

DATE: June 26, 2023

Behavioral Health Information Notice No: 23-027

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: Obligations Related to Indian Health Care Providers in Drug Medi-Cal (DMC) Counties

PURPOSE: This Behavioral Health Information Notice (BHIN) provides guidance regarding DMC counties' obligations to reimburse Indian Health Care Providers for the provision of DMC services. This BHIN also provides guidance concerning the required reimbursement rates for Urban Indian Organizations (UIO), Tribal Federally Qualified Health Centers (Tribal FQHCs), Tribal 638 providers and Indian Health Service (IHS) facilities.

DEFINITIONS:

American Indian/Alaska Native (AI/AN) – Any person defined in 25 United States Code sections 1603(13), 1603(28), or section 1679(a), or who has been determined eligible as an Indian under Title 42 of the Code of Federal Regulations (C.F.R.), section 136.12.

Indian Health Care Provider (IHCP) – A health care program operated by the IHS (“IHS facility”), an Indian Tribe, a Tribal Organization, or UIO (otherwise known as an I/T/U) as those terms are defined in section 4 of the Indian Health Care Improvement Act (Title 25 of the United States Code (U.S.C.), section 1603).¹

¹ 42 C.F.R. § 438.14(a).



Indian Health Service (IHS) facilities – Facilities and/or health care programs administered and staffed by the federal Indian Health Service.

Tribal 638 Providers – Federally recognized Tribes or Tribal organizations that contract or compact with IHS to plan, conduct and administer one or more individual programs, functions, services or activities under [Public Law 93-638](#).

- Tribal 638 providers enrolled in Medi-Cal as an Indian Health Services-Memorandum of Agreement (IHS/MOA) provider must appear on the "[List of American Indian Health Program Providers](#)" set forth in [APL 17-020, Attachment 1](#) in order to qualify for reimbursement as a Tribal 638 Provider under this BHIN.
- Tribal 638 providers enrolled in Medi-Cal as a Tribal FQHC provider, are governed by and must enroll in Medi-Cal consistent with the Tribal FQHC criteria established in the California Medicaid State Plan,² the [Tribal FQHC section](#) of the Medi-Cal provider manual, and [APL 21-008](#). Tribal 638 providers enrolled in Medi-Cal as a Tribal FQHC must appear on the "[List of Tribal Federally Qualified Health Center Providers](#)", which is included in [APL 21-008, Attachment 2](#).

Note: IHCPs cannot be designated as both an IHS/MOA and a Tribal FQHC provider in Medi-Cal.

Urban Indian Organizations (UIO) – A nonprofit corporate body situated in an urban center, governed by an urban Indian controlled board of directors, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in Title 25 of the U.S.C., section 1653(a).

BACKGROUND:

Drug Medi-Cal (DMC) counties provide Substance Use Disorder Treatment Services to Medi-Cal beneficiaries. Substance Use Disorder Treatment Services provided by DMC counties are listed in the Medicaid State Plan.³

DMC counties are required to reimburse providers for the provision of DMC services, through the county's Behavioral Health Subaccount of the Support Services Account of the County Local Revenue Fund 2011, and any other available county funds eligible

² See [Supplement 6 to Attachment 4.19-B of the California Medicaid State Plan](#).

³ See [Supplement 3 to Attachment 3.1-A, pages 3-6c of the California Medicaid State Plan](#). See also W&I §§ 14124.24, subd. (a).

under federal law for federal Medicaid reimbursement.⁴ In addition, in accordance with 2011 Realignment and as part of the intergovernmental agreements between DHCS and DMC counties, DMC counties generally assume full financial responsibility for obligations related to DMC services.⁵

In order to receive reimbursement from a DMC county or the state for the provision of DMC services, an IHCP must be enrolled as a DMC provider and certified by DHCS before providing DMC services, except for eligible out of state providers.⁶

POLICY:

The following are some key obligations of DMC counties with respect to IHCP reimbursement and the rights of AI/AN Medi-Cal beneficiaries.

DMC Counties' Obligation to Contract with and Reimburse IHCPs

Counties participating in the DMC program do not have selective contracting rights. DMC counties must contract with any IHCP that is DMC certified and that desires to contract with the DMC county, even if the IHCP is located outside of the county.⁷

DMC counties must also pay any DMC enrolled provider that submits a claim, regardless of the location of the provider, for covered services provided to beneficiaries including AI/AN beneficiaries residing in the DMC county.⁸ Although the reimbursement must be through a contract or agreement, a beneficiary can visit a DMC enrolled, non-contracted IHCP for covered services, and the IHCP can be reimbursed for these services as long as the IHCP submits a claim to the county. If the IHCP is not contracted with the county, the county is obligated to enter into either a contract or single service agreement with the IHCP and ensure that the claim is paid.⁹

1. Reimbursement of IHS-MOA and IHS Facilities

California's Medicaid State Plan sets forth specific criteria governing the reimbursement rate to which IHS/MOA providers and IHS facilities are entitled.¹⁰ If the service is provided by one of the health professionals identified in [Supplement 6 to Attachment 4.19-B of California's Medicaid State Plan](#), and if the service does not exceed the three

⁴ See W&I §§ 14124.24, subd. (c)(1).

⁵ While there are state general fund obligations for certain DMC services and populations, counties are reimbursed for any expenditures incurred on the state's behalf through the CPE process.

⁶ See 42 CFR 431.52.

⁷ See 42 CFR 431.51, and CA State Plan, section 4.10.

⁸ DMC Contract, Section 3, subsection (A)(10).

⁹ DMC Contract, Section 2, subsection (B)(4).

¹⁰ See [Supplement 6 to Attachment 4.19-B](#) of the California Medicaid State Plan.

daily visit limit set forth in Supplement 6,¹¹ the DMC county must pay the IHS/MOA or IHS Facility the All-Inclusive Rate (AIR) published in the Federal Register, which is inapplicable to UIOs.¹² If the service is not provided by one of the health professionals identified in Supplement 6 to Attachment 4.19-B of California's Medicaid State Plan, the DMC county must reimburse the IHS/MOA at the amount it would receive if the services were provided under the State Plan's FFS payment methodology.

2. Reimbursement of Tribal FQHCs

Tribal FQHCs are a distinct and separate provider type from IHCPs that are enrolled as FQHCs. If the IHCP providing DMC services is a Tribal FQHC, California's Medicaid State Plan sets forth specific criteria governing the reimbursement rate to which Tribal FQHCs are entitled.¹³ If DMC services are provided by one of the health professionals identified in the Tribal FQHC section of the Medi-Cal Provider Manual, the DMC county must pay the Tribal FQHC the Alternative Payment Methodology (APM) as specified in the State Plan.¹⁴ The APM is equivalent in amount to the AIR published in the Federal Register.¹⁵ Tribal FQHCs must be reimbursed at the applicable rate for up to three visits per day in any combination of different visits in the following visit categories: medical, mental health, dental, and ambulatory. For example, Tribal FQHCs can be reimbursed for a combination of three different medical visits with a primary care physician, nurse practitioner, and a specialist.¹⁶ If the service is not provided by one of the health professionals identified in the Tribal FQHC section of the Medi-Cal Provider Manual, the DMC county must reimburse the Tribal FQHC at the amount it would receive if the services were provided under the State Plan's FFS payment methodology.

3. Reimbursement of IHCPs Enrolled as FQHCs

When an IHCP is enrolled in Medi-Cal as a FQHC, but not as a Tribal FQHC, the DMC county must reimburse an IHCP that is a contracted provider with the DMC county at the amount negotiated with that FQHC. If the IHCP is not a contracted provider with the DMC county, they must be reimbursed at the amount it would receive if the services were provided under the State Plan's FFS payment methodology.¹⁷

¹¹ The IHS MOA clinics may bill for up to three visits a day for one patient, if one is a medical visit, one is an ambulatory visit, and one is a mental health visit, as defined in [Supplement 6 to Attachment 4.19-B](#) of the California Medicaid State Plan.

¹² The 2022 IHS all-inclusive rate is available [here](#).

¹³ See [Supplement 6 to Attachment 4.19-B](#) of the California Medicaid State Plan, p. 4.

¹⁴ Tribal FQHC [provider manual](#); see [Supplement 6 to Attachment 4.19-B](#) of the California Medicaid State Plan, p. 4.

¹⁵ The 2022 IHS all-inclusive rate is available [here](#).

¹⁶ See [APL 21-008, p.3](#).

¹⁷ See [BHIN 21-049](#).

4. Reimbursement of UIOs

If the IHCP providing DMC services is an UIO and not enrolled in Medi-Cal as a FQHC, the DMC county must reimburse the IHCP at the State Plan's FFS payment methodology.

5. Reimbursement for Beneficiaries with Medicare Part B Coverage

For beneficiaries with Medicare Part B coverage, the rates that a DMC county must pay to either a Tribal FQHC, an IHS/MOA provider, or an IHS facility will vary in accordance with the AIR published in the Federal Register and must account for any reimbursement the IHCP receives from Other Health Coverage, including Medicare.

Where the APM applies, DMC counties must pay Tribal FQHC providers as follows for each visit:

1) For Medi-Cal beneficiaries with full Medicare coverage or Medicare Part B only, irrespective of Medicare Part D coverage, the required payment is the difference between the "APM Rate (Excluding Medicare)" and 80 percent of the Medicare FQHC prospective payment system rate.¹⁸

2) For Medi-Cal beneficiaries that do not have Medicare Coverage or have Medicare Part A only, irrespective of Medicare Part D coverage, the required payment is the "APM Rate (Excluding Medicare)."¹⁹

Processing and Paying IHCP Claims

To initiate payment, IHCPs must submit claims to the Medi-Cal beneficiary's county of responsibility in accordance with that county's claiming requirements. The rate on the claim should reflect the rate the IHCP should be paid for the service in accordance with the guidance above. If the rate claimed is incorrect for any reason, the amount due to the IHCP from the DMC county shall be consistent with the guidance in this notice.

Please e-mail any questions regarding this BHIN to CountySupport@dhcs.ca.gov.

Sincerely,

Original signed by

Ivan Bhardwaj, Chief
Medi-Cal Behavioral Health – Policy Division

¹⁸ See 42 U.S.C. § 1395w-4(e)(6)(A)(ii).

¹⁹ See [Attachment 1](#) to [APL 21-008](#) for the specific Non-Dual Rate.