(c) Require the delegated entity to submit a report to the MCP, at least monthly, summarizing the status of the delegated activity, and including at a minimum:

(i) A copy of any required reports or logs maintained by the delegated entity; and

(ii) Identification of any problems, concerns or potential compliance issues that may exist.

(d) Monitor the entity's performance on an ongoing basis, including a review of the report referenced in paragraph (A)~~(4)~~(3)(c) of this rule, all relevant member grievances and appeals as specified in rule ~~5101:3~~5160-26-08.4 of the Administrative Code, and all member complaints reported to the Ohio department of ~~job and family services~~medicaid (~~ODJFS~~ODM) and forwarded to the MCP, to identify any deficiencies or areas for improvement. ~~Upon request,~~If requested to do so, the MCP must also provide documentation of the MCP's monitoring efforts and its findings to ~~ODJFS~~ODM.

(e) Submit an annual assessment of the delegated entity's performance with meeting the delegated program requirements throughout the year to ~~ODJFS~~ODM as directed by ~~ODJFS~~ODM.

(f) Include in the subcontract between the MCP and the delegated entity the

sanctions that will be imposed for inadequate performance. The sanctions must specify the MCP's authority to require corrective action for any deficiencies or areas ~~of~~for improvement identified and provide for the revocation of the delegation if the MCP or ~~ODJFS~~ODM determines that the delegation is not in the best interest of the enrollees.

(g) Include in the subcontract between the MCP and the delegated entity the sanctions that will be imposed for unauthorized uses or disclosures of protected health information (PHI).

(h) Include in the subcontract between the MCP and the delegated entity that, unless otherwise specified by ~~ODJFS~~ODM, all information required to be submitted to ~~ODJFS~~ODM must be submitted directly by the MCP.

~~(5)~~(4) For subcontracts that the MCP believes to be short-term, one-time, or for infrequent activities, the MCP may request that ~~ODJFS~~ODM exempt them from the reporting, monitoring and assessment requirements specified in paragraphs (A)~~(4)~~(3)(c) and (A)~~(4)~~(3)(e) of this rule.

~~(6) All subcontracts must fulfill the requirements of 42 C.F.R. 434.6 and 438.6 that are appropriate to the service or activity delegated under the subcontract.~~

~~(7) The MCP's execution of a subcontract with a provider or delegated entity does not terminate the MCP's legal responsibility to ODJFS to assure that all of the MCP's activities and obligations are performed in accordance with Chapter 5101:3-26 of the Administrative Code and the MCP provider agreement.~~

~~(8)~~(5) ~~MCP-executed~~ Subcontracts ~~subcontracts~~ may not include language that conflicts with the specifications identified in paragraphs (C) and (D) of this rule.

~~(9)~~(6) ~~MCPs~~ For a provider that ~~authorize the delivery of services from a provider who~~ does not have an executed subcontract with the MCP, the MCP must ~~ensure that they have~~establish a mutually agreed upon compensation amount for the authorized service and notify the provider of the applicable provisions of paragraph (D) of this rule. For medicaid-covered non-emergency hospital services outlined in ~~paragraph (H)(9) of~~ rule ~~5101:3~~5160-26-03 of the Administrative Code, the compensation amount is identified in ~~paragraph (C) of rule 5101:3~~rule 5160-26-11 of the Administrative Code.

(B) Notification.

(1) Notwithstanding paragraph (D)(13) of this rule, an MCP must notify

ODM of the addition or deletion of subcontractors on an ongoing basis, and must follow the time restrictions contained in this paragraph ~~paragraphs (B)(2), (B)(3), (B)(5), and (B)(6) of this rule~~ unless the explanation of extenuating circumstances is accepted by ~~ODJFS~~ODM.

(2) At the direction of ~~ODJFS~~ODM, the MCP must submit evidence of the following:

(a) A copy of the subcontractor's current licensure ~~if ODJFS provides notification that it cannot verify current licensure~~;

(b) Copies of written agreements with the subcontractor, including but not limited to ~~fully executed~~ subcontracts, amendments and the medicaid addendum as specified in paragraph (D) of this rule;

(c) Notification to ~~ODJFS~~ODM of any hospital subcontract for which a date of termination is specified; and

(d) The subcontractor's medicaid provider number or provider reporting number, as applicable.

(3) When any program ~~requirement~~function is to be delegated as specified in paragraph (A)~~(4)~~(3) of this rule, the MCP must submit a copy of the dated and fully executed medicaid addendum or amendment as applicable ~~within~~ thirty calendar days prior to the effective date of ~~the execution of~~ the subcontract or subcontract amendment for ODM's prior approval of the delegation. Delegation of the program function or related services may not take effect without prior approval by ODM.

(4) Upon ~~ODJFS~~ODM approval of the delegated entity, ~~MCPs~~ the MCP must provide the ~~subcontractor~~ delegated entity with a copy of the fully executed subcontract and specification of the ~~ODJFS~~ODM approval date.

(5) ~~In the event any of the providers of the designated types are to be deleted from the MCP's provider panel due to the expiration, nonrenewal, or termination of said subcontract, the MCP must~~The MCP shall inform ODM of the expiration, nonrenewal, or termination of any subcontractor fifty-five calendar days prior to the expiration, nonrenewal or termination of the subcontract in a manner and format directed by ODM. If the MCP receives less than fifty-five calendar days notice from the subcontractor, the MCP must inform ODM within one working day of its awareness of this information. The MCP must also comply with the following:

(a) If the subcontractor is a hospital:

(i) Forty-five calendar days prior to the effective date of the expiration, nonrenewal or termination of the hospital's subcontract, the MCP shall notify in writing all providers who have admitting privileges at the hospital of the impending expiration, nonrenewal, or termination of the subcontract and the last date the hospital will provide services to members under the MCP subcontract. If the MCP receives less than forty-five calendar days notice from the hospital, the MCP shall send the notice within one working day of becoming aware of the expiration, nonrenewal, or termination of the subcontract.

(ii) Forty-five calendar days prior to the effective date of the expiration, nonrenewal, or termination of the hospital's subcontract, the MCP shall notify in writing all members in the service area, or in an area authorized by ODM, of the impending expiration, nonrenewal, or termination of the hospital's subcontract. If the MCP receives less than forty-five calendar days notice from the subcontractor, the MCP shall send the notice within one working day of becoming aware of the expiration, nonrenewal, or termination of the subcontract.

(iii) The MCP shall submit a template for member and provider notifications to ODM along with the MCP's notification to ODM of the impending expiration, nonrenewal, or termination of the hospital's subcontract. The notifications shall comply with the following:

(a) The form and content of the member notice must be prior-approved by ODM and contain an ODM designated toll-free telephone number that members can call for information and assistance.

(b) The form and content of the provider notice must be prior-approved by ODM.

(iv) ODM may require the MCP to notify additional members or providers if the impending expiration, nonrenewal, or termination of the hospital's subcontract adversely impacts additional members or providers.

~~(a)~~(b) If the subcontractor is a ~~hospital or~~ primary care provider (PCP):

~~(i) Inform ODJFS of the deletion of the subcontractor fifty-five~~

~~calendar days prior to the expiration, nonrenewal, or termination of said subcontract;~~

~~(ii) If the MCP receives or issues less than fifty-five days notice, inform ODJFS within one working day of its awareness of this information; and~~

~~(iii)~~(i) ~~If the deletion is a PCP, include~~The MCP shall include the number of members that will be affected by the change~~.~~ in the notice to ODM; and

(ii) The MCP shall notify in writing all the members who use or are assigned to the subcontractor as a PCP at least forty-five calendar days prior to the effective date of the change. If the MCP receives less than forty-five calendar days prior notice from the PCP, the MCP shall issue the notification within one working day of the MCP becoming aware of the expiration, nonrenewal, or termination of PCP's subcontract. The form of the notice and its content must be prior-approved by ODM and must contain, at a minimum, all of the following information:

(a) The PCP's name and last date the PCP is available to provide care to the MCP's members;

(b) Information regarding how members can select a different PCP; and

(c) An MCP telephone number members can call for further information or assistance.

~~(b) Deletion of any other subcontractors referenced in paragraph (A)(3) of this rule must be reported to ODJFS no later than thirty calendar days prior to the expiration, nonrenewal, or termination of the subcontract. If the MCP receives or issues less than thirty-days notice, the MCP must inform ODJFS within one working day of its awareness of this information.~~

~~(c) If the subcontractor involved is a PCP, the MCP must notify, in writing, all members who use the subcontractor as a PCP.~~

~~(i) The form of the notice and its content must be prior-approved by ODJFS and must contain, at a minimum, all of the following information:~~

~~*(a)* The PCP's name and last date the PCP is available to provide care to the MCP's members;~~

~~*(b)* The name, location, telephone number, and effective date of the member's new PCP as selected by the MCP;~~

~~*(c)* Information regarding how members can select a different PCP; and~~

~~*(d)* An MCP telephone number members can call for further information and/or assistance.~~

~~(ii) The MCP shall send the notice at least forty-five calendar days prior to the effective date of the deletion to members who use the subcontractor as a PCP. If the MCP receives less than forty-five days prior notice, the MCP shall issue the notice within one working day of the MCP becoming aware of the PCP's deletion. .~~

~~(d) When the subcontractor is a hospital, the MCP must notify in writing all members in the service area, or in an area authorized by ODJFS, of the impending expiration, nonrenewal, or termination of the subcontract and the last date the subcontractor will provide services to members under the MCP contract. If the subcontract is expiring or the MCP is initiating the nonrenewal or termination of the subcontract, the MCP must notify in writing all providers who have admitting privileges at the hospital of the impending expiration, nonrenewal, or termination of the subcontract and the last date the subcontractor will provide services to members under the MCP subcontract. If the subcontractor is initiating the nonrenewal or termination of the subcontract, as specified in paragraph (D)(35) of this rule, the subcontractor must notify in writing all providers who have admitting privileges at the hospital of the impending nonrenewal or termination of the subcontract and the last date the subcontractor will provide services to members under the MCP subcontract.~~

~~(i) The MCP shall send the notices to the members and providers who have admitting privileges at the hospital at least forty-five calendar days prior to the effective date of the deletion. If the MCP receives/issues less than forty-five days prior notice, the MCP shall send the notices within one working day of the MCP becoming aware of the hospital's deletion.~~

~~(ii) The form and content of the member notice must be prior-approved by ODJFS and contain an ODJFS designated toll-free telephone number that members can call for information and assistance.~~

~~(iii) When issued by the MCP, the form and content of the provider notice must be prior-approved by ODJFS.~~

~~(iv) Notification to additional members and/or providers may also be required if the hospital's deletion adversely impacts additional members and/or providers.~~

~~(v) The MCP shall submit copies of the member and provider notifications to ODJFS along with the MCP's notification of the hospital deletion.~~

~~(e) Member and/or provider notification may also be required for certain other provider deletions that may adversely impact the MCP's members.~~

~~(f) Regardless of the member notification timeframes specified in this paragraph, the MCP must make a good faith effort to give written notice of termination of a contracted provider, within fifteen calendar days after receipt or issuance of the termination notice, to each member who received his or her primary care from, or was seen on a regular basis by, the terminated provider.~~

(6) ODM may require the MCP to notify members or providers for the expiration, nonrenewal, or termination of certain other provider subcontracts that may adversely impact the MCP's members.

~~(6) In the event of the expiration, nonrenewal, or termination of the subcontract with a delegated entity, as specified in paragraph (A)(4) of this rule, the MCP must take the following steps:~~

~~(a) Inform ODJFS fifty-five calendar days prior to the expiration, nonrenewal, or termination of the subcontract. If the MCP receives or issues less than fifty-five days notice, the MCP must inform ODJFS within one working day of its awareness of this information.~~

~~(b) In situations that may adversely impact members and/or providers, notify members and/or providers of the impending expiration, nonrenewal, or termination of the subcontract.~~

(7) In order to assure availability of services and qualifications of providers, ~~ODJFS~~ODM may require submission of documentation in accordance with paragraph (B) of this rule regardless of whether the MCP subcontracts directly for services or does so through another entity.

(8) In the event that an MCP's medicaid managed care program participation in a service area is terminated, the MCP must provide written notification to its affected subcontractors at least forty-five calendar days prior to the termination date, unless otherwise specified by ~~ODJFS~~ODM.

(C) Provider qualifications.

(1) The MCP~~MCPs~~ must ensure that none of its employees or subcontractors ~~that have medicaid provider agreements are in good standing and must ensure that all subcontractors~~ are ~~not~~ sanctioned~~/~~ or excluded from providing medicaid or medicare services. At a minimum, monthly, the MCP~~MCPs~~ shall utilize available resources for identifying sanctioned providers, including, but not limited to, the following: ~~federal office of inspector general provider exclusion list; the ODJFS excluded provider web page; and the discipline pages of the applicable state boards that license providers. ODJFS will provide notification to MCPs of sanctions ODJFS imposes during the term of the provider agreement.~~

(a) the federal office of inspector general provider exclusion list;

(b) the ODM excluded provider web page; and

(c) the discipline pages of the applicable state boards that license providers or an alternative data resource, such as the national practitioner databank, that is as complete and accurate as the discipline pages of the applicable state boards.

(2) An MCP may not discriminate in regard to the participation, reimbursement, or indemnification of any provider who is acting within the scope of his or her license or certification under applicable state law, solely on the basis of that license or certification. If an MCP declines to include individual or groups of providers in its network, it must give the affected providers written notice of the reasons for its decision. This paragraph may not be construed to:

(a) Require the MCP to contract with providers beyond the number necessary to meet the needs of its members;

(b) Preclude the MCP from using different reimbursement amounts for different specialties or for different practitioners in the same specialty; or

(c) Preclude the MCP from establishing measures that are ~~designated~~designed to maintain quality of services and control costs and are consistent with its responsibilities to members.

(3) The MCP~~MCPs~~ must have written policies and procedures for the selection and retention of providers that ~~cannot discriminate~~prohibit discrimination against particular providers that serve high-risk populations or specialize in

conditions that require costly treatment.

(4) When initially credentialing and recredentialing providers in connection with policies, contracts, and agreements providing basic health care services, the MCP~~MCPs~~ must utilize the standardized credentialing form and process as prescribed by the Ohio department of insurance under sections 3963.05 and 3963.06 of the Revised Code. Upon ~~ODJFS~~ODM's request, the MCP~~MCPs~~ must demonstrate to ODM the record keeping associated with maintaining this documentation.

(5) If any MCP delegates the credentialing~~/~~ or recredentialing of subcontractors to another entity, the MCP must retain the authority to approve, suspend, or terminate any subcontractors.

(D) Subcontracts.

~~MCP~~All subcontracts must include a medicaid addendum that has been ~~prior-~~approved by ODM. The medicaid addendum must include the following elements, appropriate to the service being rendered or delegated function(s), as specified by ODM~~ODJFS. All addendums must contain the following elements~~:

(1) An agreement by the subcontractor to comply with the applicable provisions for record keeping and auditing in accordance with Chapter ~~5101:3~~5160-26 of the Administrative Code.

(2) Specification of the medicaid population and service area(s) to be served, pursuant to the MCP's provider agreement.

(3) Specification of the services to be provided.

(4) Specification that the subcontract is governed by, and construed in accordance with all applicable laws, regulations, and contractual obligations of the MCP and:

(a) ~~ODJFS~~ODM shall notify the MCP and the MCP shall notify the subcontractor of any changes in applicable state or federal law, regulations, waiver, or contractual obligation of the MCP;

(b) The subcontract shall be automatically amended to conform to such changes without the necessity for written execution; and

(c) The MCP shall notify the subcontractor of all applicable contractual

obligations.

(5) Specification of the ~~terms of the subcontract including the~~ beginning date and expiration date of the subcontract, or an automatic renewal clause, as well as the applicable methods of extension, renegotiation, and termination.

(6) Specification of the procedures to be employed upon the ending, nonrenewal, or termination of the subcontract, including ~~the~~an agreement by the subcontractor to promptly supply all records necessary for the settlement of outstanding medical claims.

(7) Full disclosure of the method and amount of compensation or other consideration to be received by the subcontractor from the MCP.

(8) An agreement not to discriminate in the delivery of services based on the member's race, color, religion, gender, genetic information, sexual orientation, age, disability, national origin, ~~veteran's~~military status, ancestry, health status, or need for health services.

(9) An agreement by the subcontractor to not hold liable ~~ODJFS~~ODM ~~and~~ or members in the event that the MCP cannot or will not pay for ~~covered~~ services performed by the subcontractor pursuant to the subcontract with the exception that:

(a) ~~FQHCS~~Federally qualified health centers (FQHCs) and rural health clinics (RHCs) may be reimbursed by ~~ODJFS~~ODM in the event of MCP insolvency ~~pursuant to Section 1902(bb) of the Social Security Act.~~

(b) The subcontractor may bill the member when the MCP has denied prior authorization or referral for ~~the~~ services and the following conditions are met:

(i) The member was notified by the subcontractor of the financial liability in advance of service delivery.

(ii) The notification by the subcontractor was in writing, specific to the service being rendered, and clearly states that the member is financially responsible for the specific service. A general patient liability statement signed by all patients is not sufficient for this purpose.

(iii) The notification is dated and signed by the member.

(10) An agreement by the subcontractor that with the exception of any member co-payments the MCP has elected to implement in accordance with rule ~~5101:3~~5160-26-12 of the Administrative Code, the MCP's payment constitutes payment in full for any covered service and that the subcontractor will not charge the member or ~~ODJFS~~ODM any co-payment, cost sharing, down-payment, or similar charge, refundable or otherwise. This agreement does not prohibit nursing facilities (NFs) or home and community-based services waiver providers from collecting patient liability payments from members as specified in rule ~~5101:1-39-~~5160:1-3-24 of the Administrative Code or FQHCs and RHCs from submitting claims for supplemental payments to ~~ODJFS~~ODM as specified in Chapter 5160-28 ~~rules 5101:3-28-07 and 5101:3-16-05~~ of the Administrative Code. Additionally, the MCP and subcontractor agree to the following:

(a) MCP shall notify the subcontractor whether the MCP has elected to implement any member co-payments and if, applicable, ~~under what~~the circumstances in which member co-payment amounts will be imposed in accordance with rule ~~5101:3~~5160-26-12 of the Administrative Code; and

(b) Subcontractor agrees that member notifications regarding any applicable co-payment amounts must be carried out in accordance with rule ~~5101:3~~5160-26-12 of the Administrative Code.

(11) A specification that the subcontractor and all employees of the subcontractor are duly registered, licensed or certified under applicable state and federal statutes and regulations to provide the health care services that are the subject of the subcontract, and that subcontractor and all employees of the subcontractor have not been excluded from participating in federally funded health care programs.

(12) An agreement that subcontractors who are currently medicaid providers meet the qualifications specified in paragraph (C) of this rule.

(13) A stipulation that the MCP will give the subcontractor at least sixty-days prior notice for the nonrenewal or termination of the subcontract except in cases where an adverse finding by a regulatory agency or health or safety risks dictate that the subcontract be terminated sooner.

(14) A stipulation that the subcontractor may nonrenew or terminate the subcontract

if one of the following occurs:

(a) The subcontractor gives the MCP at least sixty-days prior notice for the nonrenewal or termination of the subcontract. The effective date for any ~~subcontractor's~~ nonrenewal or termination of the subcontract must be the last day of the month.

(b) ~~ODJFS~~ODM has proposed action to terminate, nonrenew, deny or amend the MCP's provider agreement in accordance with ~~paragraph (G) of~~ rule ~~5101:3~~5160-26-10 of the Administrative Code, regardless of whether this action is appealed. The subcontractor's termination or nonrenewal notice must be received by the MCP within fifteen working days prior to the end of the month in which the subcontractor is proposing termination or nonrenewal. If the notice is not received by this date, the subcontractor must agree to extend the termination or nonrenewal date to the last day of the subsequent month.

(15) The subcontractor's agreement to serve members through the last day the subcontract is in effect.

(16) The subcontractor's agreement to make the medical records for medicaid eligible individuals available for transfer to new providers at no cost to the individual.

(17) A specification that all laboratory testing sites providing services to members must have either a current clinical laboratory improvement amendments (CLIA) certificate of waiver, certificate of accreditation, certificate of compliance, or certificate of registration along with a CLIA identification number.

(18) A requirement securing cooperation with the MCP's quality assessment and performance improvement (QAPI) program in all its provider subcontracts and employment agreements for physician and nonphysician providers.

(19) An agreement by the subcontractor and MCP that:

(a) The MCP shall disseminate written policies in accordance with the requirements of 42 U.S.C. 1396a(a)(68) (as in effect December 1, 2014) and section ~~5111.101~~5162.15 of the Revised Code, regarding the reporting of false claims and whistleblower protections for employees who make such a report, and including the MCP's policies and procedures for detecting and preventing fraud, waste, and abuse; and

(b) The subcontractor agrees to abide by the MCP's written policies related to the requirements of 42 U.S.C. 1396a(a)(68) (as in effect December 1, 2014) and section ~~5111.101~~5162.15 of the Revised Code, including the MCP's policies and procedures for detecting and preventing fraud, waste, and abuse.

(20) A specification that hospitals and other subcontractors must allow the MCP access to all member medical records for a period of not less than ~~six~~eight-years from the date of service or until any audit initiated within the ~~six~~eight year period is completed and allow access to all record-keeping, audits, financial records, and medical records to ~~ODJFS~~ODM or its designee or other entities as specified in ~~paragraph (F) of~~ rule ~~5101:3~~5160-26-06 of the Administrative Code.

(21) A specification, appearing above the signature(s)~~,~~ on the signature page in all PCP subcontracts**,** stating the maximum number of MCP members that each PCP can serve at each practice site for that MCP.

(22) A specification that the subcontractor must cooperate with the ~~ODJFS~~ODM external quality reviews required by 42 C.F.R. 438.358 (October 1, 2013) and on-site audits as deemed necessary based on ODM's periodic analysis of financial, utilization, provider panel and other information. ~~identified in rule 5101:3-26-07 of the Administrative Code.~~

(23) A specification that the subcontractor must be bound by the same standards of confidentiality that apply to ~~ODJFS~~ODM and the state of Ohio as described in rule ~~5101:1-1-03~~5160:1-1-51.1 of the Administrative Code, including standards for unauthorized uses of or disclosures of PHI.

(24) A specification that any third party administrator (TPA) must include the elements of paragraph (D) of this rule in its subcontracts and ensure that its subcontractors will forward information to ~~ODJFS~~ODM as requested.

(25) A specification that home health subcontractors must meet the eligible provider requirements specified in Chapter ~~5101:3~~5160-12 of the Administrative Code and comply with the requirements for home care dependent adults as specified in section 121.36 of the Revised Code.

(26) A specification that PCPs must participate in the care coordination requirements outlined in rule ~~5101:3~~5160-26-03.1 of the Administrative Code.

(27) A specification that the subcontractor in providing health care services to members must identify and where ~~indicated~~necessary arrange, pursuant to the mutually agreed upon policies and procedures between the MCP and subcontractor, for the following at no cost to the member;

(a) Sign language services; and

(b) Oral interpretation and oral translation services.

(28) A specification that the MCP agrees to fulfill the subcontractor's responsibility to mail or personally deliver notice of the member's right to request a state hearing whenever the subcontractor bills a member due to the MCP's denial of payment of a service, as specified in rules ~~5101:3~~5160-26-08.4 and 5160-58-08.4 of the Administrative Code, utilizing the procedures and forms as specified in rule 5101:6-2-35 of the Administrative Code.

(29) The subcontractor's agreement to contact the twenty-four-hour post-stabilization services phone line designated by the MCP to request authorization to provide post-stabilization services in accordance with ~~paragraph (G) of~~ rule ~~5101:3~~5160-26-03 of the Administrative Code.

(30) A specification that the MCP may not prohibit~~,~~ or otherwise restrict a subcontractor, acting within the lawful scope of practice, from advising or advocating on behalf of a member who is his or her patient for the following:

(a) The member's health status, medical care, or treatment options, including any alternative treatment that may be self-administered;

(b) Any information the member needs in order to decide among all relevant treatment options;

(c) The risks, benefits, and consequences of treatment versus non-treatment; and

(d) The member's right to participate in decisions regarding his or her health care, including the right to refuse treatment, and to express preferences about future treatment decisions.

(31) A stipulation that the subcontractor must not identify the addressee as a medicaid consumer on the outside of the envelope when contacting members by mail.

(32) An agreement by the subcontractor that members will not be billed for missed appointments.

(33) An agreement ~~by the subcontractor~~ that in the performance of the subcontract or in the hiring of any employees for the performance of services under the subcontract, the subcontractor shall not by reason of race, color, religion, gender, genetic information, sexual orientation, age, disability, national origin, ~~veteran's~~military status, health status, or ancestry, discriminate against any citizen of Ohio in the employment of a person qualified and available to perform the services to which the subcontract relates.

(34) An agreement by the subcontractor that it shall not in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of services under the subcontract on account of race, color, religion, gender, genetic information, sexual orientation, age, disability, national origin, ~~veteran's~~military status, health status, or ancestry.

(35) Notwithstanding paragraphs (D)(13) and (D)(14) of this rule, in the event of a ~~subcontractor's~~hospital's proposed nonrenewal or termination of a hospital subcontract, an agreement by the hospital subcontractor to notify in writing all providers who have admitting privileges at the hospital of the impending nonrenewal or termination of the subcontract and the last date the hospital will provide services to members under the MCP contract. The subcontracting hospital must send this notice to the providers with admitting privileges ~~This notice must be sent~~ at least forty-five calendar days prior to the effective date of the ~~deletion~~nonrenewal or termination of the hospital subcontract. If the subcontractor issues less than forty-five days prior notice to the MCP, the ~~provider~~ notice to providers with admitting privileges must be sent within one working day of the subcontractor issuing notice of nonrenewal or termination of the subcontract.

(36) An agreement by the subcontractor to supply, upon request, the business transaction information required under 42 C.F.R. 455.105 (October 1, 2013).

(37) An agreement by the subcontractor to release to the MCP, ODM or ODM designee any information necessary for the MCP to perform any of its obligations under the ODM provider agreement, including but not limited to compliance with reporting and quality assurance requirements.

(38) An agreement by the subcontractor that its applicable facilities and records will be open to inspection by the MCP, ODM or its designee, or other entities as specified in rule 5160-26-06 of the Administrative Code.

(39) An agreement by the subcontractor that if the base contract with the MCP provides for assignment to another entity, no assignment, in whole or in part, shall take effect without sixty days prior notice to the MCP.

(40) An agreement by the subcontractor to immediately forward any information regarding a member appeal or grievance as defined in rule 5160-26-08.4 or 5160-58-08.4 of the Administrative Code to the MCP for processing.

(41) A specification that if the subcontractor has been delegated decision-making authority to reduce, suspend, deny or terminate services to a member, the MCP must ensure compliance with the state hearing notification requirements specified in rule 5101:6-2-35 of the Administrative Code.

(42) A specification that the subcontractor not providing direct health care services agrees to provide a report to the MCP, on at least a monthly basis, summarizing the status of the work in support of the program requirement, including a copy of any required reports or logs maintained by the subcontractor, the submission dates for any required documentation sent to MCP, and indicating any problems, concerns or potential compliance issues that may exist.

(E) In lieu of including a Medicaid addendum as required by paragraph (D) of this rule, an MCP may permit a benefit manager that assists in the administration of health care services including pharmaceutical, dental, vision and behavioral health services on behalf of the MCP's members, to include elements (D)(1) through (D)(38) in subcontracts with entities that provide for the direct provision of health care services to the MCP members. The MCP must receive written evidence that the benefit manager complied with this paragraph and has informed the entities of the obligation to provide services to the MCP's members.

Effective: 07/02/2015

Five Year Review (FYR) Dates: 04/15/2015 and 07/02/2020

CERTIFIED ELECTRONICALLY

Certification

06/22/2015

Date

Promulgated Under: 119.03
Statutory Authority: 5167.02
Rule Amplifies: 5162.03 , 5162.20, 5164.02, 5167.03 , 5167.02 , 5167.10
Prior Effective Dates: 4/1/85, 10/1/87, 2/15/89 (Emer), 5/8/89, 5/1/92, 5/1/93, 11/1/94, 7/1/96, 7/1/97 (Emer), 9/27/97, 12/10/99, 7/1/00, 10/27/00, 7/20/01, 7/1/02, 7/1/03, 1/1/06, 6/1/06, 1/1/07, 7/1/07, 1/1/08, 7/1/09