



C A L I F O R N I A D E P A R T M E N T O F

Mental Health

1600 9th Street, Sacramento, CA 95814
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September 7, 2006

DMH INFORMATION NOTICE NO.: 06-09

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 CONLAN v. BONTA (2002) 102
Cal.App. 4th 745 AND CONLAN v. SHEWRY (2005) 131
Cal.App. 4th 1354 COURT DECISIONS AND COURT ORDERS

The purpose of this Department of Mental Health (DMH) Information Notice is to inform County Mental Health Plans (MHPs) of DMH's and MHPs' role in the initial implementation of the court decisions in the Conlan v. Bonta (2002) 102 Cal.App. 4th 745 (Conlan I) and Conlan v. Shewry (2005) 131 Cal.App. 4th 1354 (Conlan II) lawsuits which are binding on the California Department of Health Services (DHS) as the single Medicaid/Medi-Cal State agency, and upon DMH as the administrator of the Medi-Cal Specialty Mental Health Services Consolidation Waiver Program. Claims for specialty mental health services submitted to DHS pursuant to the Conlan decisions and court orders (February 8, 2006- Order Requiring Revised Implementation Plan; May 18, 2006- Order Requiring Timelines for Implementation; May 18, 2006- Order Requiring Reimbursement of Post-Approval Expenses) with a date of service of July 1, 2006 or later, will be forwarded by Electronic Data Systems (EDS) directly to the MHP of the county where the specialty mental health provider identified on the Conlan claim form is located. MHP implementation requirements are described later in this Information Notice.

BACKGROUND

The Conlan v. Bonta and Conlan v. Shewry lawsuits resulted in the issuance of two separate decisions by the First District Court of Appeal. The first decision is referred to as Conlan I and was issued on September 30, 2002. The second decision, referred to as Conlan II, was issued on August 15, 2005. These court decisions directed DHS to adopt and implement procedures to ensure reimbursement to Medi-Cal beneficiaries for covered medical services obtained and paid for by a beneficiary: 1) during the three-month period prior to application for Medi-Cal (defined as the "retroactive period"), 2) during the period

that an application for Medi-Cal is pending (defined as the “evaluation period”), and 3) during the period between a denial of a beneficiary’s application for Medi-Cal eligibility and reversal of that decision. Reimbursement to Medi-Cal beneficiaries is also required if a beneficiary was charged an excess co-payment during the period after issuance of a Medi-Cal card (defined as the “post-eligibility period”). One of the court orders issued May 18, 2006, (Order Requiring Timelines for Implementation) directed DHS to begin issuing reimbursement checks to Medi-Cal beneficiaries who have properly submitted complete claims no later than October 2, 2006.

IMPLEMENTATION PROCESS

As of the date of this Information Notice, DHS’ implementation plan to the court is pending approval. Upon court approval of DHS’ implementation plan, DHS will mail a Beneficiary Notice to the address of record of all current beneficiaries, as well as those individuals who were eligible at any time since June 27, 1997. The Beneficiary Notice will be mailed to approximately 10.8 million beneficiaries who may have a claim arising on or after June 27, 1997. Any questions or requests for claim materials based on the DHS Beneficiary Notice will be processed by the State’s fiscal intermediary for the Medi-Cal program, EDS. Claim forms will be sent to individuals upon request by EDS. Beneficiaries will be required to submit a complete claim packet to EDS when requesting reimbursement for out-of-pocket medical expenses pursuant to the Conlan court orders (Conlan claims). Conlan claims will be submitted to EDS for initial screening for completeness and for beneficiary eligibility during the claim period.

Beneficiaries will have one year to submit a valid claim from the date of DHS’ implementation start date for services provided between June 27, 1997 and October 1, 2006 (or different date as determined by the DHS). Claims for services on or after the implementation start date must be received by EDS within one calendar year after the date the service(s) was rendered or within 90 days after issuance of the Medi-Cal card, whichever is the longest period of time.

A valid claim consists of a completed claim form, a State of California Standard 204 (Payee Data Record) form, a copy of the Medi-Cal Benefits Identification Card, and proof of payment(s) made to the provider(s). A valid claim (a claim that is for a covered Medi-Cal service at the time the service was rendered) must be reimbursed by the provider, the DHS or the DMH within 90 days of receipt of the valid claim. DMH will request that service providers repay the beneficiary for claims that EDS determines are valid. If the beneficiary is not promptly repaid by the service provider, DMH will repay the beneficiary. Claims that are determined by EDS to be invalid will be denied and a letter will be sent to the beneficiary explaining why their claim was denied and notifying the beneficiary of the right to file for a State Hearing.

IMPLEMENTATION REQUIREMENTS FOR MHPs AND DMH

Upon court approval of DHS' Conlan implementation plan, EDS will forward complete claims with a date of service before July 1, 2006 to the DMH for processing. Claims with a date of service beginning July 1, 2006, will be forwarded to the county MHP where the specialty mental health provider identified on the Conlan claim form is located. Beginning July 1, 2006, the MHP will be responsible for completion of claims validation (approval or denial). As of that date, DMH will no longer complete claims validation or payment. For valid Conlan claims, the MHP is required to ensure reimbursement to a beneficiary within 90 days of receipt of the complete claims using the routine Short-Doyle/Medi-Cal claiming process. For valid Conlan claims, the MHP will be responsible for repayment of the beneficiary. For invalid Conlan claims, the MHP will need to issue a denial letter to the beneficiary along with a notice advising the beneficiary of the right to request a State Hearing.

DMH continues to move forward to finalize DMH staffing to support implementation and ongoing Conlan related requirements, and the development of policies and procedures required to implement the Conlan court decisions and court orders. DMH will provide technical assistance materials and training to assist MHPs to ensure the requirements of the Conlan court decisions and court orders are met. DMH will also issue specific policy guidance pursuant to the Conlan decisions and orders under a future DMH Policy Letter once DHS' implementation plan is approved by the court.

DMH CONTACTS

If you have questions or need clarification about DMH implementation of the Conlan decisions, please contact Anthony Sotelo, Chief, Medi-Cal Operations Unit at (916) 654-5722.

Sincerely,

Original signed by Terrie Tatosian for

STEPHEN W. MAYBERG, Ph.D.
Director

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