

SECTION: 5 CHAPTER: 1400

POLICY: 1404, Reporting Discovered Violations of Immigration Status

1. PURPOSE:

Employees of Regional Behavioral Health Authorities (RBHAs) and employees of RBHA contracted providers are considered agents of the Arizona Department of Health Services/Division of Behavioral Health Services (ADHS/DBHS), and therefore, must report discovered violations of immigration status to ADHS/DBHS. ADHS/DBHS is responsible for submitting the reports to the U.S. Immigration and Customs Enforcement (ICE) agency. Failure to report a discovered violation is a Class 2 Misdemeanor.

2. TERMS:

Definitions for terms are located online at <http://www.azdhs.gov/bhs/definitions/index.php>. The following terms are referenced in this section:

Lawful Presence
U.S. Citizen

3. PROCEDURES:

a. Identification of Violations

- i. RBHAs and RBHA providers must refrain from conduct or actions that could be considered discriminatory behavior. It is unlawful and discriminatory to deny persons behavioral health services, exclude persons from participation in those services, or otherwise discriminate against any person based on grounds of race, color or national origin.
- ii. RBHA and RBHA providers must not use any information obtained about a person's citizenship or lawful presence for any purpose other than to provide a person with behavioral health services.
- iii. Factors that must **NOT** be considered when identifying a potential violation:
 - (1) The person's primary language is a language other than English;
 - (2) The person was not born in the United States;
 - (3) The person does not have a Social Security number;
 - (4) The person has a "foreign sounding" name;
 - (5) The person cannot provide documentation of citizenship or lawful presence;
 - (6) The person is identified by others as a non-citizen; and
 - (7) The person has been denied AHCCCS eligibility for lack of proof of citizenship or lawful presence.
- iv. If a person applying for behavioral health services, in the course of completing the application process or while conducting business with the RBHA/RBHA provider, **voluntarily reveals** that he or she is not lawfully present in the United States then and only then may the RBHA/RBHA provider consider it to be a reportable violation.
- v. RBHAs/RBHA providers must not require documentation of citizenship or lawful presence from persons who are not personally applying for behavioral health services, but who are acting on behalf of or assisting the applicant (for example, a parent applying on behalf of a child).

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- vi. It is **not** the responsibility of the RBHA to verify validity of the submitted documents. Documents must be copied for files and submitted, as requested, to the appropriate agency, as instructed through Health-e-Arizona PLUS (see [Policy 1403, Verification of U.S. Citizenship or Lawful Presence for Public Behavioral Health Benefits](#)).
 - vii. The criteria for screening and applying for AHCCCS eligibility are not changed by these reporting requirements. Further, the documentation requirements for verifying or establishing citizenship or lawful presence are not changed by this process (see, [Policy 1403, Verification of U.S. Citizenship or Lawful Presence for Public Behavioral Health Benefits](#)).
 - viii. RBHAs and RBHA providers must follow the expectations outlined in this policy when identifying and reporting violations. Questions regarding reporting requirements may be submitted via email to the ADHS/DBHS Corporate Compliance Officer at reportfraud@azdhs.gov
- b. Reporting Process
- i. The RBHA or RBHA provider who identifies a violation must submit a report to ADHS/DBHS via secure email to ADHS/DBHS Corporate Compliance at reportfraud@azdhs.gov that contains the following information:
 - (1) First and last name of identified individual;
 - (2) Residential address/street Address of identified individual, including city, state, and zip code; and
 - (3) Reason for referral.
- c. Documentation Expectations
- i. The RBHA/RBHA provider must document in the person's behavioral health medical record (if a provider) or in the Corporate Compliance Office (if a RBHA) the following:
 - (1) Reason for making a report, including how the information was obtained and whether it was an oral or written declaration;
 - (2) The date the report was submitted to ADHS/DBHS;
 - (3) Any actions taken as a result of the report; and
 - (4) A copy of the email to ADHS/DBHS that contains the report.

4. REFERENCES:

[42 CFR Part 400](#)
[42 CFR Part 403](#)
[42 CFR Part 411](#)
[42 CFR Part 417](#)
[42 CFR Part 422](#)
[42 CFR Part 423](#)
[A.R.S. § 1-502](#)
[A.R.S. § 36-3408](#)
[AHCCCS/ADHS Contract](#)
[ADHS/RBHA Contracts](#)

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[ADHS/TRBHA Intergovernmental Agreements \(IGAs\)](#)
[Policy 1403, Verification of U.S. Citizenship or Lawful Presence for Public Behavioral Health Benefits](#)