

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
San Francisco Regional Office
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San Francisco, CA 94103-6706



DIVISION OF MEDICAID & CHILDREN'S HEALTH OPERATIONS

JUN 25 2014

Toby Douglas, Director
California Department of Health Care Services
P.O. Box 997413, MS 0000
Sacramento, CA 95899-7413

Dear Mr. Douglas:

We have reviewed the Department of Health Care Services' (DHCS) proposed State Plan amendment CA-14-011, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on March 28, 2014. This amendment was submitted to update the California State Medicaid Plan to add Therapeutic Foster Care (TFC) service provisions to Supplement 3 to Attachment 3.1-A and Supplement 2 to Attachment 3.1-B.

Before we can continue processing this amendment, we need additional or clarifying information. We are requesting this additional information under provisions of Section 1915(f) of the Social Security Act (added by P.L. 97-35).

Coverage:

1. Section 1902(a)(10)(B) of the Act establishes requirements for comparability of services, while Section §1905(r) mandates coverage of any §1905(a) service to correct or ameliorate physical and mental illnesses, whether or not such service is provided under the state plan. In this SPA, the state proposes to add TFC as a new rehabilitative service to children who are in foster care or at imminent risk of placement in foster care. In the context of TFC, 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. 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. Is the state proposing to furnish different rehabilitative services to children based on where the children reside, i.e., a foster care setting? Please clarify how the state offers intensive behavioral support services to children who do not reside in a foster care setting.
2. Can a youth receive either Intensive Home Based Services (IHBS) or Therapeutic Behavioral Services (TBS) or both of those services while also receiving TFC? What is the difference between IHBS and TBS, and how does the state ensure services are

not duplicated? Are these services available to any youth who meets medical necessity criteria who is not in the Child Welfare Services system?

3. Please include provider qualifications for both Foster Family Agencies and Therapeutic Foster Parents, and explain how a Therapeutic Foster Home differs from a Specialized Certified Family Home. In addition, please clarify if these settings are different from Multi-Dimensional Treatment Homes.
4. Please provide additional detail regarding services being provided by TFC parents “under the direction of” a Licensed Practitioner of the Healing Arts (LPHA) or Licensed Mental Health Professional (LMHP). Does the licensed provider take responsibility for all services provided by a TFC parent? How often must the licensed provider meet with the TFC parent? How is the licensed professional expected to be affiliated with the TFC parent?

Reimbursement:

5. 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? If such a methodology currently exists in the State Plan, please indicate where it can be located. 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.

In addition, we wish to acknowledge receipt of California’s revised cover letter for State Plan Amendment 14-011. As noted, Section §1905(r) of the Act governs EPSDT and requires states to cover any §1905(a) service to correct or ameliorate physical and mental illnesses, with only a reimbursement methodology in place to claim Federal Financial Participation. This requirement applies regardless of whether the service in question is generally provided under the State Plan. However, services still must comply with all Medicaid requirements and be provided to all EPSDT eligible youth when medically necessary.

While we are not prepared to respond at this time to the recent cover letter’s assertion regarding the necessity of a SPA for Therapeutic Foster Care, we harbor ongoing concerns that the number of EPSDT Mental Health Supplemental Services continues to grow without corresponding coverage pages in the State Medicaid Plan. California is now covering Therapeutic Behavioral Services, Intensive Care Coordination, Intensive Home Based Services, and possibly other mental health services without a description of these services or providers in the State’s Medicaid Plan. The SPA process ensures that the service in question is coverable under section 1905(a), that providers are appropriately qualified, and that arbitrary limitations are not in place that would prevent a youth from receiving a medically necessary service.

If you have any questions, please contact Tom Schenck at (415) 744-3589 or via email at tom.schenck@cms.hhs.gov.

Sincerely,

Original Signed

Gloria Nagle, Ph.D., MPA.
Associate Regional Administrator
Division of Medicaid & Children's Health Operations

cc: Dina Kokkos-Gonzales, California Department of Health Care Services
Teresa Castillo, California Department of Health Care Services
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