**Template Language for Memorandum of Understanding between Duals Demonstration Health Plans and County Behavioral Health Department(s)**

Note: In the duals demonstration, participating health plans will be responsible for providing enrollees access to all medically necessary behavioral health services (mental health and substance use disorder treatment) currently covered by Medicare and Medicaid. The state requires that participating health plans execute Memoranda of Understanding (MOUs) with their local county Mental Health Plan (MHP) and the county department responsible for alcohol and drug services (if the entities are separate) that include the following concepts specific to the demonstration:

1) Delineation of roles and responsibilities;

2) Policies and procedures for sharing information;

3) Policies and procedures for care coordination; and

4) Agreement on the specifically described shared accountability performance measures and financial incentives tied to achieving the quality withhold (these measures will be finalized and included in the three-way contracts between DCHS, CMS, and the health plans.)

This document contains optional language that duals demonstration health plans and county MHPs and county department responsible for alcohol and drug services may use to update their existing MOUs (or create one in the case one does not exist). This addendum pertains to beneficiaries participating in the Demonstration who also receive Medi-Cal specialty mental health and/or Drug Medi-Cal services.

During the health plan readiness assessments conducted prior to implementation, basic policies and procedures will be required for plan participation. Per one proposed quality withhold measure, these policies and procedures will need to be revised and expanded by 12/31/13 to reflect additional details related to behavioral health care coordination, including assessment, referrals, information exchange, care coordination and authorization of services.

1. **PARTIES**

This (or addendum to existing MOU) is entered into by and between the [INSERT DEMOSNTRATION HEALTH PLAN NAME] hereinafter referred to as “PLAN”, and the [INSERT COUNTY NAME] department responsible for the provision of Medi-Cal specialty mental health and/or Drug Medi-Cal services (if separate) hereinafter referred to as “COUNTY.”

1. **TERMS**

This memorandum shall commence on June 1, 2013 and shall continue through December 2016.

1. **TASKS, RESPONSIBILITIES AND/OR OBLIGATIONS**

**A. Roles and Responsibilities**

* + 1. Covered Services are listed in the “Behavioral Health Benefits in the Duals Demonstration” matrix developed by DHCS. PARTIES may include this matrix as an attachment to this MOU addendum.
		2. Determination of Medical Necessity
	1. The PLAN and COUNTY will follow the medical necessity criteria for specialty mental health 1915(b) waiver services described in Title 9, California Code of Regulations (CCR), Sections 1820.205, 1830.205, and 1830.210.
	2. To determine medical necessity for Drug Medi-Cal Substance Abuse Services, the PARTIES will follow Title 22, California Code of Regulations Section 51303 and 54301. Services shall be prescribed by a physician, and are subject to utilization controls, as set forth in Title 22 Section 51159.
		1. Assessment Process

The PLAN and COUNTY shall develop and agree to written policies and procedures regarding agreed-upon screening and assessment processes.

* + 1. Referrals
			- 1. The PLAN and COUNTY shall develop and agree to written policies and procedures regarding referral processes, including the following:

COUNTY accepts referrals from PLAN staff, providers and members’ self-referral for determination of medical necessity.

PLAN accepts referrals from the COUNTY when the service needed is one provided by the PLAN and not the COUNTY and when it has been determined by the COUNTY that the beneficiary does not meet the specialty mental health and/or Drug Medi-Cal medical necessity criteria.

1. Authorization of Services

The PLAN will notify the COUNTY of psychiatric treatment authorization decisions made as expeditiously and as timely as the beneficiary’s condition requires.

1. Provider Credentialing

The COUNTY will provide verification of professional licensure, the National Provider Identifier (NPI), and other information as needed to confirm COUNTY and its contractors are Medicare eligible and certified providers eligible providers.

1. Payment Mechanism

The reimbursement mechanism between COUNTY and PLAN shall be determined locally and agreed upon by both parties, as specified in this MOU addendum and subject to federal timeliness and other requirements. The PLAN shall reimburse the COUNTY for Medicare covered mental health services rendered by the COUNTY. The COUNTY will recover the federal Medi-Cal reimbursement for Medicare covered specialty mental health services after receiving the PLAN’S payment consistent with the provisions of the demonstration and the current Medi-Cal specialty mental health 1915(b) waiver and California’ Medicaid State Plan. The PLAN shall provide information necessary for coordination of benefits in order for the COUNTY to obtain appropriate reimbursement under the Medi-Cal program.

1. Rates

The PLAN shall provide the COUNTY with payment for rendered covered Medicare mental health services at the most current published Medicare rates.

1. Dispute Resolution Process

The PLAN and COUNTY agree to follow the resolution of dispute process in accordance to Title 9, Section 1850.505, and the contract between the PLAN and the State Department of Health Care Services (DHCS) and Centers for Medicare & Medicaid Services (CMS).

1. Telephone Access

The PLAN shall inform members of the 24-7 telephone line operated by the COUNTY that provides information and access to services for urgent and routine requests on mental health and substance use disorder services.

1. **Information Exchange**
2. COUNTY and PLAN will develop and agree to Information sharing policies and procedures that include milestones over the three years and agreed upon roles and responsibilities for sharing personal health information (PHI) for the purposes of medical and behavioral health care coordination pursuant to Title 9, CCR, Section 1810.370(a)(3) and in compliance with HIPAA and other state and federal privacy laws. These policies and procedures shall be attached to the MOU by 12/31/13.
3. The PLAN will create a list of demonstration enrollees who are receiving Medi-Cal specialty mental health and/or Drug Medi-Cal services to track their care coordination and service delivery.
4. **Care Coordination**

The PLAN and COUNTY will develop and agree to policies and procedures for coordinating medical and behavioral health care for beneficiaries enrolled in the PLAN and receiving Medi-Cal specialty mental health or Drug Medi-Cal services through the COUNTY that may include the following. These policies and procedures shall be attached to the MOU by 12/31/13.

* + - 1. An identified point of contact from each PARTY who will initiate and maintain ongoing care coordination, including agreement on who has primary responsibility for care planning.
			2. For members identified as needing an Interdisciplinary Care Team (ICT), the PLAN would request participation from a COUNTY behavioral health provider.
			3. The PLAN will have a process for reviewing and updating the care plan as clinically indicated, such as following a hospitalization, and for coordinating with the COUNTY behavioral health providers, when necessary.
			4. The PLAN will have regular meetings (at least quarterly) to review the care coordination process, such as the effectiveness of exchange of patient health information.
			5. The PLAN will coordinated with the COUNTY to perform on an annual review, analysis and evaluation of the effectiveness of the care management program to identify actions to implement and improve the quality of care and delivery of services.
1. **Shared Accountability**

Shared accountability between the PLAN and COUNTY aims to promote care coordination. Shared accountability builds on the performance-based withhold and is reflected in the capitation rates of 1%, 2%, and 3% respectively for years one, two and three of the demonstration. By meeting specified quality measures, the PLAN can earn back the withheld capitation revenue by meeting specified quality objectives. Under this shared accountability strategy, one withhold measure each year will be tied to behavioral health coordination with the COUNTY.

* + - 1. The PLAN and COUNTY agree to the Shared Accountability Performance Metrics, as specified in the three-way contracts between CMS, DHCS and the PLAN. These measures will be updated upon confirmation, but generally include:
				1. Year 1 Phase A (6/1/13 - 12/31/13):
		1. Execution of the MOU by 2/1/13;
		2. By 12/31/13, evidence of revised written policies and procedures for assessments, referrals, coordinated care planning, and information exchange to reflect inclusion of behavioral health coordination in the demonstration. Information sharing policies and procedures should include milestones for increased sharing over the three years, and also include a process for identifying and tracking of demonstration enrollees who receive behavioral health services through the COUNTY.
	1. Year 1 Phase B (1/1/14 - 12/31/14): [Specified] percent of demonstration enrollees identified as receiving Medi-Cal specialty mental health and/or Drug Medi-Cal services who have care plans that include the signature of the primary behavioral health provider, indicating that care is being coordinated between the PARTIES.
	2. Year 2 (1/1/15-12/31/16): [Specified] percent reduction in emergency department (ED) visits for beneficiaries with serious mental illness or indication of need for substance use treatment. (Denominator = all demonstration plan members. Numerator = beneficiaries with an indication of need serious mental illness or need for SU (AOD) treatment. Further development of exact specifications for the measure will be reflected in three-way contracts).
	3. Year 3 (1/1/16-12/31/16): [Specified] percent reduction (greater than Year 2) from the baseline in emergency department (ED) visits for beneficiaries with serious mental illness or indication of need for substance use treatment.

2. The PLAN and COUNTY agree that if the specified shared accountability measure is met in each year, the PLAN will provide an incentive payment to the COUNTY under mutually agreeable terms. This payment will be structured in a way so it does not offset the county’s Certified Public Expenditure (CPE).

* 1. **Provider and Member Education**

The PLAN and COUNTY will each develop, in coordination with one another, education materials and programs for their members and providers about the availability of behavioral health services, including roles and responsibilities in the demonstration and care coordination policies and procedures. At a minimum, education will include initial and regularly scheduled provider trainings (at least annually), and a provider manual that includes information regarding access to services, the beneficiary problem resolution processes, authorization process, provider cultural and linguistic requirements and regulatory and contractual requirements.

**Attachment 1: Behavioral Health Benefits in the Duals Demonstration**

Coverage Responsibility Matrix

Health Plans will be responsible for providing enrollees access to all medically necessary behavioral health (mental health and substance abuse treatment) services currently covered by Medicare and Medicaid.

While all Medicare-covered behavioral health services will be the responsibility of the health plans under the demonstration, Medi-Cal specialty mental health services that are not covered by Medicare and Drug Medi-Cal benefits will not be included in the capitated payment made to the participating health plans (i.e. they will be “carved out). Demonstration plans will coordinate with county agencies to ensure enrollees have seamless access to these services.

Attached are two tables (Coverage Matrix 1+2) that list the available mental health and substance use benefits and describe whether Medicare or Medi-Cal is the primary payer, and therefore whether the health plan or county will be primarily financially responsible for the services.

To determine responsibility for covering Medi-Cal specialty mental health services, health plans and counties will follow the medical necessity criteria for specialty mental health services available per California’s 1915(b) waiver and State Plan Amendments for targeted case management and expanded services under the Rehabilitation Option, described in Title 9, California Code of Regulations (CCR), Sections 1820.205, 1830.205, and 1830.210.

Outpatient medical necessity criteria can be summarized as the following:

1. Diagnosis – one or more of the specified Diagnostic and Statistical Manual of Mental Disorders;
2. Impairment – significant impairment or probability of deterioration in an important area of life functioning, or for children a probability the child won’t progress appropriately;
3. Intervention: services must address the impairment, be expected to significantly improve the condition, and the condition is not responsive to physical health care based treatment.

To determine medical necessity for Drug Medi-Cal Substance Abuse Services, health plans and counties will follow Title 22, California Code of Regulations Section 51303 and 54301. Services shall be prescribed by a physician, and are subject to utilization controls, as set forth in Title 22 Section 51159.

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**Coverage Matrix 1: Mental Health Benefits**

|  |  |  |  |
| --- | --- | --- | --- |
|  | Type of Service | Primary Payer | Primary financial responsibility under the Demonstration |
| Psychiatric inpatient care in a general acute hospital[[1]](#footnote-2) | Facility Charge | **Medicare** | Health Plan  |
| Psychiatric professional, pharmacy, ancillary, and medical professional services charges [[2]](#footnote-3) |
| Inpatient care in free-standing psychiatric facilities[[3]](#footnote-4) | Facility Charge | **Medicare***Subject to coverage limitations and depends on facility and license type* | Health Plan/County Mental Health Plan |
| Psychiatric professional, pharmacy, ancillary, and medical professional services charges |
| Emergency Department | Facility Charges | **Medicare** | Health Plan  |
| Psychiatric professional, pharmacy, ancillary, and medical professional services charges |
| Skilled nursing facility | Facility Charge | **Medicare***Subject to coverage limitations and depends on facility and license type***Medi-Cal***Subject to IMD Exclusion* | Health Plan/County Mental Health Plan |
| Psychiatric professional, pharmacy, ancillary, and medical professional services charges |
| Pharmacy | **Medicare** (Part D) | Health Plan  |
| Outpatient | Partial hospitalization / Intensive Outpatient | **Medicare** | Health Plan  |
| Outpatient services within the scope of primary care | **Medicare** | Health Plan |
| Psychiatric services *(medication management, assessment, individual and group therapy delivered by a doctor, clinical psychologist, clinical social worker, clinical nurse specialist, or physician’s assistant in an office, clinic, or hospital outpatient department.)* | **Medicare** | Health Plan  |
| Psychiatric testing/ assessment | **Medicare** | Health Plan  |

|  |
| --- |
| Medi-Cal Specialty Mental Health Services (1915b waiver and State Plan Amendments for targeted case management and expanded services under the rehabilitation option) |
|  | **Primary Financial Responsibility** |
| Type of Service | **Primary Payer** | **Patient meets criteria for MHP specialty mental health services** | **Patient does NOT meet criteria for MHP specialty mental health services** |
| Mental health services+*(Individual and group therapy, assessment, collateral,)* | Medicare | Health plan  | Health Plan |
| Mental health services+*(rehabilitation and care plan development)* | Medi-Cal | County MHP | Not a covered benefit for beneficiaries not meeting medical necessity criteria |
| Medication support services+(*Prescribing, administering, and dispensing; evaluation of the need for medication; evaluation of clinical effectiveness of side effects; and collateral related to medication support services)* | Medicare | Health plan  | Health Plan |
| Medication support services+ *(obtaining informed consent linked to providing medication support services activities; instruction in the use, risks and benefits of and alternatives for medication; and plan development)* | Medi-Cal | County MHP | Not a covered benefit for beneficiaries not meeting medical necessity criteria |
| Day treatment intensive  | Medi-Cal  | County MHP  |  Not a covered benefit for beneficiaries not meeting medical necessity criteria  |
| Day rehabilitation | Medi-Cal  | County MHP | Not a covered benefit for beneficiaries not meeting medical necessity criteria  |
| Crisis intervention | Medi-Cal  | County MHP | Not a covered benefit for beneficiaries not meeting medical necessity criteria  |
| Crisis stabilization | Medi-Cal  | County MHP | Not a covered benefit for beneficiaries not meeting medical necessity criteria  |
| Adult Residential treatment services | Medi-Cal  | County MHP | Not a covered benefit for beneficiaries not meeting medical necessity criteria  |
| Crisis residential treatment services | Medi-Cal  | County MHP | Not a covered benefit for beneficiaries not meeting medical necessity criteria  |
| Targeted Case Management | Medi-Cal  | County MHP | Not a covered benefit for beneficiaries not meeting medical necessity criteria  |

+ Medicare and Medi-Cal coverage must be coordinated subject to federal and state reimbursement requirements. For further details on the services within these categories that are claimable to Medicare and Medi-Cal please see the following:

* [DMH INFORMATION NOTICE NO: 10-11](http://www.dmh.ca.gov/DMHDocs/docs/notices10/10-11.pdf) May 6, 2010;
* [DMH INFORMATION NOTICE NO: 10-23](http://www.dmh.ca.gov/dmhdocs/docs/notices10/10-23.pdf) Nov. 18, 2010;
* [DMH INFORMATION NOTICE NO: 11-06](http://www.dmh.ca.gov/dmhdocs/docs/notices11/11-06.pdf) April 29, 2011

# Coverage Matrix 2: Substance Use Disorder Benefit

|  |  |  |  |
| --- | --- | --- | --- |
|  | Type of Service | Primary Payer | Demonstration Responsibility |
| Inpatient Acute and Acute Psychiatric Hospitals  | Detoxification | Medicare | Health Plan |
|  | Treatment of Drug Abuse[[4]](#footnote-5) (Medicare Benefit Policy Manual, Chapter 6 §20, and Chapter 16 §90) | Medicare | Health Plan |
| Outpatient | **Alcohol Misuse Counseling: one alcohol misuse screening (SBIRT) per year. Up to four counseling sessions may be covered if positive screening results. Must be delivered in a primary care setting.*[[5]](#footnote-6)*** | Medicare | Health Plan |
| Group or individual counseling by a qualified clinician | Medicare | Health Plan |
| Subacute detoxification in residential addiction program outpatient  | Medicare | Health Plan |
| Alcohol and/or drug services in intensive outpatient treatment center | Medicare | Health Plan |
| Extended Release Naltrexone (vivitrol) treatment  | Medicare | Health Plan |
| Methadone maintenance therapy | Drug Medi-Cal | County Drug & Alcohol[[6]](#footnote-7) |
| Day care rehabilitation | Drug Medi-Cal | County Drug & Alcohol |
| Outpatient individual and group counseling (coverage limitations) | Drug Medi-Cal | County Drug & Alcohol |
| Perinatal residential services | Drug Medi-Cal | County Drug & Alcohol |

1. County Mental Health Plans (MHPs) are responsible for the balance of inpatient psychiatric care that is not covered by Medicare for those beneficiaries meeting the medical necessity criteria for specialty mental health services. Medi-Cal and the County MHP is responsible for local hospital administrative days, which are days that a patient's stay in the hospital is beyond the need for acute care and there is a lack of nursing facility beds available. [↑](#footnote-ref-2)
2. Medicare covers outpatient mental health services provided by a doctor, clinical psychologist, clinical social worker, clinical nurse specialist, or physician assistant in an office setting, clinic, or hospital outpatient department. For more background on Medicare coverage rules, see this CMS document <http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/downloads/Mental_Health_Services_ICN903195.pdf> [↑](#footnote-ref-3)
3. Medicare coverage for Institutions for Mental Diseases (IMDs) depends on the facility type and licensure. IMDs include skilled nursing facilities (SNFs) with special treatment programs (STPs), free standing acute psychiatric hospitals, psychiatric health facilities (PHFs), mental health rehabilitation centers (MHRCs), and State hospitals. For those facilities that are Medicare reimbursable, once a beneficiary has exhausted his Medicare psychiatric hospital coverage then Medi-Cal is the secondary payer. The Medi-Cal coverage would be subject to the IMD exclusion.Federal law prohibits Medicaid Federal Financial Participation (FFP) payment for beneficiaries age 22 to 64 placed in IMDs. This is known as the “IMD exclusion” and is described in DMH Letters [02-06](http://www.dmh.ca.gov/DMHDocs/docs/letters02/02-06.pdf)and [10-02](http://www.dmh.ca.gov/DMHDocs/docs/letters10/10-02.pdf). [↑](#footnote-ref-4)
4. Medicare inpatient detoxification and/or rehabilitation for drug substance abuse when it is medically necessary. Coverage is also available for treatment services provided in the hospital outpatient department to patients who, for example, have been discharged for the treatment of drug substance abuse or who require treatment but do not require the availability and intensity of services found only in the inpatient hospital setting. The coverage available for these services is subject to the same rules generally applicable to the coverage of outpatient hospital services. [Click here to learn more](http://www.cms.gov/medicare-coverage-database/details/ncd-details.aspx?NCDId=26&ncdver=1&SearchType=Advanced&CoverageSelection=Both&NCSelection=NCA%7CCAL%7CNCD%7CMEDCAC%7CTA%7CMCD&ArticleType=Ed%7CKey%7CSAD%7CFAQ&PolicyType=Final&s=---%7C5%7C6%7C66%7C67%7C9%7C38%7C63%7C41%7C64%7C65%7C44&KeyWord=inpatient+rehabilitation&KeyWordLookUp=Doc&KeyWordSearchType=And&kq=true&bc=IAAAABAAAAAA&). [↑](#footnote-ref-5)
5. Medicare coverage explanation: [Click here to learn more](http://www.cms.gov/medicare-coverage-database/details/ncd-details.aspx?NCDId=347&ncdver=1&SearchType=Advanced&CoverageSelection=Both&NCSelection=NCA%7cCAL%7cNCD%7cMEDCAC%7cTA%7cMCD&ArticleType=Ed%7cKey%7cSAD%7cFAQ&PolicyType=Final&s=---%7c5%7c6%7c66%7c67%7c9%7c38%7c63%7c41%7c64%7c65%7c44&KeyWord=inpatient+rehabilitation&KeyWordLookUp=Doc&KeyWordSearchType=And&kq=true&bc=IAAAABAAAAAA&). [↑](#footnote-ref-6)
6. In San Diego and Orange Counties, county alcohol and drug do not provide these services. Providers have direct contracts with the State. [↑](#footnote-ref-7)