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February 25, 2016

Excerpts from DVHA's *Vermont Medicaid Shared Savings Program* Personal Services Contract with participating Accountable Care Organizations (ACOs) relating to Consumer Protections

[*The complete contract can be accessed using the following link. Excerpted language is identical in the CHAC and OneCare contracts, and has been in effect since contract execution in February 2014.* http://dvha.vermont.gov/administration/chac-aco-contract-amendment-1.pdf]

Requirements for Contractor Governance

- The Contractor must maintain an identifiable governing body that has responsibility for oversight and strategic direction, holding the Contractor's management accountable for its activities.

- The Contractor's governing body must have a transparent governing process which includes the following:
  1. Publishing the names and contact information for the governing body members, for example, on a website;
  2. Devoting an allotted time at the beginning of each in-person governing body meeting to hear comments from members of the public who have signed up prior to the meeting and providing public updates of the Contractor's activities;
  3. Making meeting minutes available to the Contractor's provider network upon request, and
  4. Posting summaries of Contractor activities provided to the Contractor's consumer advisory board on the ACO's website.

- At least 75 percent voting membership of the Contractor's governing body must be held by or represent Contractor participants or provide for meaningful involvement of Contractor participants on the governing body. For the purpose of determining if this requirement is met, a "participant" shall mean an organization that:
  1. Has a signed Participant Agreement;
  2. Has programs designed to improve quality, patient experience, and manage costs; and
  3. Is eligible to receive shared savings distributions based on the distribution rules of the Contractor or participate in alternative financial incentive programs as agreed to by the Contractor and its participants.

4. A "participant" does not need to have lives attributed to the Contractor to be considered a participant.
5. Of the 75% participant membership required on governing bodies:
    a. At least one seat must be held by a participant representative of the mental health and substance abuse community of providers; and
    b. At least one seat must be held by a participant representative of the post-acute care (such as home health or skilled nursing facilities) or long term care services and supports community of providers.
    c. Institutional and home-based long-term care providers, sub-specialty providers, mental health providers and substance abuse treatment providers are strongly encouraged to participate on ACO clinical advisory boards. This shall not be construed to create a right to participate or to be represented.
    d. It is also strongly encouraged that ACO participant membership serving all ages of Medicaid beneficiaries (pediatric and geriatric) be represented in governance and in clinical advisory roles. This shall not be construed to create a right to participate or to be represented.

- The Contractor's governing body must include at least one consumer member who is a Medicaid beneficiary. Regardless of the number of payers with which the Contractor participates, there must be at least two consumer members on the Contractor governing body. Consumer members shall have some prior personal, volunteer, or professional experience in advocating for consumers on health care issues. The Contractor's governing board shall consult with advocacy groups and organizational staff in the recruitment process for the consumer member. The Contractor shall not be found to be in non-conformance with this provision if the Contractor has in good faith recruited the participation of qualified consumer representatives to its governing body on an ongoing basis and has not been successful.

- The Contractor must have a regularly scheduled process for inviting and considering consumer input regarding ACO policy, including but not limited to a consumer advisory board with membership drawn from the community served by the Contractor, including patients, their families, and caregivers. The consumer advisory board must meet at least quarterly. Members of the Contractor's management and the governing body must regularly attend consumer advisory board meetings and report back to the Contractor's governing body following each meeting of the consumer advisory board. Other consumer input activities shall include but not be limited to hosting public forums and soliciting written comments. The results of other consumer input activities shall be reported to the ACO's governing body at least annually.

Requirements for Consumer Notification

- Contractor will provide Beneficiary disclosure and opt-out notices in accordance with the procedures set forth below in order to: 1) ensure that the Beneficiary has

been notified that his/her provider is a participant in VMSSP and 2) allow the Beneficiary to opt-out of the sharing of his/her medical claims data between the State and the Contractor. The intention is for each Beneficiary to receive one notice during the course of his/her attribution to the ACO; initial notices will be sent to Beneficiaries at the beginning of this Program, thereafter, notices to newly attributed Beneficiaries will be sent quarterly so long as the State has provided the Contractor with updated Beneficiary lists.

- Contractor is responsible for notification to Beneficiaries that will provide the Beneficiary with: (1) notice of his/her Health Care Provider's participation in the VMSSP; (2) appropriate disclosure of the use of his/her claims data; and (3) the ability to opt-out of sharing his/her claims data if desired. The notification should be sent to initially Attributed Lives in the first quarter of 2014 if beneficiary lists have been provided to Contractor. Notifications to subsequently Attributed Lives should be sent quarterly or as new beneficiary lists become available.

- Contractor must provide Beneficiaries with the written notification described in Section 4.1.1 by mail and/or in person prior to, during or following the Beneficiary's visit to a participating Primary Care Practice, so long as Contractor has received notice of the assignment via a Beneficiary list. Contractor may use electronic communication if a Beneficiary agrees to this method of communication. The language used in the notification must reflect the appropriate literacy level and/or a diversity of languages represented within the Medicaid population. The form of notification will be approved by the State and the notification process will include:

    a. Contractor will track and report to the State on the notification and method of notification;
    b. Contractor will identify to DVHA any Beneficiaries who seek to opt-out of sharing their claims data by providing DVHA with a list of such Beneficiaries on a monthly basis by uploading the list in a form specified by DVHA, to a secured site identified by DVHA; and
    c. DVHA will record these Beneficiaries and exclude them from the claims data extracts described in this Attachment A, Exhibit 1, Section VIII, Data Use.

- The Contractor must submit any material changes to the form of the ACO Participant Agreements to the State for evaluation by State only to ensure that the Agreements have the required regulatory elements: (a) a requirement that ACO Participants comply with the requirements of the VMSSP; (b) a description of the ACO Participant's rights and obligations in and representation by the ACO, including how the opportunity to share in savings or other financial arrangements will encourage ACO Participants to adhere to the quality assurance and improvement program and evidence-based clinical guidelines and should include language giving ACO the authority to terminate an ACO Participant for its non-compliance with the requirements of the VMSSP; and (c) a statement that Beneficiaries are free to use their providers of choice, consistent with their benefits.