

State/Territory: California

Citation

Sanctions for Psychiatric Hospitals

1902(y)(1),
1902(y)(2)(A),
and Section
1902(y)(3)
of the Act
(P.L. 101-508,
Section 4755(a)(2))

(a) The State assures that the requirements of section 1902(y)(1), section 1902(y)(2)(A), and section 1902(y)(3) of the Act are met concerning sanctions for psychiatric hospitals that do not meet the requirements of participation when the hospital's deficiencies immediately jeopardize the health and safety of its patients or do not immediately jeopardize the health and safety of its patients.

1902(y)(1)(A)
of the Act

(b) The State terminates the hospital's participation under the State plan when the State determines that the hospital does not meet the requirements for a psychiatric hospital and further finds that the hospital's deficiencies immediately jeopardize the health and safety of its patients.

1902(y)(1)(B)
of the Act

(c) When the State determines that the hospital does not meet the requirements for a psychiatric hospital and further finds that the hospital's deficiencies do not immediately jeopardize the health and safety of its patients, the State may:

1. terminate the hospital's participation under the State plan; or
2. provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the effective date of the finding; or
3. terminate the hospital's participation under the State plan and provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the effective date of the finding.

1902(y)(2)(A)
of the Act

(d) When the psychiatric hospital described in (c) above has not complied with the requirements for a psychiatric hospital within 3 months after the date the hospital is found to be out of compliance with such requirements, the State shall provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the end of such 3-month period.

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Approval Date MAR 30 1995

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Sanctions for Psychiatric Hospitals

California assures that the requirements of Section 1902(y)(1), (y)(2), and (y)(3) of the Act (with all the subsections inclusive) are met concerning sanctions for psychiatric hospitals that do not meet the requirements of participation under the Medicaid Program.

California's State law (Section 14123 of the California Welfare and Institutions Code) permits the director of the State Department of Health Services to suspend a provider of service under the Medicaid program for violation of any provision of rule or regulation promulgated by the director or for violation of related state statute. The provider is automatically suspended upon the conviction of any crime involving fraud or abuse of the Medicaid program. The suspension may be for a definite or indefinite period of time and with or without conditions or may be imposed with the operation of the suspension stayed or probation granted. Appeal procedures are provided.

In reference to Section 1902(y)(2)(A), the suspension by the director of any provider of service shall preclude the provider from submitting claims for payment for any services or supplies the provider has provided under the program starting from the date of the suspension. Notice of suspension must be sent to the Department's Licensing and Certification Program.

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State: California

Citation
1932(e)
42 CFR 428.726

Sanctions for MCOs and PCCMs

- (a) The State will monitor for violations that involve the actions and failure to act specified in 42 CFR Part 438 Subpart I and to implement the provisions in 42 CFR 438 Subpart I, in manner specified below:

Penalties

Penalties for a determination of non-compliance, are specified under Federal and State law and regulation, and the managed care contract and include but not limited to the following:

- Civil monetary penalties in specified amounts, and duration;
- Appointment of temporary management;
- Granting enrollees the right to terminate enrollment without cause;
- Suspension of all new enrollment;
- Suspension of payment for recipients enrolled after date of sanction.

Implementation of Sanctions

For repeated breach or material breach, the State will follow a formal monitoring action plan that will include the following:

- A fact finding to determine that a breach has been made.
- A corrective action process to allow the plan to correct any breaches of the contract with a well thought out plan with a specific timeline for addressing the deficiencies and correcting them.
- If the breach is not corrected within the allotted timeline then a sanction proceeding will commence.

- (b) The State uses the definition below of the threshold that would be met before an MCO is considered to have repeatedly committed violations of section 1903(m) and thus subject to imposition of temporary management:

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Definitions:

- **Breach:** A breach of contract is a violation that is identified by an audit report (routine and non-routine), is complaint-driven, or identified by other monitoring methods that result in corrective action. A corrective action plan is developed to remedy the violation and must be completed and verified within 6 months or less of the notification.
- **Repeated Breach:** A Breach of contract demonstrated by the contractor by repeated violation of one or more specific requirements of the contract, and failure to complete a corrective action plan, that may trigger a sanction process.
- **Material Breach:** Disregard of one or more significant contract requirement(s), that may include the potential for material harm to the enrollee(s), and that triggers a sanction process, which may result in the imposition of penalties.

In all cases, the contractor will be afforded due process protections specified in State and Federal law and regulations and Managed Care contracts.

- (c) The State's contracts with MCOs provide that payments provided for under the contract will be denied for new enrollees when, and for so long as, payment for those enrollees is denied by CMS under 42 CFR 438.730(e).

Not applicable; the State does not contract with MCOs, or the State does not choose to impose intermediate sanctions on PCCMs.

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