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Issue Two

Network Contracting to Address Health-Related Social Needs

CONSIDERATIONS FOR GOVERNANCE



Health Law Lab

Innovating to address the social determinants of health



**CENTER for HEALTH LAW
and POLICY INNOVATION**
HARVARD LAW SCHOOL

ABOUT THIS RESOURCE

As opportunities to address health-related social needs (HRSN) as part of health care continue to grow, many states, health care organizations, and community-based organizations (CBOs) providing social care supports are looking to networked HRSN service delivery. Specifics vary, but this approach generally (1) involves coordination and collaboration between CBOs to perform under one or more contracts with health care organizations, and (2) utilizes a hub-and-spoke design in which certain responsibilities, technologies, and processes are situated in a central organization (a “hub”) that supports participating service providers (each a “spoke”).

Network contracting may be driven by a range of goals including:

- Scaling effective interventions;
- Improving care coordination and reducing fragmentation;
- Minimizing administrative and other “back-end” operations-related responsibilities of CBOs on the front line;
- Streamlining and otherwise simplifying contracting for health care organizations; and
- Centralizing infrastructure investments (e.g., billing capabilities, referral platforms) to minimize duplication of efforts.

This resource was developed to aid organizations in identifying and navigating unique legal and regulatory considerations for network-based models of social care integration with health care.

The focus of this particular issue brief is governance.

Why zoom in on governance? Networked contracting raises unique questions about governance, or how the initiative is governed. This is especially true for an organization taking on the role of a hub because it must focus on multiple areas: ensuring both organizational and network viability, and achieving both the mission of the organization and that of the network.

Other Briefs in this Series

[Network Contracting to Address Health-Related Social Needs:
Considerations for HIPAA Compliance](#)

Caution: The resource does not and should not be construed as providing legal advice—organizations are encouraged to conduct and document their own analyses through the lens of their own specific facts and circumstances. For specific legal questions, please consult an attorney.



ABOUT GOVERNANCE

Governance refers to the structure made up of organizing documents, policies, processes, and procedures through which an entity or initiative is directed and controlled—how decisions are made and implemented. Core components of effective governance include (1) a clearly-defined governance structure, (2) the creation and maintenance of essential governance documents, and (3) the creation and operationalization of governance processes and procedures.

- **Governance Structure:** Many organizations are governed by a board of directors or other governing body with legal responsibility for oversight and accountability. Boards often have various committees, which help carry out responsibilities of the board. Management and staff lead day-to-day operations under the board's oversight.
- **Essential Documents:** Articles of Organization, bylaws, committee charters, policies, and other governance documents create the framework within which the governing body, management, and staff carry out their key responsibilities.
- **Processes and Procedures:** Practices such as holding board and committee meetings, taking minutes at meetings, conducting financial and other audits, and other activities operationalize the governance framework.

Whether creating a new entity or simply a new undertaking within an existing entity, it is helpful to work through the impact of the hub's formation on each of these areas.



Additional Resources

Organizations such as the [Partnership to Align Social Care](#), the [Camden Coalition](#), and [USAging](#) have created several practical resources for “**Community Care Hubs**” or “**CCHs**.” For additional detailed governance tools, including guides to board of directors committees and committee charters visit www.partnership2asc.org.

→ What is a CCH?

USAging has developed the following definition:

A CCH serves as a community-focused regional, statewide or multi-state umbrella organization that coordinates, centralizes and scales administrative functions and operational infrastructure on behalf of a network of community support providers – e.g., Area Agencies on Aging (AAAs), Centers for Independent Living (CILs) and other community-based organizations (CBOs). The goal is to enhance efficiency, standardization, compliance, performance and quality on behalf of the network. The local providers that comprise the network address health-related social needs (HRSNs) and close care gaps through the CCH's funding arrangements with health plans, health care providers, public health departments, Medicare and Medicaid programs, Veterans Administration Medical Centers, and more. A CCH may also offer programs and services directly to consumers through a variety of payment arrangements and may hold contracts with other government agencies to coordinate administration of programs and services across a region or state.

SIX CONSIDERATIONS FOR GOVERNANCE IN A NETWORK CONTRACTING ARRANGEMENT

There is no one approach to governance that is “right” for all network contracting arrangements. Organizations pursuing a network contracting model should take into account the following as they work to build and sustain an effective governance structure.

What is the “right” governance model for a hub?

1b Among the approaches to establishing an HRSN service delivery hub are: (a) one organization from within the network forms a separate, independent legal entity to take on the network hub role; (b) one organization from within the network takes on the hub role but no separate legal entity is formed; and (c) several organizations work in partnership to create a separate legal entity to serve as the hub. These options have different implications for governance structure. For example, some hubs have one board of directors, while others are governed collaboratively by multiple boards. Some hubs build a governance structure from the ground up, devoted exclusively to furthering the mission and vision of the hub, while others have a well-established governance structure in place whose purview also includes other lines of business.¹

2o In some states, such as [North Carolina](#) and [New York](#), new Medicaid policies that cover food, housing, and other HRSN supports also lay out rules for associated hubs, including regarding governance. Networks that are or will be operating in a state with a more structured approach to hubs may want to ensure that they satisfy applicable requirements in order to take advantage of related reimbursement opportunities.

What does appropriate, effective, and meaningful stakeholder engagement in governance look like?

3o Many organizations strive to have a governing body (e.g., a board of directors) that reflects the community or communities served. How does a hub define the community it serves? Network partners do not comprise a full picture of the community served; rather, those organizations are contracted to provide a service to others in the community (e.g., people enrolled in Medicare or Medicaid). Health care organizations are also only part of the ecosystem. For this reason, many hubs look to include patients on their board or other governing body.

Example 1. New York's Health Equity Reform Medicaid 1115 waiver relies on a hub model to organize, administer, and deliver new HRSN benefits. According to [guidance set by the state](#), CBOs must represent at least fifty-one percent of Members within the lead entity's governing body and have majority share in voting rights. The governing body must include CBOs with at least one service location in the region, at least one HRSN service provider with mental health and SUD experience, and at least two current Medicaid Members with HRSN experience. The State promotes transparency and enforcement through reporting requirements.

4.

In addition to board membership, there are other mechanisms that can be included in a hub's governance structure to engage network members in strategic direction, programmatic design, and quality improvement. Advisory committees and surveys are examples of potential tools to empower and connect stakeholders. These kinds of forums can help break down silos between network members and avoid conflicts of interest. (Conflicts of interest are described in more detail in Consideration #6, below).

Example 2. Hub A has five advisory committees, made up of network members, that provide advice and recommendations to the board: (1) a committee responsible for supporting network development and emerging business opportunities; (2) a committee responsible for supporting the hub's compliance policies; (3) a committee responsible for supporting quality across hub programs and services; (4) a committee responsible for supporting the hub's public policy and advocacy agenda; and (5) a committee responsible for helping to set hub and network goals in areas of community outreach, education and training, service capacity, and program utilization. Committees meet regularly (e.g., quarterly). Each network member is asked to have at least one staff member participate in at least one committee.

How do we promote regulatory compliance and ethical conduct?

5.

Compliance oversight is an important governance issue. The hub model and hub activities may create unique regulatory compliance needs stemming from shared and delegated responsibilities. Hubs may, for example, establish compliance standards that network CBOs must comply with, manage a compliance program or various compliance functions for network CBOs, and/or be in a position of certifying to compliance commitments of the network as part of contracting with health care organizations. Important risks to understand may include health care fraud and abuse, data governance, professional liability, licensing and accreditation requirements, quality issues, and antitrust.

Example 3. Hub B contracts with several Medicare and Medicaid managed care plans in its region. Because of this, Hub B's board of directors votes to lean heavily on [health care industry guidance](#)—laying out seven elements of a successful compliance program—to develop its compliance program. Hub B: (1) adopts and maintains a code of conduct,

alongside other written policies and procedures; (2) designates a leader as the compliance officer and otherwise actively engages its board and senior leadership in compliance; (3) provides appropriate training and education opportunities, including as part of onboarding new network members; (4) ensures effective lines of communication with the compliance officer; (5) enforces its code of conduct and other standards through incentives and consequences; (6) actively assesses, audits, and monitors for compliance risk, and (7) responds to detected offenses, including through corrective action initiatives. As part of this compliance program, Hub B requires adoption of certain policies by its contracted members, conducts periodic audits, and holds trainings that are available to or required for contracted CBO staff.



It is also reasonable to anticipate and have policies in place to address conflicts of interest—i.e., circumstances that create a risk that professional judgments or actions regarding a primary interest will be unduly influenced by a secondary interest. For example, what does governance look like when the hub is also a provider of HRSN services and supports? What about when only some network members have voting rights through a position on the board of directors or network members sit on committees where additional business information and decisions come to them versus other network members?

Example 4. CBO X acts as a hub for smaller CBOs in its area to participate in a Medicaid initiative. CBO X also has its own contracts with health care organizations in the area for opportunities outside of the Medicaid initiative. CBO X proactively establishes policies and procedures to mitigate conflicts of interest. For example, CBO X ensures that its contract activities are structurally delineated from hub activities via staffing, leadership, and financial firewalls.

CONCLUSION

Building a hub and HRSN service delivery network is a complex endeavor requiring attention to many considerations. Focusing on good governance when building a hub will help ensure its credibility, sustainability, and effectiveness.

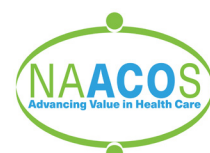
Endnotes

- 1 For more information about options for CCH organizational structures, contact Jennifer Black at the Center for Health and Research Transformation (CHRT): CHRT-info@umich.edu. CHRT's research, analyses, surveys, demonstration projects, backbone administrative services, and consulting support the work of government agencies, nonprofit organizations, foundations, health systems, and health care providers and payers. CHRT's focus areas include health and social service integration and the development of community care hubs.

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