

**Written comments submitted to the Department of Health Care Services (DHCS)
regarding the transfer of the Drug Medi-Cal Program to DHCS, effective July 1, 2012**

Comments received July 18 through July 21, 2011

Note: In some cases, DHCS has edited the responses to explain the acronym used by the writer, or to remove personally-identifying information. Specific reference to the writer's organization has not been removed.

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Recently, several counties have begun to communicate with providers regarding cost settlements for the 2009 – 2010 fiscal year. As part of these settlements, many counties, and now providers, are just now realizing the depth of the Other Health Care coverage (OHC) problem because of the substantial recoupments being demanded. As such, we are asking that counties and the state postpone recoupment of funds from providers related to the confusion surrounding the OHC issue.

Background

The state of California implemented changes to the billing process for OHC in January 2010 for claims submitted January 1 forward. The first bulletin issued by the Department of Alcohol and Drug Programs (ADP) on this subject was dated August 10, 2010.

California Opioid Maintenance Providers (COMP) has been working closely with ADP since early 2010 to ensure compliance with the implementation to ensure adequate reimbursement for services as well as continued access to medication assisted treatment. Our collaboration has resulted in resolving billing challenges for large patient groups including those with “Medi-Medi.”

Still, claims are being denied for a variety of reasons including because of inadequate denial types from the OHC carriers. These denials seem illegal given the requirement that any Medi-Cal beneficiary must have access to addiction treatment. Additionally, if a OHC carrier is eventually deemed entitled to deny access, Medi-Cal patients still cannot purchase MAT services themselves as a private pay patient since federal Medicaid rules preclude a Medicaid provider from charging Medicaid beneficiaries for services.

COMP continues to work with ADP to ensure scarce treatment dollars are allocated to services and not onerous, inefficient billing systems that act as a barrier to access.

Current Status

As counties work to settle claims, there is a range of actions being taken: some counties are seeking to recoup dollars not yet reimbursed by the state for the yet-to-be resolved OHC claims; other counties are continuing to pay claims and not seek recoupment given the myriad challenges facing providers and the recognition that providers must continue to meet payroll and provide services until these issues are fully resolved; still others are taking a wait-and-see approach to how it is eventually resolved.

Solution

COMP and its member agencies are committed to working with ADP and DHCS, finding solutions to these challenges and promptly complying with federal and state requirements. As a result of the ongoing collaboration between ADP and COMP to amicably resolve these challenges, we ask that counties and the state delay recoupment of funds attributable to OHC denials. Such recoupment makes it even more challenging to sustain our operations, presents barriers to access for patients

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and ultimately will cost everyone more money. Further, recoupment now, before these issues are resolved, will create a complicated reimbursement process if the OHC claims are ultimately deemed payable.

In addition, we ask that DHCS work diligently to resolve this apparent conflict between two federal rules regarding Medicaid services: access to entitlement services as described under *Sobky v. Smoley* and implementation of OHC billing.

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Here are my recommendations for the transfer of Drug Medi-Cal Services to Department of Health Care Services.

- The immediate concern is that there are no interruptions or delays in claim processing.
- Consider eliminating the additional State imposed requirements. Revert to Federal requirements only.
- Identify Contact Person for County questions and concerns.
- Do not make changes to data system until fully tested.
- Provide better system to identify denials at the program level.

Recommendations for [Drug Medi-Cal] Transfer

- Need strong distinct voice. Ideally, there would be one person who is responsible to advocate and inform as to the issues related to substance use disorders, treatment and prevention as well how this disorder affect other systems.
- Substance use Disorders are the primary cost drivers for criminal justice, child welfare, welfare, hospital emergency rooms, health

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