

PASSE PROGRAM UPDATE

Presented on February 7, 2022
At Public Health, Labor and Welfare Committee of the
Arkansas Legislature



Status of PASSE today

- Currently, there are 53,063 members enrolled in the PASSE program.
 - This is up from 45,234 in January of 2020.
 - We are focused on the end of the Public Health Emergency (PHE) when approximately 11,416 individuals may be at risk of moving out of the program due to not having an independent assessment in 2021. We will work with members, providers, PASSEs, and Optum to ensure timely re-assessments are made.
- As of 1/1/22, there are 4 PASSEs. Membership as of 1/31/22 was:
 - Summit Community Care has 17,288 enrolled members.
 - Arkansas Total Care has 15,374 enrolled members.
 - Empower Healthcare Solutions has 20,063 enrolled members.
 - CareSource has 338 enrolled members.
- Each PASSE must undergo readiness review before it is able to receive enrolled members.
 - The purpose of readiness review is to ensure the PASSE is able to provide core operational functions
 - Core Operations include: adequate provider networks to deliver all medically necessary services and home and community-based supports to members so they may live safely in the community; timely payment of provider claims; care coordinators to serve all members; and the ability to quickly approve PAs.
 - Readiness review occurs when a PASSE begins operations as was the case with CareSource or significantly changes operations as was the case with Empower.

Readiness Reviews

- DHS has consistently made key decisions based on the integrity of the program as a whole in order to deliver the best value to the taxpayers and in the best interest of the Medicaid beneficiaries.
- The PASSE program was originally scheduled to “go live” in January 2019. At that time, there were 4 PASSEs—Arkansas Total Care, Empower, Summit, and Forevercare.
- “Go live” was delayed until March 2019 as DHS determined that none of the PASSEs would meet the core functional operations requirements.
- With the dedication of resources to monitor “go live,” from January to March 2019, full risk began March 2019. DHS monitored provider and beneficiary problems and resolved them in timely manner with PASSEs.
- Forevercare could not satisfy “go live” requirements and withdrew from the PASSE program.
- To pass readiness review, the PASSE must ensure that they are able to identify and resolve problems that interfere with the timely provision of services. They do not have to have perfect operations from Day 1.
- DHS hired an independent consultant who is a nationally known Medicaid managed care expert to conduct the readiness reviews for the PASSEs in 2018, 2019 and again in 2021.

2021 Readiness Reviews

Two PASSEs had to undergo readiness review in 2021.

1. CareSource—readiness review to begin providing services to enrolled members on January 1, 2022.
 - Readiness review began July 7, 2021
 - DHS notified CareSource that it has passed readiness review on February 2, 2022, however there are still a few outstanding issues that must be resolved by April 30, 2022. These issues are not considered serious enough to impact core operational functions.
2. Empower—we required readiness review due to the change in ownership as a result Act 508, which became law on April 1, 2021. Beacon, a minority owner of Empower, conducted core operational functions by contract and through subcontracts.
 - DHS was notified that Empower would transition ownership from Beacon by December 31, 2021. Beacon notified DHS on June 25, 2021.
 - Readiness review began August 9th, 2021.
 - On January 31, 2022, DHS notified Empower all issues identified through readiness review were resolved.

DHS continues to work with both PASSEs to ensure successful operations even after readiness review is completed.



Sanctions imposed in 2021

DHS imposed sanctions on Empower and Summit PASSEs in 2021.

1. Empower:

July 20, 2021: failure to substantially provide medically necessary services to an enrolled member
November 16, 2021: DHS suspended auto-assignment due to concerns in the transition from Beacon in core operational functions identified during readiness review
December 1, 2021: OMIG sanction due to MFCU finding of credible allegation of fraud.

2. Summit:

September 2, 2021: failure to substantially provide medically necessary services to an enrolled member



Empower Auto-assignment Sanction

- The sanction was imposed due to concerns raised during readiness review.
- DHS determined the suspension of auto-assignment would be the most appropriate sanction at that time-.
- Suspending auto-assignment is one of the toughest penalties as it denies a health plan a share of any new members. The financial loss over time can be significant.
- The threat of serious disruption in the lives of these vulnerable Arkansans was real.
- Ultimately, DHS concluded it would take a minimum of 60 days and more likely 90 days to transfer members to other PASSEs and therefore determined that it was in the best interests of these beneficiaries to remain with Empower at the time and to determine if Empower could successfully complete readiness review.
- Empower has made significant changes to its management structure with a new CEO and a new CFO. Functions that had been outsourced to vendors have been brought in-house.
- The change in management of Empower is viewed by DHS as a positive development and there is a significant improvement in communication and cooperation.



Empower Financial Sanctions

- Pursuant to 42 C.F.R. 5455.23(c): The Medicaid Inspector General (OMIG) receipt of complaints against Empower and pending investigation regarding alleged fraudulent payments made by Empower to certain providers and vendors that resulted in unnecessary costs to the Medicaid program.
- OMIG referred the matter to Arkansas Attorney General's Medicaid Fraud Control Unit (MFCU) for further review.
- MFCU determined that credible evidence of fraud existed as to Empower's Behavioral Stabilization Payment Program, the payment and retention of Community Investment Grants, and the misrepresentation or falsification of information furnished to MFCU and DHS.
- DHS and OMIG made the determination that full suspension was not appropriate after assessing the ability of the other PASSEs to absorb Empower's existing membership. That assessment determined that the other PASSEs could not immediately begin serving over 20,000 new members. In making this determination, DHS considered both the protection of state tax dollars and the protection of vulnerable members being served by Empower.
- As a result, DHS continued to suspend auto-assignment and imposed financial management controls on Empower. During this time, all non-medical claims expenditures had to be submitted to DHS for review and approval.
- The Attorney General's Office entered into a financial settlement on December 1, 2021 which requires the repayment of \$38,017,975.48 million (of which 75% -\$28,513,481.61 has been repaid).



Community Investment Process

As part of the PASSE program, DHS provides the PASSEs with the opportunity to make Community Investments based on Federal rules at 45 CFR 158.150, "Activities that improve health care quality."

When a PASSE submits a Community Investment proposal, it is reviewed by an internal DHS Committee with representation from each Division. The Committee may ask for changes from the PASSE based upon their review.

After the proposal is approved by the committee, recommendations are made to DHS leadership.

Empower, Arkansas Total Care, and Summit have all submitted Community Investment proposals which DHS has approved in part. None of the PASSEs have received approval for their entire proposals.

Empower's use of funds for Community Investment was a focus of the subsequent investigation. Empower deviated from activities approved by DHS without the knowledge of DHS.

DHS will provide more specific guidance to the PASSEs on allowable Community Investment activities and strengthen reporting requirements.



Updates for 2022

Broad Areas of Change:

- Changes to comply with federal requirements and definitions.
- Tier level definitions updated and Tier IV (complex cases) included.
- Additional language added to allow state and federal entities to audit records, books, and documents of the PASSE, its subcontractors or their designees and inspect premises, facilities and equipment (computers, electronic systems) where Medicaid-related activities or work is conducted.
- Language added to describe and outline PASSE responsibilities related to complex placements.
- Language added to outline PASSE responsibilities related to the children and youth in DCFS custody.
- Added specific training requirements for Care Coordinators.



Other Program Changes for 2022

- Additional criteria and guidelines being added to Community Investment requirements, including an enhanced approval process.
- Additional criteria added to Provider Incentive Plans.
- Definitions and criteria for Value Added Services added; approval required by DHS, which allows for more flexibility in services, but additional oversight by DHS.
- Clarifying that subcontracts may be reviewed by OMIG.
- The PASSE must provide all new subcontract and terminated subcontract agreements to DHS within thirty (30) days of the effective date, unless otherwise specified.
- Enhanced sanction language, including what is considered a sanctionable action.