

**Arizona Department of Health Services
Division of Behavioral Health Services
PROVIDER MANUAL
*Magellan Health Services of Arizona Edition***

Section 5.4 **Special Assistance for Persons Determined to have a Serious Mental Illness**

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5.4.1 Introduction

Persons who have been determined to have a Serious Mental Illness (SMI) have specific rights, remedies and protections in accordance with Arizona law. These include the right to self-determination, freedom of choice, and the right to participate to the fullest extent possible in all phases of their treatment.

Individual service planning and inpatient treatment/discharge planning are fundamental aspects of an individual's comprehensive treatment. The appeal and grievance/investigation processes are the primary mechanisms which preserve and enforce the rights of individuals determined to have a SMI. In some instances, persons determined to have a SMI may have other conditions that can affect their ability to participate effectively in these processes. The Tribal or Regional Behavioral Health Authorities (T/RBHAs) and subcontracted providers are required to identify those in need of Special Assistance and facilitate the provision of Special Assistance. It is critically important that T/RBHAs and subcontracted providers regularly assess and identify persons who have been determined to have a SMI, who are unable to effectively participate in these services. T/RBHAs and providers must ensure that the person designated to provide Special Assistance is involved at key stages.

5.4.2 References

The following citations can serve as additional resources for this content area:

[A.R.S. §§ 14-5303, 14-5304, 14-5305](#)
[A.R.S. §§ 36-501, 36-504, 36-509, 36-517.01](#)
[A.R.S. §§ 41-3803, 41-3804](#)
[9 A.A.C. 21](#)

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[ADHS/RBHA Contracts](#)

[TRBHA IGAs](#)

[Section 3.9, Assessment and Service Planning](#)

[Section 3.10, SMI Eligibility Determination](#)

[Section 4.1, Disclosure of Behavioral Health Information](#)

[ADHS/DBHS Policy and Procedures GA 3.4, Special Assistance for Individuals Determined to Have a Serious Mental Illness](#)

[ADHS/DBHS Policy and Procedures GA 3.8, Disclosure of Confidential Information to Human Rights Committees](#)

5.4.3 Scope

To whom does this apply?

All persons determined to have a Serious Mental Illness who potentially may qualify for the provision of Special Assistance.

5.4.4 Did you know...?

A person determined to have a Serious Mental Illness who is also subject to a general guardianship automatically meets the criteria for Special Assistance.

The Office of Human Rights can designate a family member, friend, guardian or qualified advocate as the person meeting the needs of a person in need of Special Assistance.

Until the person designated to provide the person's Special Assistance needs is actively involved, the T/RBHA and behavioral health provider are required to postpone service and discharge planning, and/or the grievance, investigation and appeal processes.

"Special needs" are separate from the need for Special Assistance. Persons with special needs can include those who do not speak English, and may need an interpreter; persons who are deaf or hard of hearing and require auditory assistance; and persons who are blind or physically disabled, who may require visual or mobility assistance. T/RBHAs and providers are required to make the appropriate accommodations for special needs.

5.4.5 Definitions

[ADHS/DBHS Office of Human Rights](#)

[Human Rights Committee](#)

[Qualified Clinician](#)

[Serious Mental Illness](#)

[Special Assistance](#)

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5.4.6 Objectives

To establish guidelines to ensure that persons determined to have a Serious Mental Illness (SMI) and are in need of Special Assistance are identified and provided the Special Assistance they require.

5.4.7 General Requirements

5.4.7-A Criteria for identifying the need for Special Assistance

A person who has been determined to have a SMI is in need of Special Assistance if he or she is unable to do any of the following:

- Communicate preferences for services;
- Participate effectively in individual service planning (ISP) or inpatient treatment discharge planning (ITDP); or
- Participate effectively in the appeal, grievance, or investigation processes;

AND the person's limitations are due to any of the following:

- Cognitive ability/intellectual capacity (such as cognitive impairment, borderline intellectual functioning, or diminished intellectual capacity);
- Language barrier (an inability to communicate, other than the need for an interpreter/translator); or
- Medical condition (including, but not limited to traumatic brain injury, dementia or severe psychiatric symptoms).

A person who is subject to a general guardianship has been found to be incapacitated under [A.R.S. § 14-5304](#) and therefore automatically satisfies the criteria for Special Assistance. Similarly, if a T/RBHA or subcontracted provider *recommends* a person with a SMI for a general guardianship (in accordance with [R9-21-206](#) and [A.R.S. § 14-5305](#)), the person automatically satisfies the criteria for Special Assistance

The existence of any of the following circumstances for an individual should prompt the T/RBHA and subcontracted provider to more closely review the individual's need for Special Assistance: Developmental disability involving cognitive ability; Residence in a 24 hour setting; Limited guardianship or the T/RBHA or subcontracted provider is recommending and/or pursuing the establishment of a limited guardianship; or Existence of a serious medical condition that affects his/her intellectual and/or cognitive functioning (such as dementia, traumatic brain injury (TBI), etc.)

5.4.7-B Persons qualified to make a Special Assistance Determination

The following may deem a person to be in need of Special Assistance:

- A qualified clinician providing treatment to the person;
- A case manager of a T/RBHA or subcontracted provider
- A clinical team of a T/RBHA or subcontracted provider;
- A T/RBHA;

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- A program director of a subcontracted provider; including AzSH;
- The Deputy Director of ADHS/DBHS; or
- A hearing officer assigned to an appeal involving a person determined to have an SMI.

5.4.7-C When to Assess for Special Assistance

T/RBHAs and their subcontracted providers must on an ongoing basis assess whether persons determined to have a SMI are in need of Special Assistance. Minimally this assessment shall occur at the following stages:

- Assessment and annual updates;
- Development of or update to the Individual Service Plan (ISP)
- Development of or update to the Inpatient Treatment and Discharge Plan (ITDP);
- Initiation of the grievance or investigation processes;
- Filing of an appeal; and
- Existence of a condition which may be a basis for a grievance, investigation or an appeal, and/or the person's dissatisfaction with a situation that could be addressed by one or more of these processes.

T/RBHAs and their subcontracted providers shall document in the clinical record each time a person is assessed for Special Assistance, indicating what factors were considered and the conclusion reached. If it is determined that the person is in need of Special Assistance, they must notify the Office of Human Rights (OHR) by completing [PM Form 5.4.1 Notification of Persons in Need of Special Assistance](#) in accordance with the procedures outlined below.

5.4.8 Procedures

5.4.8-A Notifying the Office of Human Rights

The T/RBHAs and subcontracted providers must notify the Office of Human Rights (OHR) using [PM Form 5.4.1 Notification of Person in Need of Special Assistance](#) (Part A), within three working days of identifying a person in need of Special Assistance. If the person's Special Assistance needs require immediate assistance, the notification form must be submitted immediately, with a notation indicating the urgency.

The Office of Human Rights (OHR) will review the notification form to confirm that a complete description of the necessary criteria is included. In the event necessary information is not provided, OHR will contact the T/RBHA to obtain clarification. OHR will respond to the T/RBHA and subcontracted provider by completing Part B of [PM Form 5.4.1](#), within three working days of receipt of notification from the T/RBHA. The notification process is complete only when OHR returns the form, with Part B completed, to the T/RBHAs and subcontracted providers. If Part B of [PM Form 5.4.1](#) is not received within the required time period, the T/RBHAs and providers should follow up by contacting OHR at (602) 354-4585.

If the need for Special Assistance is urgent, OHR will respond as soon as possible, but generally within one working day of receipt of the notification form.

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T/RBHAs and subcontracted providers shall provide relevant details and a copy of the original Special Assistance Notification form (both Parts A and B) to the receiving entity or case manager when a person in need of Special Assistance is admitted to an inpatient facility or is transferred to a different T/RBHA, case management provider site or case manager.

5.4.8-B No longer in need of Special Assistance

The T/RBHAs or subcontracted providers must notify the OHR within ten days of an event or a determination that an individual is no longer in need of Special Assistance using Part C of the original notification form, identifying:

- The reasons why Special Assistance is no longer required;
- The effective date;
- The name and title of the staff person completing the form; and
- The date the form is completed.

5.4.8-C Requirements of T/RBHAs and Subcontracted Providers to Help Ensure the Provision of Special Assistance

T/RBHAs and subcontracted providers must maintain open communication with the person (guardian, family member, friend, OHR advocate, etc.) assigned to meet the person's Special Assistance needs. Minimally, this involves providing timely notification to the person providing Special Assistance to ensure involvement in the following stages:

- ISP planning and review (including any instance when the person makes a decision about service options and/or modification/termination of services);
- ITDP planning (which includes any time when the person is admitted to a psychiatric inpatient facility); and
- Investigation, grievance or appeal process (including circumstances when initiating a request for investigation, grievance or appeal may be warranted).

In the event that such procedures are delayed in order to ensure the participation of the person providing Special Assistance, the T/RBHAs and subcontracted providers must document the reason for the delay in the clinical record.

T/RBHAs and subcontracted providers must periodically review whether the person's Special Assistance needs are being met by the person designated to meet those needs. If a concern arises, the T/RBHA and subcontracted provider should initially address the problem with the person providing Special Assistance. If the issue is not promptly resolved, they must take further action to address the issue, which may include contacting OHR for assistance.

5.4.8-D Confidentiality

T/RBHAs, AzSH and subcontracted providers shall grant access to clinical records of persons in need of Special Assistance to the Office of Human Rights in accordance with all federal and state confidentiality laws. (For further clarification see [Section 4.1 Disclosure of Behavioral Health Information](#))

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5.4.8-E Other Requirements

T/RBHAs and subcontracted providers must maintain a copy of the completed Notification of Special Assistance form (both Parts A and B) in the person's comprehensive clinical record.

The HRCs must make periodic visits to individuals in need of Special Assistance placed in residential settings to determine whether the services meet their needs, and their satisfaction with their residential environment.

T/RBHAs must ensure that all applicable T/RBHA and provider staff are trained on the requirements related to Special Assistance.