



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



GAVIN NEWSOM
GOVERNOR

DATE: October 4, 2021

Behavioral Health Information Notice No: 21-034
[Supersedes MHSUDS Information Notice No: 15-015](#)

TO: California Alliance of Child and Family Services
California Association for Alcohol/Drug Educators
California Association of Alcohol & Drug Program Executives, Inc.
California Association of DUI Treatment Programs
California Association of Social Rehabilitation Agencies
California Consortium of Addiction Programs and Professionals
California Council of Community Behavioral Health Agencies
California Hospital Association
California Opioid Maintenance Providers
California State Association of Counties
Coalition of Alcohol and Drug Associations
County Behavioral Health Directors
County Behavioral Health Directors Association of California
County Drug & Alcohol Administrators

SUBJECT: Dispute Resolution Process Between Mental Health Plans and
Medi-Cal Managed Care Plans

PURPOSE:

This Behavioral Health Information Notice (BHIN) is to provide guidance to Mental Health Plans (MHPs) on how to submit a service delivery dispute to the Department of Health Care Services (DHCS) when the dispute cannot be resolved at the local level with a Medi-Cal managed care plan (MCP). Guidance to MCPs is provided in All Plan Letter (APL) No. 21-013.¹

BACKGROUND:

MHPs are contractually required to provide or arrange for the provision of Specialty Mental Health Services (SMHS) for beneficiaries in their counties who meet SMHS eligibility criteria.²

¹ 2021 APLs are searchable at <https://www.dhcs.ca.gov/formsandpubs/Pages/AllPlanLetters.aspx>.

² Exhibit A, Scope of Work. MHP boilerplate contracts are available at https://www.dhcs.ca.gov/services/MH/Documents/PPQA%20Pages/Boilerplate_2017-2022_MHP_Contract-Exhibits_A_B_and_E.pdf.

MCPs are contractually required to provide and cover all medically necessary services for members, with the exception of those services that are carved out of the MCP's contract. However, even for carved-out services, MCPs remain contractually responsible for providing Comprehensive Case Management, including coordination of care, to ensure the provision of all medically necessary services, whether those services are delivered within or outside of the MCP's provider network. Comprehensive case management for medically necessary services, including both basic and complex case management, is described in MCP contracts.³

POLICY:

MHPs must enter into a memorandum of understanding (MOU) with the MCP in each of the counties where the MCP operates.⁴ The MOU must include a process for resolving disputes between the MHP and the MCP that includes a means for beneficiaries to receive medically necessary services, including specialty mental health services and prescription drugs, while the dispute is being resolved.⁵ If an MHP and MCP have a dispute that they are unable to resolve regarding the obligations of the MHP or MCP under their respective contracts with DHCS, state laws and/or the MHP/MCP MOU, the parties are required to submit the dispute to the state for resolution as described below. DHCS encourages both MCPs and MHPs to attempt to resolve all disputes collegially, effectively, and at the local level before submitting the dispute to the State for resolution. The local resolution policy should be exhausted within the below prescribed timeframes before filing the dispute with the State.

PROVISION OF SERVICES DURING DISPUTE RESOLUTION PROCESS

State law requires that the provision of medically necessary services must not be delayed during the pendency of a dispute between an MHP and MCP and sets forth rules for determining financial responsibility for services provided to a member during that period.⁶ In addition, MCPs are contractually responsible for the provision of case management and care coordination for all medically necessary services a member needs, including those services that are the subject of a dispute between an MCP and MHP. The MCP is responsible for working with MHPs in order to ensure that there is no duplication of SMHS, for which MHPs also provide case management.

ROUTINE DISPUTE RESOLUTION PROCESS:

Regardless of MOU status, MHPs and MCPs must complete the plan level dispute resolution process within 15 business days of identifying the dispute. Within three

³ Exhibit A, Attachment 11, Case Management and Coordination of Care. MCP boilerplate contracts are available at: <https://www.dhcs.ca.gov/provgovpart/Pages/MMCDBoilerplateContracts.aspx>.

⁴ Exhibit A, Attachment 12, Local Health Department Coordination.

⁵ Title 9, CCR, section 1810.370.

⁶ Title 9, CCR, section 1850.525.

business days after a failure to resolve the dispute during that timeframe, either the MHP or the MCP must submit a written "Request for Resolution" to DHCS. If the MHP submits the Request for Resolution, it must be signed by the MHP's Director or designee. The Request for Resolution must include:

1. A summary of the disputed issue(s) and a statement of the desired remedies, including any disputed services that have been or are expected to be delivered to the member by either the MHP or the MCP and the expected rate of payment for each type of service;
2. A history of the attempts to resolve the issue(s) with the MCP;
3. Justification for the MHP's desired remedy; and
4. Any additional documentation that the MHP deems relevant to resolve the disputed issue(s), if applicable.

The Request for Resolution must be submitted via secure email to CountySupport@dhcs.ca.gov.

Within three business days of receipt of a Request for Resolution from an MHP, DHCS will forward a copy of the Request for Resolution to the CEO of the affiliated MCP via secure email ("Notification"). The MCP will have three business days from the receipt of Notification to submit a response to the MHP's Request for Resolution and to provide any relevant documents to support the MCP's position. If the MCP fails to respond, DHCS will render a decision on the disputed issue(s) based on the documentation submitted by the MHP.

Conversely, if the MCP submits a Request for Resolution to DHCS, DHCS will forward a copy of the Request for Resolution to the affiliated MHP, within three business days of receipt. The MHP will have three business days to respond and provide relevant documents.

If an MCP requests a rate of payment in its Request for Resolution, and the MCP prevails, the requested rate shall be deemed correct, unless the MHP disputes the rate of payment in its response. If the MHP fails to respond, DHCS will render a decision on the disputed issue(s) based on the documentation submitted by the MCP. Conversely, if an MHP requests a rate of payment in its Request for Resolution, and the MHP prevails, the requested rate shall be deemed correct, unless the MCP disputes the rate of payment in its response. If the MCP fails to respond, DHCS will render a decision on the disputed issue(s) based on the documentation submitted by the MHP.

At its discretion, DHCS may allow representatives of the MHP and MCP the opportunity to present oral arguments.

The Medi-Cal Behavioral Health Division (MCBHD) and the Managed Care Quality and Monitoring Division will make a joint recommendation to DHCS' Director, or the Director's designee, based on their review of the submitted documentation; the applicable statutory, regulatory, and contractual obligations of the MHP and the MCP; and any oral arguments presented.

Within 20 business days from the third business day after the Notification date, DHCS will communicate the final decision via secure email to the MHP's Director (or the Director's designee, if the designee submitted the Request for Resolution) and MCP's CEO (or the CEO's designee, if the designee submitted the Request for Resolution). DHCS' decision will state the reasons for the decision, the determination of rates of payment (if the rates of payment were disputed), and any actions the MHP and MCP are required to take to implement the decision.⁷ Any such action required from either the MCP or the MHP must be taken no later than the next business day following the date of the decision.

EXPEDITED DISPUTE RESOLUTION PROCESS

The MHP and MCP may seek to enter into an expedited dispute resolution process if a member has not received a disputed service(s) and the MHP and/or MCP determine that the Routine Dispute Resolution Process timeframe would result in serious jeopardy to the member's life, health, or ability to attain, maintain, or regain maximum function.

Under this expedited process, the MHP and MCP will have one business day after identification of a dispute to attempt to resolve the dispute at the plan level. Within one business day after a failure to resolve the dispute in that timeframe, both plans will separately submit a Request for Resolution to DHCS, as set out above, including an affirmation of the stated jeopardy to the member.

If the MCP fails to submit a Request for Resolution, DHCS will render a decision on the disputed issue(s) based on the documentation submitted by the MHP.

Conversely, if the MHP fails to submit a Request for Resolution, DHCS will render a decision on the disputed issue(s) based on the documentation submitted by the MCP.

DHCS will provide a decision no later than one business day following DHCS' receipt of Request for Resolution from both parties and affirmation of the stated jeopardy to the member.

⁷ Title 9, CCR, sections 1850.530(c) and 1850.505(d)(1)

FINANCIAL LIABILITY

If DHCS' decision includes a finding that the unsuccessful party is financially liable to the other party for services, the MHP or MCP is required to comply with the requirements in Title 9, California Code of Regulations (CCR), section 1850.530.⁸ If necessary, DHCS will enforce the decision, including withholding funds to meet any financial liability.

If the requirements contained in this BHIN, including any updates or revisions to this BHIN, necessitate a change in a MHP's policies and procedures (P&Ps), the MHP must submit its updated P&Ps to their MCBHD county liaison within 90 days of the release of this BHIN. If a MHP determines that no changes to its P&Ps are necessary, the MHP must submit an email confirmation to its county liaison within 90 days of the release of this BHIN, stating that the MHPs P&Ps have been reviewed and no changes are necessary. The email confirmation must include the title of this BHIN as well as the applicable BHIN release date in the subject line.

MHPs are responsible for ensuring that their subcontractors and network providers comply with all applicable state and federal laws and regulations, contract requirements, and other DHCS guidance, including BHINs. These requirements must be communicated by each MHP to all subcontractors and network providers.

Questions regarding this BHIN may be directed to CountySupport@dhcs.ca.gov.

Sincerely,

Original signed by

Shaina Zurlin, PsyD, LCSW, Chief
Medi-Cal Behavioral Health Division

⁸ CCRs are searchable at: <https://govt.westlaw.com/calregs/Search/Index>.