



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



EDMUND G. BROWN JR.
GOVERNOR

DATE: XXXX, 2014

MHSUDS INFORMATION NOTICE NO.: 14-XXX

TO: ALCOHOL AND OTHER DRUG TREATMENT PROVIDERS
COUNTY ALCOHOL AND DRUG PROGRAM ADMINISTRATORS
COUNTY MENTAL HEALTH DIRECTORS
LOCAL MENTAL HEALTH BOARDS

SUBJECT: DELIVERY SYSTEM DISPUTE RESOLUTION PROCESS

PURPOSE:

The purpose of this Mental Health and Substance Use Disorder Services (MHSUDS) Information Notice is to provide guidance to Mental Health Plans (MHPs) on submission of a service delivery dispute that cannot be resolved at the local level to the Department of Health Care Services (DHCS). This guidance was developed by MHSUDS and the Medi-Cal Managed Care Division (MMCD).

MHSUDS is issuing this Information Notice to remind MHPs of existing regulatory requirements that govern the dispute resolution process and to provide instructions regarding submission of a dispute between MHPs and Medi-Cal Managed Care Plans (MCPs). MMCD will provide parallel guidance in the form of an All Plan Letter to MCPs. MHPs are hereby advised that if a MCP submits a dispute resolution request to DHCS, DHCS will request information, including a position statement, from the impacted MHP.

BACKGROUND:

Title 9 of the California Code of Regulations (CCR), commencing with Section 1850.505, governs the dispute resolution between MHPs and MCPs and has been in effect since the onset of the Medi-Cal specialty mental health services program.

Effective July 1, 2012, the state administrative functions for the operation of Medi-Cal specialty mental health services and applicable functions related to federal Medicaid requirements transferred from the State Department of Mental Health (DMH) to DHCS. The current regulatory scheme found in 9 CCR Section 1850.505 *et seq.* was promulgated prior to the state administrative functions transfer from DMH to DHCS. In light of the transfer of these functions, DHCS will administer the dispute resolution process. DHCS will continue to substantively follow the dispute resolution process set forth in 9 CCR Section 1850.505 *et seq.*

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POLICY:

Pursuant to 9 CCR Section 1810.370, the MHP is required to enter into a memorandum of understanding (MOU) with any MCP that enrolls beneficiaries covered by the MHP. Whether or not a MHP and MCP have an executed MOU, parties are required to document attempts to resolve the disputed issue(s). (Cal. Code Regs., tit. 9, § 1850.505(d)(2).)

If a MHP is unable to resolve a dispute with a MCP, the MHP may submit a written request for resolution, signed by the MHP Director, to DHCS ("Request for Resolution"). If the MHP has a MOU with the MCP, the Request for Resolution must be submitted within 15 calendar days of the completion of the MOU's dispute resolution process. If there is no MOU, a Request for Resolution shall be submitted within 30 calendar days after the event giving rise to the dispute.

A Request for Resolution should be submitted to the address below:

Department of Health Care Services
Mental Health and Substance Use Disorder Services
Office of the Deputy Director
Attn: Special Advisor-MHSUD Services
1501 Capitol Ave. MS 4000
P.O. Box 997413
Sacramento, CA 95899-7413
(916) 440-7800

SCOPE OF REVIEW:

DHCS will review the following types of disputes:

1. The obligations of the MHP or the MCP under their contract(s) with DHCS;
2. State Medi-Cal laws and regulations; and/or
3. The MHP - MCP MOU as described in Title 9, CCR, Chapter 11, Section 1810.370.

REQUEST FOR RESOLUTION SUBMISSION REQUIREMENTS:

A Request for Resolution submitted to DHCS must contain all of the following:

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 beneficiary by either party;

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2. History of attempts to resolve the issue with the MCP¹;
3. Justification for the MHP's desired remedy; and
4. If applicable, any additional documentation that the MHP deems relevant to resolve the disputed issue(s).

DHCS DISPUTE RESOLUTION PROCESS:

Within seven calendar days after DHCS' receipt of a Request for Resolution from a MHP, a copy of the Request for Resolution will be forwarded to the Chief Executive Officer (CEO) of the impacted MCP via secure email ("Notification"). The MCP will have 21 calendar days to submit a response to the Request for Resolution and any relevant documents to support its position ("MCP Documentation"). (Cal. Code Regs., tit. 9, § 1850.505(e) & 1850.505(f).) If the MCP fails to respond, DHCS will decide on the disputed issue(s) based solely on the documentation submitted by the MHP.

At its discretion, DHCS may allow both MHP and MCP representatives the opportunity to present oral argument(s).

MHSUDS and MMCD will make a joint recommendation to the DHCS Director, or his or her designee, based on their review of the submitted documentation, applicable statutory, regulatory, and contractual obligations of the MHP and the MCP, and any oral arguments presented.

Within 30 calendar days from the earlier of the (1) DHCS' receipt of the MCP documentation, or (2) 21 days after the Notification date, the final decision will be communicated via secure email to the MHP Director and MCP CEO. The DHCS decision will include a statement of the reasons for the decision, the determination of rates of payment (if the rates of payment were disputed), and any actions the MHP and the MCP are required to take to implement the decision (Cal. Code Regs., tit. 9, § 1850.520(b).)

If DHCS' dispute resolution determination includes a finding that the unsuccessful party has a financial liability to the other party for services rendered by the successful party, the MHP is required to follow the financial liability criteria set forth in 9 CCR Section 1850.530 which specifies the provisions regarding financial liability rates and proof of reimbursement. If necessary, DHCS shall enforce the decision, including withholding funds to meet any financial liability established pursuant to 9 CCR Section 1850.530.

¹ Pursuant to 9 CCR section 1850.505(d)(2), whether or not the MHP and MCP have an executed MOU, the parties are required to document attempts to resolve the issue in the request for resolution.

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(Cal. Code Regs., tit. 9, § 1850.520(c).)

Finally, MHPs must comply with 9 CCR Section 1850.525 regarding the provision of medically necessary services pending resolution of a dispute.

Questions regarding the content of this information notice may be directed to the DHCS MHSD County Support Unit Liaison for your county. A current list of county assignments can be found at:

<http://www.dhcs.ca.gov/services/MH/Pages/CountySupportUnit.aspx>.

Sincerely,

Karen Baylor, Ph.D., LMFT, Deputy Director
Mental Health & Substance Use Disorder Services