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July 24, 2006

DMH LETTER NO.: 06-05

TO: LOCAL MENTAL HEALTH DIRECTORS
LOCAL MENTAL HEALTH PROGRAM CHIEFS
LOCAL MENTAL HEALTH ADMINISTRATORS
COUNTY ADMINISTRATIVE OFFICERS
CHAIRPERSONS, LOCAL MENTAL HEALTH BOARDS

SUBJECT: **IMPLEMENTATION OF THE PRELIMINARY INJUNCTION IN *KATIE A. v. BONTA***

The purpose of this Policy Letter is to provide clarification and guidance to counties regarding federal court-ordered services and activities that are reimbursable under the Medi-Cal Program. This Policy Letter is effective July 12, 2006 to comply with the provisions of the preliminary injunction in *Katie A. v. Diana Bonta* (Attachment A). *Katie A.* is a class action lawsuit that was filed in 2002 against the California Department of Social Services (CDSS) and the California Department of Health Services (DHS). Plaintiffs alleged that foster children and children “at imminent risk of foster care placement” are not receiving adequate mental health services. Plaintiffs sought to increase Medi-Cal funding and to expand the existing Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program for mental health services to include “wraparound services” and “therapeutic foster care.”

On March 14, 2006, federal Judge A. Howard Matz issued the preliminary injunction against DHS and DSS requiring that the State of California do the following:

- (1) Screen members of the statewide class who
 - (a) are in foster care or are at imminent risk of foster care placement;
 - (b) have a mental illness or condition that has been documented or, had an assessment already been conducted, would have been documented; and
 - (c) who need individualized mental health services, including but not limited to professionally acceptable assessments, behavioral supports and case management services, family support, crisis support, therapeutic foster care and other necessary services in the home or in a home-like setting, to treat or ameliorate their illness or condition.
- (2) Provide wraparound services and therapeutic foster care where medically necessary on a consistent statewide basis through the Medi-Cal program or other means.

The Court defined “wraparound services” and “therapeutic foster care” (TFC) to include services or components listed in Appendices A and B, respectively, (Attachment B) of the Addendum to Order Granting Plaintiffs’ Motion for Preliminary Injunction

A. IMPLEMENTATION OF THE COURT-ORDERED WRAPAROUND SERVICES & TFC

The court ordered that wraparound services and TFC be provided to *Katie A.* class members beginning no later than July 12, 2006. The State of California intends to implement the preliminary injunction through a sequenced plan in order to make the changes workable. The parties are discussing priority populations for initial implementation. Future dialogue with the counties will address how the court-ordered services can be integrated into each county’s existing service-delivery system, and how all counties will address the anticipated need for expansion of capacity to provide these services. Possible strategies include utilizing effective screening and assessment linked to evidenced-based practices, fidelity measurement tools for wraparound and TFC, and basic competencies needed for county-level training.

B. CRITERIA FOR MEDI-CAL REIMBURSEMENT FOR WRAPAROUND SERVICES

The preliminary injunction stated that wraparound must be provided through “the Medi-Cal program or other means.” This does not change each MHP’s responsibility to comply with existing federal statutory requirements for Federal Financial Participation (FFP). If any of the components of wraparound referenced below do not comply with existing federal requirements for FFP, they are not reimbursable under the Medi-Cal Specialty Mental Health Services Consolidation (SMHSC) waiver program. Such federal requirements include, but are not limited to the following: claim certification, access to and authorization for services, individual provider requirements, beneficiary eligibility, medical necessity, and provider licensure and scope of practice. Additionally, the services must also be provided to specifically treat the child’s mental health condition(s) and the service must be provided by an MHP or an MHP-certified Medi-Cal mental health provider. Please refer to Title 9, California Code of Regulations (CCR) Section 1810.204, et. seq.

The wraparound team should make appropriate referrals to Medi-Cal providers of the Medi-Cal non-specialty mental health services listed in the court order. With regard to the non-specialty mental health services listed in the court order, full scope Medi-Cal beneficiaries are entitled to all of Medi-Cal physical health care services based upon the criteria for the services including medical necessity. In addition, the services must be provided by Medi-Cal provider types working within their scope of practice. Medi-Cal providers should bill for all services approved in the Medi-Cal State Plan in accordance with Title 22, CCR, Sec. 51501 et al. EPSDT services are those medical services outside the Medi-Cal State Plan scope of benefits pursuant to Title 22, CCR, Secs. 51304 and 51304.1. These services are billed pursuant to Title 22, CCR, Secs 51532 through 51532.3.

C. WRAPAROUND COMPONENTS

Mental health service activities delivered in wraparound programs may be specialty mental health services covered by the MHPs and reimbursed as a specialty mental health service (e.g., assessment, plan development, or collateral), medication management, targeted case management, day rehabilitation, day treatment intensive, crisis intervention or crisis stabilization, depending on the specific activities being performed by staff working in a certified program under the direction of a Licensed Practitioner of the Healing Arts. When appropriate, more than one MHP-certified Medi-Cal mental health provider (mental health provider) may bill for a child on a particular day. The total time claimed shall not exceed the actual time utilized for claimable services. Such billing requires documentation for each provider's service functions.

Reimbursable services apply only to full scope Medi-Cal beneficiaries. Assuming medical necessity and a mental health provider acting within his/her scope of practice, wraparound components included in Appendices A with service activities that are reimbursable as specialty mental health services are as follows:

- **Engagement of the Child and Family**

When a wraparound coordinator organizes and conducts an initial or ongoing meeting with the child and his/her family, mental health service activities (e.g. collateral, plan development, assessment, etc.) provided by the MHP or mental health provider, are Medi-Cal reimbursable as one of the following depending upon the specific activities provided: a mental health service, medication management, day rehabilitative, day treatment intensive, or as targeted case management (TCM) depending on the specific activities being provided. Reimbursement refers to specialty mental health services and not administrative costs, which are subject to the limitations that federal and state funds identified for the diagnosis and treatment of mental disorders shall be used solely for that purpose. Administrative costs must be clearly identified and must be limited to reasonable amounts in relation to the scope of services and the total funds available.

During this meeting, the mental health provider engages with the child and family, explains available services, and encourages the participation of additional family members and other natural supports to treat the child's identified mental health conditions. The mental health provider assigned to the team may provide therapeutic interventions to the child and family during the meeting. The engagement of the child and family continues throughout the provision of specialty mental health services as part of the overall therapeutic intervention. Such engagement including a therapeutic meeting with a child and significant other persons by the mental health provider for the purpose of addressing the child's mental health needs is reimbursable as mental health service.

- **Immediate Crisis Stabilization**

The wraparound coordinator, the mental health provider, and other individuals participating in the team may need to address safety issues related to mental health needs such as severe psychiatric symptoms or behaviors of a child related to their mental health issues that might place the child or others in jeopardy. Crisis intervention actions taken to address immediate concerns about safety and security

are Medi-Cal reimbursable as one of the following depending upon the specific activities provided: mental health services or TCM, crisis intervention or crisis stabilization. When the mental health provider attempts to predict potential areas of crisis and to clearly identify ways to resolve the crisis, such activity would incorporate potential crisis intervention strategies into the treatment plan. This activity is reimbursable as a mental health service.

- **Strengths and Needs Assessment**

The mental health provider working with the child's wraparound team is responsible for gathering information that identifies the unique skills, talents, interests, and resources of the child and family related to the child's identified mental health condition(s). This information is used to build a strength-based and individualized service plan. Such activities are reimbursable as a Medi-Cal mental health service or TCM provided that the activities are performed by the mental health provider and directed towards treating the child's identified mental health condition(s). The DMH/MHP contract generally describes requisite assessment and mental health client plan. The contract also requires documentation that describes the client strengths in achieving client plan goals.

- **Wraparound Team Formation**

The child, the parent or guardian, the mental health provider, and the coordinator working in a wraparound program may be members of the wraparound team. In addition, friends, extended family, neighbors, members of the family's faith, community teachers, social workers, therapists and co-workers might be among those invited to join if their participation is relevant to the child/youth's mental health treatment. Activities conducted or facilitated by the mental health provider participating on this team for the purposes of treating the child's mental health condition(s) are Medi-Cal reimbursable as TCM or mental health services. Reimbursement refers to specialty mental health services and not administrative costs, which are subject to the limitations that federal and state funds identified for the diagnosis and treatment of mental disorders shall be used solely for that purpose.

- **Wraparound Service Plan Development**

With the help of a facilitator, the mental health provider works together with the wraparound team to develop and adopt a wraparound service plan. The service plan describes the needs, long-range vision and short-term objectives for the child and family, and the services that will best fit their needs. During the wraparound team meetings, the facilitator will coordinate the assignment of tasks to team members. Deadlines for task completion are recorded. Activities of the mental health provider to develop the wraparound service plan or to provide mental health services under the plan are Medi-Cal reimbursable as TCM or mental health services depending upon the specific activities provided.

- **Wraparound Service Plan Implementation**

Once the wraparound service plan is established, the team members with specific assignments carry out their assigned responsibilities within the agreed time frames.

The services will be highly individualized, and will consist of both natural and formal supports. Examples of formal services are as follows: diagnostic intellectual evaluations, comprehensive neurological evaluations, therapeutic behavioral support services, individual and family crisis planning and intervention services, parent coaching and education, medication monitoring, intensive-in-home, individual, group, and family therapy services; interactive psychotherapy using play equipment, physical device, or other mechanisms of non-verbal communication; individual rehabilitation services; day treatment intensive; and day rehabilitation. Depending upon the specific activities provided, these activities may be Medi-Cal reimbursable as TCM or mental health services. Activities which are non-specialty mental health services may be reimbursable services through Fee-For-Service Medi-Cal as described in pertinent sections of Title 9 of the CCR.

- **Ongoing Crisis and Safety Planning**

The wraparound facilitator tracks assignment completion. The mental health provider assigned to the team routinely updates the child's mental health plan and tracks or logs all mental health encounters as well as the child's and family's progress in mental health treatment. The facilitator and mental health provider also work with the team to modify the child's wraparound plan or mental health plan when appropriate. Ongoing crisis and safety planning activities performed by the mental health provider related to treating the child's identified mental health condition(s) are Medi-Cal reimbursable as mental health services or TCM, depending upon the specific activities provided.

- **Tracking and Adapting the Wraparound Service Plan**

The wraparound facilitator tracks assignment completion. The mental health provider(s) assigned to the team routinely updates the child's mental health plan as well as documents mental health encounters as the child's progress in mental health treatment. The facilitator and the mental health provider(s) also work with the team to modify the wraparound plan when appropriate. Tracking and adaptation of the service plan activities performed by a mental health provider to treat the child's mental health condition(s) are Medi-Cal reimbursable as mental health services or TCM, depending upon the specific activities provided. More than one mental health provider may bill for the same child on a particular day. Such billing requires documentation for each provider's service functions. The total time claimed shall not exceed the actual time utilized for claimable services. All claiming for service functions based upon requisite minutes of time are further described in Title 9 CCR sec. 1840.316.

- **Transition**

The wraparound team ensures that children and families are appropriately transitioned from the wraparound services, either when the child leaves the children's mental health system for the adult mental health system, or when the child and family no longer need formal supports. Such transition activities performed by the mental health provider(s) related to treating the child's mental health condition are Medi-Cal reimbursable as mental health services or TCM, depending upon the specific activities provided. The criteria in the above paragraph regarding billing by more than one mental health provider, also applies to this paragraph.

D. BILLING MEDI-CAL FOR SPECIALTY MENTAL HEALTH SERVICES

Below is a list of the various outpatient specialty mental health service activities that are covered under the Medi-Cal SMHSC waiver program. These outpatient specialty mental health services are individual or group therapies and interventions that are designed to provide reduction of mental disability and restoration, improvement or maintenance of functioning consistent with the goals of learning, development, independent living, and enhanced self-sufficiency; and that are not provided as a component of adult residential services, crisis intervention, crisis stabilization, day rehabilitation, or day treatment intensive. Service activities under Title 9 CCR Sec. 1810.227 may include but are not limited to assessment, plan development, rehabilitation and collateral.

All claiming for service functions based upon requisite units of time are described in Title 9 CCR Secs. 1840.316 and 1840.322. Service functions are not reimbursable where lockouts apply. Please refer to Title 9 concerning lockout limitations for Day Rehabilitation and Day Treatment Intensive (1840.360), Crisis Intervention (1840.366), Crisis Stabilization (1840.368), Medication Support Services (1840.372); and TCM services (1840.374). Title 9 Section 1840.324 *et. seq.* also establishes site requirements for services, although all services need not be delivered at that site.

The SMHSC waiver program services contained in Title 9, Sec. 1819 *et. seq.* are further described below and are followed by applicable billing codes.

- **Assessment** is a service activity designed to evaluate the current status of a beneficiary's mental, emotional, or behavioral health. Assessment includes but is not limited to one or more of the following: mental status determination, analysis of the beneficiary's clinical history, analysis of relevant cultural issues and history, diagnosis, and the use of testing procedures.
- **Plan Development** is a service activity consisting of development of client plans, approval of client plans, and/or monitoring of a beneficiary's progress. The DMH/MHP contract describes the minimum content to be included in client plans.
- **Rehabilitation** is a service activity that includes, but is not limited to assistance in improving, maintaining, or restoring a beneficiary's or group of beneficiaries' functional skills, daily living skills, social and leisure skills, grooming and personal hygiene skills, meal preparation skills, support resources, and/or medication education.
- **Collateral** is a service activity to a significant support person in a beneficiary's life for the purpose of meeting the needs of the beneficiary in terms of achieving the goals of the beneficiary's client plan. Collateral may include but is not limited to consultation and training of the significant support person(s) to assist in better utilization of specialty mental health services by the beneficiary, consultation and training of the significant support person(s) to assist in better understanding of mental illness, and

family counseling with the significant support person(s). The beneficiary may or may not be present for this service activity.

All of the above Medi-Cal specialty mental health service activities are provided by or authorized by county MHPs and paid through Short-Doyle Medi-Cal (SD/MC) claims processing system utilizing DMH local codes for Mode of Service 15 (Outpatient Services) and for Service Functions 10 – 19, 30 – 57, and 59.

Other Medi-Cal specialty mental health service activities that can be provided by county MHPs include the following:

- **Crisis Intervention** is a service, lasting less than 24-hours, to or on behalf of a beneficiary for a condition that requires more timely response than a regularly scheduled visit. Service activities include but are not limited to one or more of the following: assessment, collateral and therapy. Crisis intervention is distinguished from crisis stabilization by being delivered by providers who do not meet the crisis stabilization contact, site, and staffing requirements described in Sections 1840.338 and 1840.348. Crisis Intervention is provided by or authorized by county MHPs and paid through SD/MC claims processing system utilizing DMH local codes for Mode of Service 15 (Outpatient Services) and for Service Functions 70 – 79.
- **Crisis Stabilization** is a service lasting less than 24-hours, to or on behalf of a beneficiary for a condition that requires more timely response than a regularly scheduled visit. Service activities include but are not limited to one or more of the following: assessment, collateral and therapy. Crisis stabilization is distinguished from crisis intervention by being delivered by providers who do meet the crisis stabilization contact, site, and staffing requirements described in Sections 1840.338 and 1840.348. Crisis stabilization is provided by or authorized by county MHPs and paid through SD/MC claims processing system utilizing DMH local codes for Mode of Service 10 (Day Services) and for Service Functions 20 – 29.
- **Medication Support Services** include prescribing, administering, dispensing and monitoring psychiatric medications or biologicals that are necessary to alleviate the symptoms of mental illness. Service activities may include but are not limited to evaluation of the need for medication, evaluation of clinical effectiveness and side effects, the obtaining of informed consent, instruction in the use, risks, and benefits of and alternatives for medication; and collateral and plan development related to the delivery of the service and/or assessment of the beneficiary. Medication support services are provided by or authorized by county MHPs and paid through the SD/MC system utilizing DMH local codes for Mode of Service 15 (Outpatient) and for Service Functions 60 – 69.
- **Day Rehabilitation Services** (half-day and full-day) is a structured program of rehabilitation and therapy to improve, maintain or restore personal independence and functioning, consistent with requirements for learning and development, which provides services to a distinct group of individuals. Services are available at least three-hours and less than 24-hours each day the program is open. Service activities may include, but are not limited to, assessment, plan development, therapy,

rehabilitation and collateral. Day Rehabilitation services are provided by or authorized by county MHPs and paid through the SD/MC system utilizing DMH local codes for Mode of Service 10 (Day Services) and for Service Functions 91 – 94 (half-day) and 95 – 99 (full-day).

- **Day Treatment Intensive** (half-day and full-day) is a structured, multi-disciplinary program of therapy which may be an alternative to hospitalization, avoid placement in a more restrictive setting, or maintain the individual in a community setting, which provides services to a distinct group of individuals. Services are available for at least three-hours and less than 24-hours each day the program is open. Service activities may include, but are not limited to assessment, plan development, therapy, rehabilitation and collateral. Day Treatment Intensive services are provided by or authorized by county MHPs and paid through the SD/MC system utilizing DMH local codes for Mode of Service 10 (Day Services) and for Service Functions 81 – 84 (half-day) and 85 –89 (full day).
- **Targeted Case Management (TCM)** is a service that assists a beneficiary to access needed medical, educational, social, prevocational, vocational, rehabilitative, or other community services. The service activities may include, but are not limited to communication, coordination, and referral; monitoring service delivery to ensure beneficiary access to service and the service delivery system; monitoring of the beneficiary's progress; placement services; and plan development. TCM is the linkage and brokerage to a service and not the provision of the service itself. To obtain Medi-Cal reimbursement for TCM, the linkage and brokerage activities must be related to addressing the child's mental health needs. TCM is provided by or authorized by county MHPs and paid through the electronic SD/MC claims processing system utilizing DMH local codes for Mode of Service 15 (Outpatient Services) and for Service Functions 01 – 09.

Although the State is appealing the preliminary injunction, DHS is seeking guidance from the federal Centers for Medicare and Medicaid Services regarding implementation of the court order specific to Medicaid reimbursable services and provider types in California that are authorized to treat mental health conditions for wraparound and TFC. The State will provide additional information as soon as it is available. Since Medi-Cal claims are reviewed for reimbursement on a case-by-case basis, the reimbursement guidelines described in this Policy Letter are not guarantees that Medi-Cal will pay any specific individual claim.

Additional guidance with regard to TFC will be provided under a separate policy letter in the future. For any further guidance or clarification regarding implementation of wraparound under the preliminary injunction, please contact your county operations liaison (attached are a list of names with phone numbers). Thank you in advance for your cooperation and assistance.

Sincerely,

Original signed by:

STEPHEN W. MAYBERG, Ph.D.
Director

Attachments

cc: California Mental Health Planning Council
Chief, County Operations
Program Compliance