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DIRECTOR

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



GAVIN NEWSOM
GOVERNOR

DATE: July 8, 2021

ALL PLAN LETTER 20-011 (REVISED)

TO: ALL MEDI-CAL MANAGED CARE HEALTH PLANS

SUBJECT: GOVERNOR'S EXECUTIVE ORDER N-55-20 IN RESPONSE TO COVID-19

PURPOSE:

The purpose of this All Plan Letter (APL) is to provide information to Medi-Cal managed care health plans (MCPs) *regarding the termination of temporary flexibilities that were issued by the Department of Health Care Services (DHCS) pursuant to Executive Order (EO) authority in response to the COVID-19 public health emergency (PHE).* As DHCS continues to respond to concerns and changing circumstances resulting from the pandemic, DHCS will provide updated guidance to MCPs. Revised text is found in *italics*.

BACKGROUND:

On April 22, 2020, the Governor of the State of California, in accordance with the authority contained in the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567 and 8571, issued EO N-55-20.¹ This EO provided for various flexibilities in relation to state statutes and regulations, thereby allowing DHCS to take appropriate actions to mitigate the effects of the COVID-19 PHE. Pursuant to this EO authority, DHCS issued the following temporary flexibilities:

MCP Site Reviews and Subcontractor Monitoring

DHCS permitted MCPs to temporarily suspend the contractual requirement for in-person site reviews, medical audits of MCP subcontractors and network providers, and similar monitoring activities that would require in-person reviews. In addition, all requirements outlined in APL 20-006, Site Reviews: Facility Site Review and Medical Record Review, were temporarily suspended through the duration of the EO and for an additional six months following the end of its termination.²

¹ EO N-55-20 can be found at the following link: <https://www.gov.ca.gov/wp-content/uploads/2020/04/EO-N-55-20.pdf>.

² See APL 20-006. APLs are searchable at: <https://www.dhcs.ca.gov/formsandpubs/Pages/AllPlanLetters.aspx>.

DHCS encouraged MCPs to explore alternatives to in-person site reviews, such as site reviews that were conducted virtually. MCPs were also encouraged to explore virtual alternatives to onsite verifications for provider Corrective Action Plans (CAPs). If alternatives to onsite verification were not feasible, MCPs were able to consider extensions on outstanding CAPs.

Annual Medical Audits

DHCS' Audits and Investigations (A&I) annual medical audits were temporarily suspended; however, this did not negate a MCP's responsibilities to comply with all imposed CAP requirements. MCPs were required to continue to meet CAP milestones as outlined in the CAP process during the PHE.

Some MCPs expressed a desire to proceed with their scheduled annual medical audits. MCPs were encouraged to discuss with A&I the feasibility of proceeding with annual medical audits, or continuing work on audits that were already in progress.

If a mutual decision was made to proceed with an audit, A&I committed to completing the audit with minimal in-person contact with the MCP and its personnel. A&I used virtual alternatives to in-person contact to communicate with the MCP and to obtain needed documentation, to the extent possible. If the MCP preferred to postpone a scheduled audit, or delay efforts to complete an audit in progress due to COVID-19, A&I rescheduled the audit or delayed audit activity to a later time.

Health Risk Assessments

DHCS temporarily extended the timeframes specified in state law and APL 17-013, Requirements for Health Risk Assessment of Seniors and Persons with Disabilities (SPDs), for completing Health Risk Assessments (HRA) surveys for newly enrolled SPDs in an effort to ensure staff time and resources were directed to urgent care needs.^{3, 4} MCPs were required to conduct HRA surveys to comprehensively assess each newly enrolled SPD member's health risk within the following extended timeframes:

- *Within 135 days of enrollment, for those identified as higher risk through the MCP's risk stratification process; or*
- *Within 195 days of enrollment, for those identified as lower risk.*

MCPs were still required to conduct risk stratification using health care utilization data for all newly enrolled SPDs. MCPs were also required to continue to comply

³ *Welfare and Institutions Code (WIC) section 14182(c)(12)(A). WIC is searchable at: http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml.*

⁴ *See APL 17-013.*

with Title 42, Code of Federal Regulations (CFR) section 438.208(b)(3)⁵ through the use of the Health Information Form/Member Evaluation Tool within 90 days of enrollment for all newly enrolled members, as required in APL 17-013 and the MCP contract.⁶ MCPs were allowed to update their risk stratification and HRA survey process to identify members most vulnerable due to COVID-19 and its related impacts, to address needs where it was possible and safe to do so.

MCPs were allowed to conduct HRA surveys by phone or video conference. On June 30, 2021, the above mentioned flexibilities will terminate per EO N-08-21, which was issued by the Governor on June 11, 2021.⁷ Additional guidance has been provided below regarding the termination of the relevant EO N-55-20 flexibilities, as well as the return-to-standard program operations, policies, and procedures in place prior to the COVID-19 PHE.

POLICY:

As of June 30, 2021, the flexibilities provided in EO N-55-20 will terminate. Therefore, effective July 1, 2021, MCPs are required to begin resumption of these activities as follows:

MCP Site Reviews and Subcontractor Monitoring

Starting July 1, 2021, MCPs must begin the process to resume site review activities as detailed in APL 20-006, including in-person site reviews, medical audits of MCP subcontractors and network providers, and similar monitoring activities that require in-person reviews. DHCS understands that some MCPs may need more time than others to fully resume these activities and to complete any site reviews that were not conducted during the PHE. As a result, MCPs must begin resumption of site review activities as soon as possible, with full resumption of these activities within six months from the July 1, 2021 effective date. No later than August 1, 2021, MCPs must submit, for DHCS review and approval, a written plan detailing how the MCP will address and complete any site reviews not conducted during the PHE, including projected timelines.

Annual Medical Audits

Effective July 1, 2021, DHCS will resume annual medical audits. DHCS' A&I Medical Review Branch has already begun the scheduling of annual medical audits with MCPs.

⁵ 42 CFR Part 438 is available at: <https://www.ecfr.gov/cgi-bin/text-idx?SID=50d9ce4d672b4821fbca2beac61a96d2&mc=true&node=pt42.4.438&rgn=div5>.

⁶ MCP contracts are available at: <https://www.dhcs.ca.gov/provgovpart/Pages/MMCDBoilerplateContracts.aspx>.

⁷ EO N-08-21 can be found at the following link: <https://www.gov.ca.gov/wp-content/uploads/2021/06/6.11.21-EO-N-08-21-signed.pdf>

If MCPs have any questions regarding these A&I audit updates, they can contact the A&I Medical Review Branch via email at COVID-MCPauditquestions@dhcs.ca.gov.

Health Risk Assessments

Effective July 1, 2021, HRAs for any newly enrolled members must be completed in alignment with the standard timeframes that were in place prior to EO, as required by state law and APL 17-013. HRAs related to enrollment that occurred on or before June 30, 2021, will remain subject to the extended timeframes as outlined in the Background Section above.

MCPs 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 APLs and Policy Letters.⁸ These requirements must be communicated by each MCP to all Subcontractors and Network Providers.

If you have any questions regarding this APL, please contact your Managed Care Operations Division Contract Manager.

Sincerely,

Original Signed by Bambi Cisneros

Bambi Cisneros, Acting Chief
Managed Care Quality and Monitoring Division

⁸ For more information on Subcontractors and Network Providers, including the definition and requirements applicable, see APL 19-001, and any subsequent APLs on this topic.