

## **Placement in an Out-of-County Short-Term Residential Therapeutic Program (STRTP) and the Presumptive Transfer Process**

### **ISSUE**

Due to the complex nature of presumptive transfer, there is a potential risk that Specialty Mental Health Services (SMHS) could be delayed or not provided to children/youth who are placed in Short-Term Residential Therapeutic Programs (STRTPs) outside of their counties of original jurisdiction. This may occur if the placing county and mental health plan (MHP) have different understandings of the purpose of presumptive transfer and the presumptive transfer waiver process and/or their roles and responsibilities.

### **GOAL**

Clarify roles and responsibilities of placing counties and MHPs regarding out-of-county STRTP placement decisions, and provision of and payment for SMHS.

### **EXPECTATIONS**

- MHPs accept the placing agencies' release of information and consent to treat forms as long as they are consistent with state and federal law.
- Children and youth placed in an STRTP do not experience delays in receiving SMHS to accommodate contracting or service agreements, or for any other reason.
- Care and services are consistent with the Integrated Core Practice Model, which establishes that, to be effective, care and service decisions are made collaboratively in teams, and services are individualized, culturally competent, trauma-informed, and community-based.
- Decisions regarding out of county STRTP placements are based on the best interest of the child/youth and presumptive transfer is waived in most instances due to the anticipated short-term nature of the placement.
- Placing agencies have placement agreements and MHPs have contracts with the STRTPs in which children/youth are typically placed in order to accomplish timely placement, provision of SMHS, care coordination, and transition planning, especially when the STRTP is outside of the child/youth's county of original jurisdiction.

### **DEFINITIONS**

Child and Adolescent Needs and Strengths (CANS): A multi-purpose functional assessment tool used to: support decision making, including service planning, facilitate quality improvement initiatives, and allow monitoring of outcomes of services. Used as part of the Child and Family Team (CFT) process, the CANS helps guide conversations among CFT members about the well-being of children and youth, identify their strengths and needs, inform and support care coordination, aid in case planning activities, and inform decisions about placement. The "Behavioral/Emotional Needs Domain" of the CANS may serve as a mental health screening tool for placing agencies. County MHPs utilize the CANS to identify actionable needs and

useful strengths of children/youth and families, as well as to inform planning, support decisions, and monitor outcomes.

Child and Family Team (CFT): The group of individuals convened by the placing agency that engages through a variety of team-based processes to identify the strengths and needs of the child or youth and their family to inform placement decisions, develop case plans, and support care coordination, to help achieve positive outcomes for safety, permanency, and well-being.

County of Residence (CR): The County wherein the child/youth is placed.

Interagency Placement Committee (IPC): Pursuant to Welfare and Institutions Code section 4096, each county IPC team is responsible for reviewing and approving placements into STRTPs and group homes with a Rate Classification Level 13/14 that have been granted extensions. The county IPC team is comprised of, at a minimum, representatives from the placing county agency or agencies and a licensed mental health professional from the MHP in the County of Residence (MHP-CR). The IPC team may also include other representatives from county agencies, which share responsibility for the well-being and safety of the child/youth, such as school/education staff, public health, or nursing staff, or other department or agency decision makers. Consistent with current practices in several jurisdictions, the IPC may also serve as a multi-disciplinary committee to guide delivery of services for children/youth with significant behavioral, emotional, medical, and/or developmental needs.

Mental Health Plan (MHP): A county, or counties acting jointly, or another governmental or non-governmental entity that enters into a contract with the Department of Health Care Services to directly provide or arrange for the provision of, and pay for SMHS.

Mental Health Plan in the County of Residence (MHP-CR): The MHP in the county wherein the child/youth is placed.

Mental Health Plan in the Placing County (MHP-PC): The MHP in the county in which the child welfare agency or probation department has placement and care responsibility for the child/youth.

Placing County (PC): The county child welfare or probation department that has placement and care responsibility for the child/youth whether the child/youth is supervised by the child welfare agency or probation department. Also known as the county of original jurisdiction.

Placing County Staff (PCS): Unless otherwise specified, the child/youth's social worker or deputy probation officer.

Presumptive Transfer: The prompt transfer of the responsibility for the provision of, or arranging and payment for SMHS from the county of original jurisdiction to the county in which the foster child/youth resides. Assembly Bill 1299 (Ridley-Thomas, Chapter 603, Statutes of 2016) established presumptive transfer.

Specialty Mental Health Services (SMHS): Mental health services provided by MHPs or MHP subcontracted providers to Medi-Cal beneficiaries who meet medical necessity criteria. SMHS include services for Medi-Cal beneficiaries under the age of 21 that are needed to correct or ameliorate mental illnesses or conditions.

## GUIDANCE

This guidance is organized into five parts, each of which provides relevant information related to the presumptive transfer waiver decision and implementation processes.

- PART A: STRTPs and the Presumptive Transfer Waiver Decision Process
- PART B: Key Information to Consider During Waiver Decisions
- PART C: How to Identify an Appropriate STRTP for the Child/Youth
- PART D: Clarifying Your County's MHP Contract Process for SMHS in STRTPs
- PART E: STRTP Discharge

### **PART A: STRTPs AND THE PRESUMPTIVE TRANSFER WAIVER DECISION PROCESS**

This section outlines the process for deciding whether or not presumptive transfer should be waived, and the steps that should be taken to implement the waiver decision.

#### Section I: The Presumptive Transfer Waiver Decision Process<sup>1</sup>

The steps to determine whether or not to waive presumptive transfer are as follows:

- Step 1. The PCS/CFT identifies a child/youth who needs an STRTP level of care, the most appropriate available STRTP is out-of-county, and the placement has been approved by the IPC pursuant to [All County Letter \(ACL\) 17-122](#).
- Step 2. If a presumptive transfer waiver is requested, the PCS is responsible for consulting with the CFT regarding whether or not to waive presumptive transfer. Presumptive transfer may be waived if any of the exceptions to presumptive transfer described below exist:
  - a. The transfer would disrupt continuity of mental health care or delay access to services provided to the foster child or youth; OR
  - b. The transfer would interfere with family reunification efforts documented in the individual case plan; OR
  - c. The child or youth's placement in a county other than the county of original jurisdiction is expected to last less than six months; OR
  - d. The child or youth's residence is within 30 minutes of travel time to his or her established SMHS care provider in the county of original jurisdiction.

The PCS must document which exception is the reason for the waiver of presumptive transfer in the case plan. Documentation should include

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<sup>1</sup> The order of these events may not follow this sequence for children/youth who are under the jurisdiction of probation due to the unpredictable nature of judicial placement decisions. Probation may also attempt to initiate certain aspects of this process early in order to offer recommendations to the judge.

information about the CFT's discussion and how the decision serves the best interest of the child.

- Step 3. If a waiver is being considered, the MHP-PC must demonstrate an existing contract with a SMHS provider, or the ability to enter into a contract within 30 days of the waiver decision, and the ability to deliver timely SMHS directly to the foster child/youth. If the MHP-PC cannot demonstrate an existing contract or the ability to contract within 30 days, the waiver shall not be granted.
- Step 4. Step 4. The PCS consults with the child, the child's parent, other professionals who serve the child, and the remaining members of the CFT to determine whether the waiver should be granted or denied. The PCS decides whether to request or deny the waiver and gives notice of the decision to relevant parties. If the PCS denies a waiver request, and the individual that requested the waiver, or any other party to the case, disagrees with the decision, they may request judicial review within seven calendar days of being notified of the PCS decision (see ACL 18-60/MHSUDS IN 18-027, page 9 "Requesting a Hearing").

## Section II: The Presumptive Transfer Waiver Implementation Process

The following steps should be taken when a Presumptive Transfer Waiver **IS** approved:

- Step 1. The PCS works with the MHP-PC to determine and address the child/youth's SMHS needs.
- Step 2. The MHP-PC ensures the child/youth receives needed SMHS.
- If the MHP-PC has an existing contract or other form of SMHS service and payment agreement with the STRTP, and the capacity to serve the child/youth, then no further contracting negotiations are necessary.
  - If the MHP-PC has an existing contract, but DOES NOT have capacity for a new child/youth, then the MHP-PC needs to promptly expand the contract to ensure the child/youth receives needed SMHS. The MHP-PC should make these changes as quickly as possible, and within 30 days of the waiver decision. While adjusting the contract, the MHP-PC shall continue to ensure that the child receives needed SMHS without delay.
  - If the MHP-PC DOES NOT have a contract with the STRTP, then the MHP-PC needs to establish a contract, or other form of SMHS service and payment agreement, within 30 days of the waiver decision to provide SMHS in the STRTP. While finalizing the contract, the MHP-PC shall continue to ensure that the child receives needed SMHS without delay.

The following steps should be taken when a Presumptive Transfer Waiver **IS NOT** approved:

- Step 1. The PCS must notify the MHP-CR of the Presumptive Transfer.
- Step 2. The PCS works to ensure coordination of care for SMHS by immediately sending required paperwork to the MHP-CR that includes the CR's:
- Signed Release of Information form
  - Signed Consent to Treat form

- JV 220 authorization, if one exists
- Mental Health Assessment, if one exists

Note: documentation regarding the CFT discussions is NOT required for purposes of the transfer of responsibility and should not be requested. In addition, the MHP-CR should accept the signed release when sent from the PC or MHP-PC.

Step 3. The MHP-CR will accept the PC's release and consent forms as long as they are consistent with state and federal law. The MHP-CR does not need to request additional documentation, such as court orders, concerning who is authorized to sign the release. The PCS will ensure the authorized signature is on the releases and consent forms. The PCS is responsible for ensuring release and consent forms are signed by individuals with appropriate legal authority to sign the forms.

Step 4. The MHP-CR ensures access to SMHS in one of these ways:

- The MHP-CR has an existing contract or SMHS service and payment agreement with the STRTP, and has capacity to serve the child/youth.
- If the MHP-CR has an existing contract with the STRTP, but DOES NOT have capacity, then the MHP-CR should promptly expand the contract in order to deliver timely SMHS.
- If the MHP-CR DOES NOT have a contract with the STRTP, the MHP-CR should establish a contract, or other form of SMHS service and payment agreement in order to deliver timely SMHS.
- If the MHP-CR has **no** ability or plan to contract with the identified STRTP, then the MHP-CR will arrange for SMHS to be provided in or outside the STRTP, or a combination of the two.. In addition, this circumstance should be communicated back to the PCS and the IPC to reconsider whether Step 2, exception (a) (page 3) may apply.

## **PART B: KEY INFORMATION TO CONSIDER DURING WAIVER DECISIONS**

PCs should consider the following information when: 1) making placement decisions; and 2) determining whether to approve a presumptive transfer waiver. County partners and the CFT should use the following information when considering presumptive transfer waiver decisions:

### 1. Teaming: Know the Child/Youth's Service Needs

- a. Family, friends, close relationships, strengths, interests, talents, preferences
  - What does the Child and Adolescent Needs and Strengths (CANS) suggest are strengths and needs?
  - Whom does the child/youth identify as important in their life, and how will the placement impact ongoing visitation?
  - How does the placement impact reunification services and plans for permanency?
  - What are the child/youth's social needs (e.g., gender, language, cultural, religious, etc.)?
  - What are the child/youth's goals (e.g., driver's license, high school graduation, college, vocational school, music, athletics, etc.)?

- What are the child/youth's interests/talents (e.g., arts, music, culinary, theater, athletics, sciences, etc.)?
- b. SMHS needs
- Does the CANS indicate a potential mental health need? If so, does the MHP's assessment of the child/youth establish SMHS medical necessity?
  - Does the CANS indicate potentially traumatic/adverse childhood experiences? Are there triggers stemming from trauma experienced?
  - Identify a placement that has the most appropriate SMHS to address the child/youth's mental health needs and trauma.
  - Ensure continuity of care such that services, medications, etc., which the child/youth received prior to placement, will continue if the child/youth is placed in another county.
- c. Regional Center considerations
- Is the child/youth an existing Regional Center client?
    - If so, consider the impact on existing services. For example, what additional services will be needed in order to address an intellectually and developmentally disabled child/youth's needs, as identified by their Regional Center Individual Program Plan?
    - If the child/youth is not an existing Regional Center client, but has been referred to or is in process of being assessed by a Regional Center, the child/youth should not be moved until assessment is complete and regional center eligibility is determined. There may be an exception if there are exigent circumstances and/or there is an immediate safety and/or well-being need. If moved, the new Regional Center will likely restart the assessment and timeline.
- d. Educational issues concerns/service needs
- Does the school of origin have any concerns or recommendations as to educational needs that need to be considered?
  - For those youth in general education — what are their favorite subjects and what are their challenges?
  - Know who the Education Rights Holder is, and ensure they are involved in the CFT and placement recommendations. Is there an Education Surrogate (i.e., if the Education Rights Holder is not available), and if they are not available, who is the backup to sign education documents?
  - If child/youth has an Individualized Education Program (IEP), request a copy of the IEP, look for the handicapping condition listing them as eligible for special education services (often listed on the 1<sup>st</sup> page) and know the frequency and duration of each of the services they are to receive to ensure the new provider will be able to accommodate access to those special education services.
- e. Physical Health Service concerns/service needs
- Does the child/youth get their Medi-Cal services through a managed care plan or through fee-for-services Medi-Cal? If they are enrolled in a managed care plan, which plan is it?
  - Is the child/youth continuing to develop physically, as expected based on child development guidelines (e.g., progressing through developmental stages, mastering milestones, or struggling, not progressing)?

- What are the child/youth's existing services, medications, requests?
- f. Transition or Permanent Plan/Goals
  - Are they going to live with a family member? Preparation for the transition to a family member's home is critical prior to the child's final discharge. Consider how to accommodate home visits, including short and longer stays.
  - Are they going to a Foster Home/Resource Home? Preparation for the transition to a foster home will ease the transition. Consider how to accommodate foster home visits with short and long stays prior to final discharge.
  - If the youth is aging out of the system, what services are to be provided in preparation? Consider Independent Living Skills (ILS) training.
  - Consider what supports and services the youth will need in the community, social, hobbies, clubs, sports, music, spiritual, etc., and whether linkage can be provided during the child/youth's stay in the STRTP.

2. Know the Provider's STRTP Profile

- a. Will the STRTP provide all SMHS directly?
  - If not: who will provide the services and what are the logistics? How will those logistics impact the child/youth? For example, if the child/youth needs to travel to receive services, will STRTP staff drive the child/youth there and back?
  - Does the STRTP have a permanent license?
- b. What is the status of the STRTP's Mental Health Program Approval?
  - If Mental Health Program Approval is complete, has the STRTP provider received the letter that their MH Program Plan is approved?
  - If the Mental Health Program Approval is not complete, what is the anticipated completion date of the program approval?
- c. What is the status of the STRTP's Medi-Cal SMHS contract?
  - Does the provider have a Medi-Cal contract to provide SMHS with MHP-CR?
  - If not, is provider in the process of negotiating a Medi-Cal contract with the MHP-CR? With MHP-PC? What is the approximate timeline for completion of the contract?
  - What additional SMHS are available beyond the four required SMHS core services (Mental Health Services, Medication Support Services, Crisis Intervention, and Target Case Management)?
- d. What is the status of the STRTP's accreditation?
  - Has the STRTP submitted an application for accreditation?
  - Is the STRTP fully accredited?

REMINDER: The responsible MHP is responsible for the timely delivery of SMHS to eligible children/youth, regardless of the provider's status with respect to licensure, mental health program approval, and contract.

3. AB 1299: Presumptive Transfer or Waive

- a. What is the anticipated length of stay in and distance to the out-of-county STRTP?
  - If the anticipated length of stay is 6 months or less, then a presumptive transfer waiver should be considered – **PCS & MHP-PC confer.**

- If placement is in a contiguous county within 30 minutes of the current provider who supports the waiver consideration, then a presumptive transfer waiver should be considered — **PCS & MHP-PC confer.**
  - If a child/youth has frequent placement change patterns, then a presumptive transfer waiver should be considered — **PCS & MHP-PC confer.**
- b. Based on what is known from the CFT process and the STRTP Profile:
    - Can the provider actually deliver all needed services and accommodate logistics related to the needs of the child/youth (services outside of SMHS such as transportation, care and supervision, etc.), or must they arrange for services to address child/youth’s needs—consider whether to proceed with presumptive transfer or waive—**PCS & MHP-PC confer.**
  - c. Per the STRTP Profile, are the services that the child/youth needs provided on site?
    - If not, where does the child/youth go and how will the child/youth get there?
    - How is the provider’s performance in ensuring the needs/services are addressed?
    - Consider whether to proceed with presumptive transfer or waive—**PCS & MHP-PC confer.**
  - d. Communicate with the MHP-PC to know whether the MHP-PC has an existing contract for SMHS with the STRTP.
    - Are there administrative options (e.g., funding, approvals, and types of contracts) available to the MHP-PC to allow quick/efficient contracting with a STRTP? If available, consider waiver.
  - e. Communicate with the MHP-CR to know if the MHP-CR has a contract for SMHS with the STRTP.
    - If yes, what are the specific SMHS provided?
    - If no, are any SMHS provided on site, and by whom? i.e., STRTP, MHP-CR, another organizational provider?
    - Is there transportation available for offsite services?

**PART C: HOW TO IDENTIFY AN APPROPRIATE STRTP FOR THE CHILD/YOUTH**

In order to secure an appropriate STRTP for the child/youth, the PC should take the following information into consideration:

1. Based on the provider’s Program Statement (see the Continuum of Care Reform [STRTP Facility Profile](#) website), identify STRTPs that appear to meet the foster child/youth’s service needs, considering the following:
  - Is the provider already Medi-Cal certified to provide SMHS?
  - Does the MHP-CR already contract or plan to contract with the STRTP to provide SMHS? If not, why?
  - Is the STRTP located appropriately to meet the child/youth’s individual needs (e.g., family and important connections, school, cultural options, religious sites, community activities, rural/urban, etc.)?
2. What are the specific services offered and focus of the STRTP?
  - What is the commonality of need with other children/youth currently placed at the facility?



**PART D: CLARIFYING COUNTY MHP CONTRACT PROCESSES FOR SMHS IN STRTPs**

MHPs should consider the following factors in order to adequately provide SMHS to foster children/youth in STRTPs either inside or outside of the MHP’s county.

1. Identify the timeframe by which the MHP can set up contracts or other forms of SMHS service and payment agreements in order to:
  - Establish new contracts with STRTP providers
  - Expand existing STRTP provider contracts
2. Identify if your MHP has authority to set up Single Case Agreements/Service Agreements for SMHS on an individual child/youth case-by-case basis. If so, identify the process and timeframe by which such agreements can be established.

**PART E: STRTP DISCHARGE**

This section provides the steps that should be taken when discharging children/youth who are placed in a STRTP either under a presumptive transfer waiver or not.

*Discharge Process for Children/Youth who have a Presumptive Transfer Waiver*

The following steps should be taken when a child/youth whose presumptive transfer was waived, discharges from the out-of-county STRTP due to a program completion or triggering event, as identified by the CFT, PCS, or STRTP:

- Step 1. A CFT is held that includes the child/youth, involved family members, the child/youth’s PCS, MHP-PC staff, STRTP staff, and any other relevant parties.
- Step 2. The PCS identifies a placement in which to step the child/youth down, or the child/youth may be returning home.
- Step 3. The STRTP and MHP-PC work with the PCS to provide any step-down transitional services while ensuring coordination of care.
- Step 4. The PCS notifies the MHP-PC if child/youth returns to county of jurisdiction or moves to another county.

*Discharge Process for Children/Youth who DO NOT have a Presumptive Transfer Waiver*

The following steps should be taken when a child/youth who was presumptively transferred discharges from the out-of-county STRTP due to a program completion or triggering event, as identified by the CFT, PCS, or STRTP:

- Step 1. A CFT is held that includes the child/youth and any involved family members, the child/youth’s PCS, MHP-CR staff, MHP-PC staff, and STRTP staff, and other relevant parties.
- Step 2. The PCS identifies a placement to step the child/youth down, or the child/youth may be returning home.
- Step 3. The STRTP and the MHP-PC works with the PCS to provide any step-down transitional services while ensuring coordination of care.
- Step 4. The MHP-CR works with the MHP-PC to ensure a smooth SMHS transition.

Step 5. The PCS notifies the MHP-PC and the MHP-CR if the child/youth returns to the county of jurisdiction or if the child/ youth moves to another county and presumptive transfer occurs with that other county.