

Federally Qualified Health Center Provider Referral Contracts and Arrangements

Healthcare Alert | 10+ min read

Mar 31, 2023

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Federally Qualified Health Centers (FQHCs) are required to provide all required primary, preventive, and enabling health services as well as additional health services as appropriate and necessary – either directly or through established written arrangements and referrals.^[1] FQHCs may provide services “either through the staff and supporting resources of the center or through contracts or cooperative arrangements.” All required and applicable additional Health Center services must be provided through one or more service delivery methods: directly, or through written contracts and/or cooperative arrangements (which may include formal referrals).^[2]

The Health Center Program Compliance Manual utilizes the terms “Formal Written Contract/Agreement” and “Formal Written Referral Arrangement” to refer to such “contracts or cooperative arrangements.”^[3] FQHCs must ensure that they have enough clinical staff and/or have contracts or formal referral arrangements in place with other providers or provider organizations to carry out all required and additional services included in the HRSA-approved scope of project.^[4]

FQHC required primary care, preventive care, and enabling services include general primary medical care, diagnostic laboratory, diagnostic radiology, screenings, coverage for emergencies during and after hours, voluntary family planning, immunizations, well child services, gynecological care, obstetrical care (prenatal care, intrapartum care (labor & delivery), and postpartum care), preventive dental, pharmaceutical services, case management, eligibility assistance, health education, outreach, transportation, and translation services. An FQHC is permitted to enter into formal written contracts for required primary care, preventive care, and enabling services.

FQHCs may provide directly, subcontract for, and use referral arrangements for numerous additional services, which may include additional dental services, behavioral health services, mental health services, substance use disorder services, optometry, recuperative care program services, environmental health services, nutrition,

occupational therapy, physical therapy, speech-language pathology/therapy, complementary and alternative medicine, and additional enabling/supportive services.

Formal Written Contract or Agreement

Services provided by a formal written contract or agreement are those provided by practitioners not employed by or volunteers of the FQHC. Rather, they are rendered by contractors and/or subrecipients on behalf of the FQHC where the FQHC will pay for the service, and the formal written contract or agreement is structured as one of the following:

- An individual provider OR a group of contracted providers (e.g., a group practice) with whom the FQHC has a contract; or
- A subrecipient organization, which is an entity with whom the Health Center Program grantee of record has a HRSA approved subrecipient agreement.^[5]

In addition, the formal written contract or agreement must address:

- How the service will be documented in the patient's FQHC record and be recorded in the annual UDS report appropriately;
- How the FQHC will pay for the service; and
- How the FQHC's policies and procedures, including the availability of a sliding fee discount program, will apply^[6]

Formal Written Referral Arrangement

Access to services provided via "formal written referral arrangements" are those services provided by an entity other than the FQHC, with which the FQHC has a formal written referral arrangement (e.g., memorandum of understanding (MOU), memorandum of agreement (MOA) or other formal written contract or agreement).

Services provided by a formal written referral arrangement are rendered and billed by the other entity (the referral provider); however, the FQHC maintains responsibility for establishing the referral arrangement(s) for FQHC patients and any follow-up care subsequent to the referral.^[7] Information from the referral visit must be provided back to the FQHC for appropriate follow-up care and should be included in the patient's FQHC medical records. In addition, FQHCs are required to ensure that such formal written referral arrangements for services, at a minimum, address: (a) how referrals will be made and managed; and (b) the process for tracking and referring patients back to the FQHC for appropriate follow-up care.^[8]

Although the service itself is not included within the HRSA-approved scope of project, the act of referral – and any follow-up care provided by the FQHC subsequent to the referral – is considered part of the FQHC's HRSA-approved scope of project.^[9]

Informal Referral Arrangements

Under informal referral arrangements or agreements, a grantee refers a patient to another provider who is responsible for the treatment plan and billing for the services provided, and no grant funds are used to pay for the care provided. These informal arrangements or agreements are not required by HRSA to be documented in a written agreement and do not require the referral provider to refer patients back to the grantee for appropriate follow-up care. For services provided by informal referral arrangements or agreements, the referral, the service, and any follow-up care provided by the other entity are considered outside of the grantee's scope of project.^[10] As these informal arrangements are not part of the scope of project, Health Center Program Requirements are not applicable (e.g., sliding fee scale, formal oversight). Notwithstanding the above, information from the informal referral arrangement visit should be provided back to the FQHC for appropriate follow-up care and included in the patient's medical records.

Other Applicable Health Center Requirements

Other health center program requirements apply when providing services through formal written contracts and/or formal written referral arrangements. All formal written contracts and formal written referral agreements must comply with Public Health Service Act Section 330 requirements and administrative regulations for the Medicare and Medicaid programs.

Key additional health center program requirements that should be addressed in such formal written contracts or arrangements include, but are not limited to:

- Oversight
- Access to Books and Records
- Sliding Fee Scale
- Accessibility to Care
- Quality Improvement
- Credentialing and Privileging Process
- Cultural and Linguistic Competency^[11]

FQHC Referral Tracking Policies and Processes

The HRSA Compliance Manual states, "Formal Written Referral Arrangement: If access to a required or additional service is provided and billed for by a third party with which the FQHC has a formal referral arrangement, this service should be accurately recorded in Column III on Form 5A: Services Provided, reflecting that the FQHC is responsible for the act of referral for FQHC patients and any follow-up care for these patients provided by the FQHC subsequent to the referral."^[12] In addition, the FQHC ensures that such formal referral arrangements for services, at a minimum, address:

- How referrals will be made and managed; and

- The process for tracking and referring patients back to the FQHC for appropriate follow-up care (e.g., exchange of patient record information, receipt of lab results).^[13]

FQHCs should implement referral processes and referral arrangements within the contracts or agreements to meet the HRSA Compliance Manual standard and ensure that the FQHC:

- Maintains a process for making, tracking, and managing referrals; and
- Ensures that the referral processes are reflected in the formal written contractual arrangements.^[14]

FQHC referral tracking policies should include the following elements:^[15]

- Referral type definition (hospital, specialist, ancillary services, urgent, routine);
- How the referral was initiated (PCP, patient, or specialist physician)
- Referral tracking process:
 - Who is responsible for follow-up and how?
 - Follow-up time and frequency
 - Follow-up documentation by FQHC and referral contractor
 - Referral status reports for chronic care patients
 - Patient follow-up and compliance with referral recommendations
 - Referral tracking documentation in FQHC patient medical records and referral tracking logs:
 - Referral appointment dates and missed referral appointments.
 - Follow-up request dates
 - Follow-up request methods and frequency of attempts and frequency of attempts to obtain follow-up
 - Follow-up documentation by the FQHC and referral provider^[16]

Formal Written Contracts and Formal Written Referral Agreements

Formal written contracts and agreements and formal written referral arrangements should be formally documented in a written agreement that describes: (1) how the referral will be made and managed; (2) how the service will be documented in the patient record; (3) how the referred service is made available equally to all FQHC patients, regardless of ability to pay; (4) if applicable, how the FQHC will pay and/or bill for the service; and (5) the process for tracking and referring patients back to the FQHC for appropriate follow-up care. In addition, all formal written contracts and formal written referral agreements must comply with Public Health Service Act Section 330 requirements, and administrative regulations for the Medicare and Medicaid programs.^[17]

Other key terms and provisions that should be addressed in formal written contracts and referral services agreements include but are not limited to the following:^[18]

- *Acceptance of All Referred Patients*: referral provider staffing should be sufficient to provide reasonable access for FQHC patients and accept all patients regardless of their ability to pay.
- *Access to Books and Records*: address record retention, access, and audit rights.
- *Billing and Collections*: responsibility for billing and collecting all payments from third-party payors and/or patients.
- *Charges*: referral contracts must include a schedule of rates and payment method for such services, including whether or not the FQHC's sliding fee scale or alternative discounts are available to patients.
- *Cultural Competency*: referral services are delivered in a culturally sensitive manner and address linguistic and cultural differences by providing patients with limited English proficiency with interpretation and translation.
- *Freedom of Choice*: providers may refer patients based on professional judgment, and patients have the freedom to see any provider that they choose.
- *Insurance Coverage*: health care professionals providing services pursuant to the referral are covered by a professional liability insurance policy.
- *Non-exclusivity*: each party maintains the right to enter into arrangements with other providers for the same or similar services.
- *Medical Records*: process for documenting the referral in the FQHC patient records; a requirement that the referral provider maintains medical records; and the process by which the parties will share medical records regarding diagnosis and treatment for continuity of care purposes.
- *No Referral Requirement*: neither party is under obligation to refer patients or businesses to the other party as a result of the agreement.
- *Not Barred from Medicare/Medicaid*: attestation that the referral provider is not excluded from participating in Medicare, Medicaid, or any other federal or state health care programs.
- *Oversight*: The FQHC must provide oversight and monitoring of contractors to ensure their performance is in accordance with the terms, conditions, and specifications of their contracts and to assure compliance with applicable HRSA requirements
- *Privacy and Security*: compliance with any federal or state law governing the privacy and confidentiality of the individually identifiable health information of patients.
- *Professional Qualifications*: verification of referral provider licensure, certification, or expertise through a credentialing and privileging process, and verification that the referral provider is qualified to furnish the services, with appropriate training, education, and experience in their particular field.
- *Referral Process*: description of the process for making, tracking, and managing referrals for services to the referral provider and the process by which the referral provider will refer the patient back to the FQHC for follow-up care.
- *Services*: a description of the specific referral activities or services to be performed or goods to be provided.
- *Standard of Care*: services will be furnished consistent with the prevailing standards of care^[19].

It is important that FQHC's consult with competent health care law counsel and refer to State non-profit entity laws, HRSA, Medicare, Medicaid, and any other regulatory requirements to develop referral contracts or

agreements.

How to Demonstrate Compliance with HRSA Referral Contracts and Arrangements Requirements

An FQHC may demonstrate compliance with HRSA referral contracts and arrangements requirements by fulfilling all of the following:

Staffing: Ensuring that it has clinical staff and/or contracts or formal referral arrangements in place with other providers or provider organizations to carry out all required and additional services included in the HRSA-approved scope of project; and maintenance of files or records for its clinical staff (e.g., employees, individual contractors, and volunteers) that contain documentation of licensure, credentialing verification, and applicable privileges.^[20]

Formal Written Contract/Agreement: If a required or additional service is provided on behalf of the FQHC via a formal contract/agreement between the FQHC and a third party, this service should be accurately recorded in Column II on Form 5A: Services Provided, reflecting that the FQHC pays for the care provided by the third party via the agreement. FQHCs may also present a copy of the formal written contract or agreement, which addresses:

- How the service will be documented in the patient's FQHC record; and
- How the FQHC will pay for the service.^[21]

Formal Written Referral Arrangement: If access to a required or additional service is provided and billed for by a third party with which the FQHC has a formal referral arrangement, this service is accurately recorded in Column III on Form 5A: Services Provided, reflecting that the FQHC is responsible for the act of referral for FQHC patients and any follow-up care for these patients provided by the FQHC subsequent to the referral. In addition, the FQHC should ensure that such formal written referral arrangements for services, at a minimum, address:

- How referrals will be made and managed; and
- The process for tracking and referring patients back to the FQHC for appropriate follow-up care (for example, exchange of patient record information, receipt of lab results).^[22]

Documents: the following documents may also be provided to demonstrate compliance

1. All MOUs, MOAs, or other formal written agreements relating to arrangements or referrals for services that are provided through other service providers should be on file at the FQHC.
2. A referral tracking policy/procedure should be in place and document how patients are referred for services outside of the FQHC and the process for returning the patient with a report of those services to the FQHC for follow up care.
3. Tracking policy/procedure for laboratory and radiology services. Contracts should be in place (and available for review) to assure access to patients for referral services and a process should be in place to submit reports of

service to the FQHC to address follow-up care.^[23]

[1] Section 330(a) of the Public Health Service Act..

[2] 42 U.S.C. 254b(a)(1).

[3] HRSA Compliance Manual Chapter 4.

[4] HRSA Compliance Manual Chapter 5.

[5] [HRSA Service Descriptors for Form 5A: Services Provided.](#)

[6] Id.

[7] [HRSA Service Descriptors for Form 5A: Services Delivery Method Description.](#)

[8] HRSA Compliance Manual Chapters 4, 5.

[9] Id.; See also, HRSA Service Descriptors for Form 5A: Services Delivery Method Description.

[10] [HRSA Service Descriptors for Form 5A: Services Delivery Method Description.](#)

[11] HRSA Compliance Manual Chapter 4.

[12] [Health Center Referral Tracking Policies and Processes, RegLantern HRSA Compliance Manual](#)

[13] [HRSA Compliance Manual, Chapter 4: Required and Additional Services, Demonstrating Compliance b.](#)

[14] [Health Center Referral Tracking Policies and Processes, RegLantern HRSA Compliance Manual](#)

[15] [Federal Tort Claims Act \(FTCA\) Compliance and Preparing for an FTCA Specific On-Site Visit, November 20, 2019, Garfunkel, Wild & Travis.](#)

[16] [Quarterly Compliance Article – Contract Considerations, Compliatric](#)

[17] Id.

[18] Id.

[19] [Enhancing the Continuum of Care: Integrating Behavioral Health and Primary Care through Affiliations with FQHCs, National Council for Community Behavioral Health Care.](#)

[20] HRSA Compliance Manual, Chapter 4.

[21] HRSA Compliance Manual, Chapters 4 and 5.

[22] HRSA Compliance Manual, Chapter 4, Section 4.7

[23] FQHC Series: Documenting Services Provided, May 23, 2017, Withum Smith+Brown, PC

Related People



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