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DIRECTOR

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



GAVIN NEWSOM  
GOVERNOR

DATE: May 8, 2019

MHSUDS INFORMATION NOTICE NO.: 19-024

TO: COUNTY BEHAVIORAL HEALTH DIRECTORS  
COUNTY DRUG & ALCOHOL ADMINISTRATORS  
COUNTY BEHAVIORAL HEALTH DIRECTORS ASSOCIATION OF CALIFORNIA  
CALIFORNIA COUNCIL OF COMMUNITY BEHAVIORAL HEALTH AGENCIES  
COALITION OF ALCOHOL AND DRUG ASSOCIATIONS  
CALIFORNIA ASSOCIATION OF ALCOHOL & DRUG PROGRAM EXECUTIVES, INC.  
CALIFORNIA ALLIANCE OF CHILD AND FAMILY SERVICES  
CALIFORNIA OPIOID MAINTENANCE PROVIDERS  
CALIFORNIA STATE ASSOCIATION OF COUNTIES  
CALIFORNIA CONSORTIUM OF ADDICTION PROGRAMS AND PROFESSIONALS

SUBJECT: FEDERAL OUT OF NETWORK REQUIREMENTS FOR DRUG MEDI-CAL ORGANIZED DELIVERY SYSTEM (DMC-ODS) PILOT COUNTIES

**PURPOSE:**

To advise counties participating in the DMC-ODS pilot of the requirement to ensure that a beneficiary receives covered services from an “out-of-network” provider if the county does not have a network provider available to offer the services.

**BACKGROUND:**

DMC-ODS services are provided through Prepaid Inpatient Health Plans (PIHPs) operated by the counties. As PIHPs, DMC-ODS counties must comply with provisions of the Code of Federal Regulations, Title 42, Part 438 (42 CFR 438). With certain exceptions identified in the intergovernmental agreement (IA), every county must make available to its beneficiaries an adequate network of providers for access to all covered services. In accordance with 42 CFR section 438.206, if a county’s provider network is unable to provide necessary services that are covered under the IA to a beneficiary; the

county must adequately and timely cover the services out-of-network for as long as the county is unable to provide them.

**POLICY:**

DMC-ODS counties shall have an adequate network at all times. All beneficiaries must have access to the DMC-ODS covered services within the established standards for time and distance and timely access.<sup>1</sup>

Network Adequacy Standards					
Provider Type	Timely Access Standard	Time and Distance Standard by County Size			
		Rural	Small	Medium	Dense
Outpatient Services	Within 10 business days to apt. from request	60 miles or 90 minutes from the beneficiary's residence	60 miles or 90 minutes from the beneficiary's residence	30 miles or 60 minutes from the beneficiary's residence	15 miles or 30 minutes from the beneficiary's residence
Opioid Treatment Program Services	Within 3 business days to apt. from request	60 miles or 90 minutes from the beneficiary's residence	45 miles or 75 minutes from the beneficiary's residence	30 miles or 60 minutes from the beneficiary's residence	15 miles or 30 minutes from the beneficiary's residence

When any DMC-ODS county is unable to refer a beneficiary to a network provider for the appropriate level of care as determined by an ASAM assessment, it is the county's responsibility to make a referral to an out-or-network provider in a timely manner.

In the event that a county is non-compliant with the requirements for availability of services,<sup>2</sup> DHCS will notify the county and require it to submit a corrective action plan (CAP) to address the access issue(s). The following requirements are effective at any time DHCS determines a county's network adequacy is deficient (e.g. through annual monitoring, or annual network certification):

1. The county immediately initiates and documents all efforts to enter into contracts with out-of-network providers for any service that does not meet time or distance standards. According to CAP guidelines, the county shall provide DHCS with monthly status updates until contracts are fully executed or the access barrier is

<sup>1</sup> Welfare and Institutions Code, Section 14197

<sup>2</sup> 42 CFR 438.206

otherwise resolved. Each monthly status update shall include a data report showing the number of beneficiaries and units of service for each out-of-network provider that is delivering services. These updates shall be submitted to [ODSSubmissions@dhcs.ca.gov](mailto:ODSSubmissions@dhcs.ca.gov) beginning on the 30<sup>th</sup> day following DHCS approval of this CAP.

2. For the zip codes where time and distance standards are not met, the county shall arrange for beneficiaries to access out-of-network services;
  - The county may choose to not refer beneficiaries to a specific out-of-network provider if the county is unable to reach an agreement regarding payment/rate or the county has documented quality of care issues with the provider. The county shall document all attempts to resolve non-substantive rate disputes. The decision not to refer beneficiaries to specific out-of-network providers does not alleviate the county from this CAP mandate.
3. The county shall not deny access to out-of-network services based on travel time or transportation costs.
  - Counties must use Behavioral Health Subaccount or other local funds to reimburse out-of-network services. Substance Abuse Block Grant (SABG) funding is not allowed for use for out-of-network services for DMC-ODS beneficiaries, unless Medi-Cal reimbursement is unavailable. A provider's lack of DMC certification does not qualify as Medi-Cal reimbursement being unavailable. Please see the [SABG Policy Manual](#) for guidance on the use of SABG funding.

These conditions remain in full effect until all CAP findings have been remediated by the county and approved by DHCS.

### Questions

Please submit any questions regarding this Information Notice to <https://www.dhcs.ca.gov/services/adp/Pages/DMC-Answers.aspx>.

Sincerely,

Original signed by

Brenda Grealish, Acting Deputy Director  
Mental Health & Substance Use Disorder Services