



State of California—Health and Human Services Agency
Department of Health Care Services



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GOVERNOR

September 23, 2014

Hye Sun Lee
Acting Associate Regional Administrator
Division of Medicaid and Children's Health
Centers for Medicare and Medicaid Services
90 Seventh Street, Suite 5-300 (5W)
San Francisco, CA 94103-6707

Dear Ms. Lee:

The Department of Health Care Services (DHCS) is submitting the enclosed responses to the Centers for Medicare and Medicaid Services (CMS) June 25, 2014 Request for Additional Information for State Plan Amendment (SPA) 14-011. As specified in DHCS's revised cover letter dated June 18, 2014, DHCS submitted SPA 14-011 as a placeholder SPA to determine whether and to what extent a SPA may be necessary for the provision of Therapeutic Foster Care (TFC) services to children and youth under 21, as part of Medicaid's Early and Periodic, Screening, Diagnosis and Treatment (EPSDT) benefit in order to comply with the court-approved settlement agreement in *Katie A. v. Bonta*. As stated in the revised cover letter, DHCS does not believe that the provision of TFC services, as contemplated in the *Katie A.* settlement agreement, necessitates a SPA.

DHCS will continue to work with CMS to determine if a SPA is needed for *Katie A.* settlement implementation and if one is required, the appropriate revisions and placement in the State Plan (i.e. Rehabilitative Mental Health Services or EPSDT).

Please contact Ms. Dina Kokkos-Gonzales, Chief of the Program Policy and Quality Assurance Branch in the Mental Health Services Division, at (916) 552-9055 or by e-mail at Dina.Kokkos@dhcs.ca.gov if you have any questions.

ORIGINAL SIGNED BY
TOBY DOUGLAS

Enclosure

Responses from the California Department of Health Care Services to the Centers for Medicare & Medicaid Services, Request for Additional Information (RAI) for Therapeutic Foster Care (TFC) State Plan Amendment (SPA) 14-011

Coverage:

Question 1.

(a) CMS has concerns that some Medi-Cal services are available to youth based on their inclusion in a subclass, and not solely on whether the service is medically necessary.

TFC services are provided by a TFC parent to a youth in foster care. A youth who is not in the foster care system would receive similar services provided through a different mode of delivery. All Medi-Cal services, including the spectrum of behavioral health services (herein referred as specialty mental health services), are available to eligible Medi-Cal youth, if determined to be medically necessary.

(b) Please explain how the spectrum of behavioral health care options provided work together to ensure that all youth receive the behavioral health services to which they are entitled.

TFC services are available to foster care youth based on a finding of medical necessity for youth who have a specific need for this targeted intervention to prevent placement in a more restrictive setting. Youth outside of the foster care system would receive similar services, but not through a foster care parent. The remaining spectrum of specialty mental health services are available to foster care youth and non-foster care youth alike.

The State offers a full spectrum of specialty mental health services. Under the 1915b waiver, the State provide specialty mental health services which ensures that all eligible Medi-Cal youth may receive the specialty mental health services to which they are entitled and which are appropriate to meet their needs. Specifically, the following services are available to eligible Medi-Cal youth who meet the services' medical necessity criteria for specialty mental health services under the State's 1915b Waiver¹:

- Targeted case management services (which includes intensive care coordination (ICC) services)
- Rehabilitative mental health services

¹ There are other Medi-Cal mental health services available to children and youth who do not meet medical necessity criteria for specialty mental health services.

- Mental health services (which includes intensive home based services (IHBS))
- Therapeutic behavioral services (covered as an EPSDT service)
- Medication support services
- Day treatment intensive services
- Day rehabilitation services
- Crisis intervention services
- Crisis stabilization services
- Crisis residential treatment services
- Psychiatric health facility services
- Psychiatric inpatient hospital services

In addition, through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) benefit as mandated under the Medi-Cal program pursuant to federal law (42 U.S.C. § 1396d, subds. (a)(4)(B) and (r)), all youth are eligible to receive services to correct or ameliorate mental illnesses and conditions whether or not such services are provided under the state plan. The Medi-Cal mental health medical necessity criterion for EPSDT services is consistent with the federal medical necessity criteria for beneficiaries under the EPSDT statute.

(c) Is the state proposing to furnish rehabilitative services to children based on where the children reside, i.e., a foster care setting?

No, the specialty mental health services listed above are available to all eligible youth who meet the services' medical necessity criteria regardless of where they reside and are not contingent upon the youth being involved in the foster care system or in a foster care setting. However, TFC services are a tailored mode of delivery of specialty mental health services targeting a specific need. All Medi-Cal eligible youth receive appropriate specialty mental health services, including rehabilitative mental health services, according to their individual clinical needs. The goal in providing these rehabilitative mental health services is to allow the youth to sustain his or her current level of functioning, prevent deterioration in all areas of life functioning, remain in the community, and prevent the need for institutionalization or a higher level of clinical intervention. These services are provided in the least restrictive setting, consistent with the goals of recovery and resiliency, the requirements for learning and development and/or independent living and enhanced self-sufficiency.

(d) Please clarify how the state offers intensive behavioral support services to children who do not reside in a foster care setting.

As stated above specialty mental health services, which include intensive behavioral support services, are available to all Medi-Cal eligible youth, regardless of whether they

reside in a foster care setting. Services are provided with the necessary frequency and intensity as dictated by the specific needs of the youth. Services such as IHBS and ICC are delivered in a more coordinated and comprehensive way to address specific needs of foster care children because of their involvement in multiple child serving systems. The same type of service is available to youth who do not reside in a foster care setting as identified under the State's SPA for rehabilitative mental health services. For example, a Medi-Cal youth living with their parents could receive, through the provision of mental health services, skill-based interventions for the remediation of behaviors, development of functional skills to improve self-care, support to address behaviors that interfere with achievement of a stable family life or in achieving success in school and or education of the youth and their family as to how to manage the youth's mental health disorder or symptoms. The intensity of the service would be based on the needs of the youth.

Question 2.

(a) Can a youth receive either Intensive Home Based Services (IHBS) or Therapeutic Behavioral Services (TBS) or both of those services while also receiving TFC?

Yes, IHBS and/or TBS may be part of the youth's treatment while they are also receiving Therapeutic Foster Care (TFC) services as long as these services are provided based on medical necessity criteria, in accordance with an individualized Client Plan and approved and authorized according to the State of California requirements. These services (IHBS and TBS) are distinct from TFC and they can complement each other as needed.

(b) What is the difference between IHBS and TBS, and how does the state ensure services are not duplicated?

While both IHBS and TBS are Medicaid covered specialty mental health services, these services are different in their focus and duration. IHBS includes an array of intervention activities in order to help the youth develop skills and achieve the goals and objectives of the Client Plan whereas TBS is a shorter term service targeted at one or two specific behaviors. Examples of IHBS activities include: development of functional skills to improve self-care, self-regulation, improvement of self-management of symptoms including self-administration of medication, education of youth and family to manage mental health disorders, support of development and use of social networks, development of skills to allow youth to participate in their Client Plan planning process. In contrast TBS is targeted at one or two specific behaviors (e.g., anger management, self-mutilation behaviors, and sexually inappropriate behaviors) that require immediate behavioral intervention in order for the youth to be successful in his or her current environment. TBS must be provided in conjunction with other specialty mental health services. Although IHBS, like TBS, may include behavioral intervention activities, its approach is typically broader in nature addressing an array of behaviors that are interfering with the youth's ability to achieve a stable and permanent family and/or life.

The State is committed to ensuring that mental health services provided to these youth are not duplicative. The State requires that each service provided to the youth meets specific medical necessity criteria that is clearly linked to the youth's Client Plan goals. In addition, the State's policy is that TBS services should not be provided during the same hours of the day that IHBS services are provided to the youth.

In addition, IHBS services are provided within a Child and Family Team (CFT) which participates in the development of the youth's and family's overall service plan. Collaboration and coordination is a key element of the CFT as it brings together various agencies, providers, the youth, his or her family, and his or her support persons to help the family develop a plan of care. By working together, the various entities involved in

the CFT are able to address any potential duplication of services by ensuring that services are well coordinated and provide a process for transparent communication.

(c) Are these services available to any youth who meets medical necessity criteria who is not in the Child Welfare System?

Both of these services are available to any youth who meets medical necessity criteria and does not depend on whether the youth is in the Child Welfare System. However, as discussed in our response to Question 1, that State has adopted more tailored delivery methods for those mental health services that are provided to youth in the Child Welfare System. IHBS includes specific component activities that must all be in place and provided through a particular care planning approach (i.e., CFT) as part of the service which is directed at those youth with complex needs who are involved in multiple child serving systems. (For a description of mental health services, please refer to the State's State Plan Section for Rehabilitative Mental Health Services.)

Question 3.

(a) Please include provider qualifications for both foster family agencies and therapeutic foster parents.

TFC parents must meet and comply with all basic foster care parent requirements as set forth in CCR Title 22, Division 6, Section 9.5 and meet and comply with all requirements specific to being a TFC parent. TFC parents must be a minimum of 21 years of age; have a high school degree or its equivalent; experience with or the ability to care for high-need children; and, other requirements specific to TFC. The TFC parent will work under the direct supervision of a LPHA or a LMHP when providing the TFC services.

A TFC provider agency must be: a California licensed Family Foster Agency (FFA) or comparable agency that at a minimum is able to certify TFC homes; and a Medi-Cal mental health provider that has a contract with a County Mental Health Plan.

The two attached charts delineate the qualifications for TFC provider care agencies and TFC parents.

(b) Explain how a therapeutic foster home differs from a specialized certified family home.

Specialized certified family homes meet the needs of youth who are medically fragile and TFC homes meet the needs of youth with intensive behavioral health issues.

Specifically, a specialized certified family home is a home which is certified to provide specialized in-home medical health care to children who are medically fragile. The services provided to children in these homes consists of physical health care services as identified by the child's physician and administered by health care professionals, parents certified to provide care, and/or other staff trained by health care professionals. The services provided in these specialized certified family homes do not include rehabilitative or intensive behavioral health care services. In contrast, TFC services are intended for youth with intensive or complex emotional and/or behavioral needs and/or to those who have experienced three or more placements within 24 months or those who are being considered for placement into a more intensive setting, such as a group home, a psychiatric hospital, or 24 hour mental health treatment facility. or has Services provided in TFC homes will consist of specific TFC services provided by the certified TFC parent to the youth under the direction of a LPHA or LMHP as well as other specialty mental health services based on the child's needs. Those medically necessary Medi-Cal services not provided by the TFC parent are provided by other certified mental health providers as identified and authorized in the youth's Client Plan.

(c) Please clarify if these settings are different from Multi-dimensional treatment homes.

Multi-dimensional treatment foster care (MTFC) is an evidence-based program which provides a community-based alternative to out-of-home congregate care for youth with histories of chronic criminal behavior and for children who have a serious behavioral problem. The MTFC model involves surrounding a youth with an environment that prevents the development of problem behaviors and promotes the development of positive skills and behaviors that help the youth be successful at home, school, and in the community. Different from TFC parents, MTFC parents' role is to provide the youth with a successful family living experience and help the caregivers develop the skills necessary to sustain the youth's progress upon returning home. The MTFC parents have been recruited and trained to become a part of the treatment team for the child. The MTFC treatment team is led by a program supervisor who also provides intensive support and consultation to the foster parents. The treatment team also includes a family therapist, an individual therapist, a child skills trainer, and a daily telephone contact person. Youth are placed in a MTFC home and provided positive behavioral management, skills coaching, mentoring, and mental health services as appropriate from the MTFC team. The MTFC team is managed by a program supervisor who manages the team, coordinates the youth's services and serves as an authority figure with respect to the youth. By contrast, the TFC parent will be a direct Medi-Cal mental health provider who provides TFC services to the Medi-Cal eligible youth.

Question 4.

(a) Please provide additional detail regarding services being provided by TFC parents “under the direction of” a LPHA or LMHP.

As defined in the state plan, “under the direction of” means that the individual directing the service, in this case the LPHA or LMHP, will be acting as the clinical team leader, providing direct and ongoing supervision of service delivery, or review and approval of the individual client plans. The LPHA or LMHP directing services assumes ultimate responsibility of the TFC services provided by the TFC parent.

(b) Does the licensed provider take responsibility for all services provided by a TFC parent?

The licensed provider is responsible for the Medi-Cal services provided to the youth in a TFC home. The licensed Medi-Cal provider is not responsible for any services provided that solely constitute care and supervision or any other responsibilities that are under the purview of the Child Welfare System.

(c) How often must the licensed provider meet with the TFC parent?

How often the licensed provider meets with the TFC parent is determined on an individual basis taking into consideration the youth’s clinical needs and sufficient to provide on-going and regular supervision and support to the TFC parent. It is anticipated that the licensed provider would be required to meet on a regular basis with the TFC parent.

(d) How is the licensed professional expected to be affiliated with the TFC parent?

TFC services will be part of the specialty mental health services, and as such will be provided through the existing specialty mental health service delivery system in which the State contracts with County Mental Health Plans (MHPs). MHPs provide or arrange for the provision of specialty mental health services to eligible Medi-Cal youth who meet medical necessity criteria. MHPs will contract with TFC program agencies (a TFC program agency may also be a county owned and operated entity) for the provision of TFC services whose responsibilities include the recruitment, certification training and supervision of the TFC parent.

The TFC program agency will also contract or employ Licensed Practitioners of the Healing Arts (LPHA) or Licensed Mental Health Professionals (LMHP) to provide ongoing and regular supervision and support for the TFC parent. The TFC program agency will also work in collaboration with the child and family team in the development and implementation of the youth’s Client Plan (see the attached TFC provider agency qualifications).

Reimbursement:

Question 5.

5. (a) The Early Periodic Screening, Diagnostic, and Treatment (EPSDT) statute, found at 1905(r), mandates coverage of any 1905(a) service to correct or ameliorate physical and mental illnesses, whether or not such service is provided in the state plan. To claim Federal Financial Participation (FFP), a reimbursement methodology must exist in the state's Medicaid plan. How does DHCS intend to reimburse for the provision of TFC services?

The Department intends to reimburse for the provision of TFC services based on the reimbursement methodology proposed in State Plan Amendment (SPA) 09-004, Attachment 4.19-B. The Department is in the process of working with CMS to finalize and obtain approval for SPA 09-004.

(b) If such a methodology currently exists in the State Plan, please indicate where it can be located.

The Department intends to reimburse for TFC services on a per diem rate, following the reimbursement methodology currently established in SPA 09-004, Attachment 4.19-B, for other outpatient services (adult residential treatment services, crisis residential treatment services and psychiatric health facility services).

(c) In addition, please confirm that all EPSDT Supplemental Mental Health Services for which the State intends to claim reimbursement are listed appropriately in section 4.19B.

The Department follows the reimbursement methodology for Rehabilitative Mental Health and Targeted Case Management Services specified in Attachment 4.19-B, in reimbursing for services provided as an EPSDT benefit to eligible children to correct or ameliorate physical and mental illnesses, whether or not such service is provided in the state plan.