



TOBY DOUGLAS
Director

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



EDMUND G. BROWN JR.
Governor

DATE: JANUARY 13, 2014

ALL PLAN LETTER 14-002

TO: ALL MEDI-CAL MANAGED CARE HEALTH PLANS

SUBJECT: SUMMARY OF 2013 CHAPTERED LEGISLATION IMPACTING OR OF INTEREST TO MEDI-CAL MANAGED CARE HEALTH PLANS

PURPOSE:

The purpose of this All Plan Letter (APL) is to provide summaries of bills that were chaptered during the 2013 legislative session that impact, or are of interest to, Medi-Cal managed care health plans (MCPs). These summaries highlight the main provisions of the new laws and cite relevant code sections. Copies of bills may be accessed through the California State Legislature's website:

<http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>.

Please be advised that the summaries do not reflect all changes in state law that may affect the business practices or daily operations of contracting MCPs. Full implementation of legislative requirements may be subject to the Centers for Medicare and Medicaid Services' approval (i.e. the asset test in Assembly Bill [AB] X 1-1 and the bridge plans in Senate Bill [SB] X 1-3).

REQUIREMENTS:

MCPs are responsible for reviewing and analyzing the impact of chaptered legislation on their operations. MCPs are expected to implement statutory changes as required by the effective date of each chaptered bill and should not delay any required operational changes while the Medi-Cal Managed Care Division (MMCD) processes any relative contract amendments.

In addition, MCPs are responsible for compliance with any applicable regulatory requirements that are enforced by other state or federal entities (see MCP contract, Exhibit E, Attachment 2, Program Terms and Conditions.) MCPs are reminded that due to these legislative actions, contracts may be amended to require any applicable changes, which include, but are not limited to, new or revised reporting requirements, policies and procedures, provider directories, member informing materials, or subcontracts. Per MCP contract requirements, the Department of Health Care Services (DHCS) may also review and approve certain MCP documents and/or amended materials.

When necessary, MMCD will issue APLs, Policy Letters, or Duals Plan Letters to clarify the application of new laws in Medi-Cal managed care. In addition, DHCS may be required to promulgate new regulations as part of the implementation process for new statutory requirements. Future letters and proposed regulations related to new legislation will be distributed to contracting MCPs as they become available.

Chaptered Legislation Summaries

AB 82 (Chapter 23, Statutes of 2013)

Implements provisions of the Budget Act for Fiscal Year (FY) 2013-2014. Section 67 requires DHCS to convene a stakeholder advisory committee by February 1, 2014 to develop recommendations regarding Medi-Cal beneficiaries' use of mental health services. Based on the recommendations, DHCS will provide an updated performance outcomes system plan to the Legislature by October 1, 2014 as well as a proposal describing how to implement the plan by January 10, 2015.

(Amends Section 680 of the Business and Professions Code, amends Sections 6254, 26605.6, 26605.7, and 26605.8 of the Government Code, amends Sections 1180.6, 1250.2, 1254, 1254.1, 1266.1, 1275.1, 1275.5, 1324.9, 1373, 111792, 123870, 123929, 123940, and 123955 of, and adds Section 104151 to, the Health and Safety Code, amends Sections 10125, 10127, 12693.70, 12698, 12737, and 12739.61 of the Insurance Code, and amends Sections 359, 708, 4005.7, 4080, 5150, 5151, 5157, 5202, 5326.9, 5358, 5366.1, 5404, 5405, 5585.21, 5585.50, 5585.55, 5675, 5675.1, 5675.2, 5751.7, 5768, 5840, 5845, 5846, 5909, 6007, 6551, 7100, 14105.22, 14105.3, 14131.10, 14134, 14707.5, and 15911 of, adds Sections 14005.275, 14100.3, 14100.51, 14100.52, 14132.86, and 14132.89 to, adds Part 3.3 (commencing with Section 15800) to Division 9 of, adds and repeals Section 14005.281 of, and repeals Section 14131.07 of, the Welfare and Institutions Code, relating to health, and making an appropriation therefor, to take effect immediately, bill related to the budget.)

AB 85 (Chapter 24, Statutes of 2013)

Implements provisions of the Budget Act for FY 2013-2014 and is the 1991 Realignment/California Work Opportunity and Responsibility to Kids (CaWORKs) trailer bill. The bill enacts formulae to redirect a portion of Health Realignment funding for indigent care to fund social services programs, while accounting for the uncertainty involved and the need to maintain viable county safety-net and public health services. The redirection calculations vary by county type. The bill also requires that newly eligible members (defined in Welfare and Institutions Code, Section 17612.2, Subdivision [s]) be assigned by MCPs to a primary care provider (PCP) if the member does not select a PCP as part of the enrollment process and resides in a public hospital system county. At least 75 percent of newly eligible members will be assigned to a PCP within the county public hospital health system until the county public hospital health system meets its enrollment target throughout a three-year period ending on December 31, 2016. After this date, at least 50 percent of newly eligible beneficiaries will be assigned to PCPs within the county public hospital health system until the county public hospital health system meets its applicable enrollment target.

In addition, MCPs are required to reimburse county public hospital health systems for services provided to newly eligible members in amounts that are no less than the cost of providing those services, including the cost of network and out-of-network services that are charged to or paid for by county public hospital health systems.

(Amends Sections 17600.10, 17600.15, 17600.20, 17601.25, 17603, 17604, and 17606.10, amends, repeals, and adds Section 17600 of, to adds Sections 11450.025, 14301.5, 17600.50, 17600.60, 17601.50, 17601.75, and 17609.02 to, to adds a heading to Article 2.5 (commencing with Section 17601.25) of Chapter 6 of Part 5 of Division 9 of, and to add Article 6.6 (commencing with Section 14199.1) to Chapter 7 of Part 3 of Division 9 of, and Article 11 (commencing with Section 17610), Article 12 (commencing with Section 17612.1), and Article 13 (commencing with Section 17613.1) to Chapter 6 of Part 5 of Division 9 of, the Welfare and Institutions Code, relating to health and human services, and making an appropriation therefor, to take effect immediately, bill related to the budget.)

AB 776 (Chapter 298, Statutes of 2013)

Defines “stakeholder,” for purposes of the Medi-Cal Coordinated Care Initiative (CCI) and Long Term Services and Support Integration (LTSS) Demonstration Project, to include area agencies on aging (AAAs) and independent living centers (ILCs). It adds AAAs and ILCs to the stakeholder group currently required to be established by June 1, 2013 to develop a uniform assessment tool for In-Home Support Services and other Home and Community Based Services. It adds AAAs and ILCs to the list of stakeholders that are to be notified and consulted by DHCS and the Department of Social Services when implementing the LTSS Demonstration Project.

(Amends Sections 14186.1, 14186.36, and 14186.4 of the Welfare and Institutions Code, relating to Medi-Cal.)

AB 906 (Chapter 744, Statutes of 2013)

Prohibits the execution of proposed personal services contracts permissible under specified conditions, without regard to cost savings, until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. It requires the Department of General Services to establish a process to certify that notification.

(Amends Section 19132 of the Government Code, relating to personal services contracts.)

AB X 1-1 (Chapter 3, Statutes of 2013-2014, First Extraordinary Session)

Allows DHCS to implement provisions of the ACA and is a companion bill to SB X 1-1. It implements the “new adult” group which includes individuals who are between 19-64 years of age, not pregnant, not enrolled in or entitled to Medicare Parts A or B, not eligible for Medi-Cal coverage in a mandatory categorically needy coverage group, and who have an income at or below 133 percent of the federal poverty level. Individuals in the new adult group are required to enroll in a MCP. The bill implements the Modified Adjusted Gross Income (MAGI) methodology to determine Medi-Cal eligibility for children, parent/caretaker-relatives, pregnant women, and the new adult group. Non-MAGI, pre-ACA income rules continue to apply for the aged, blind, disabled, and medically needy. It transitions the Low-Income Health Program population to MAGI-

based Medi-Cal coverage on January 1, 2014 and requires them to enroll in a MCP. It requires the training of individuals who may assist members of the public in selecting a MCP.

(Amends Section 12698.30 of the Insurance Code, and amends Sections 14005.36 and 15926 of, amends and repeals Sections 14005.38, 14011.16, 14011.17, and 14012 of, amends, repeals, and adds Sections 14005.30, 14005.37, 14016.5, and 14016.6 of, adds Sections 14005.60, 14005.61, 14005.64, 14013.3, 14015.7, 14015.8, 14055, 14102.5, and 14103 to, and adds and repeals Section 14015.5 of, the Welfare and Institutions Code, relating to health.)

SB 208 (Chapter 656, Statutes of 2013)

Deletes a prohibition on Medi-Cal prepaid health plans entering into any subcontract in which consideration is determined by a percentage of the primary contractor's payment from DHCS, unless DHCS objects. The bill requires that a request for proposal (RFP) that is prepared by a regional center for consumer services and supports to include a section on issues of equity and diversity. It establishes requirements related to cultural and linguistic competency for the RFPs.

(Amends Section 14452 of, and adds Section 4648.11 to, the Welfare and Institutions Code, relating to public social services.)

SB 494 (Chapter 684, Statutes of 2013)

Requires a health plan, until January 1, 2019, to ensure that there is at least one full-time equivalent PCP for every 2,000 enrollees of the plan and authorizes the number of enrollees per PCP to be increased by up to 1,000 additional enrollees for each full-time equivalent non-physician medical practitioner supervised by that PCP. For purposes of Medi-Cal MCPs, the bill defines PCP. It also defines non-physician medical practitioner, nurse practitioner, and certified nurse-midwife, and requires that they perform services under physician supervision in compliance with existing law.

(Adds and repeals Section 1375.9 of the Health and Safety Code, adds Section 10133.4 to the Insurance Code, and amends Sections 14087.48, 14088, and 14254 of the Welfare and Institutions Code, relating to health care providers.)

SB 78 (Chapter 33, Statutes of 2013)

Extends the sunset date for the gross premium tax imposed on the total operating revenue of MCPs from June 30, 2012 until June 30, 2013. The tax will be replaced with a permanent managed care organization tax, starting on July 1, 2013. It imposes a sales tax of 3.9375 percent on the total operating revenue of MCPs from July 1, 2013-July 1, 2016. The bill requires MCPs to obtain seller's permits, as they are considered sellers of Medi-Cal services, from the State Board of Equalization.

(Adds Section 12009 to, adds Article 4 (commencing with Section 12240) to Chapter 3 of Part 7 of Division 2 of, adds and repeals Section 12207 of, adds and repeals Article 5 (commencing with Section 6174) of Chapter 2 of Part 1 of Division 2 of, and repeals, adds and repeals, and adds Sections 12201, 12204, 12251, 12253, 12254, 12257, 12258, 12260, 12301, 12302, 12303, 12304, 12305, 12307, 12412, 12413, 12421, 12422, 12423, 12427, 12428, 12429,

12431, 12433, 12434, 12491, 12493, 12494, 12601, 12602, 12631, 12632, 12636, 12636.5, 12679, 12681, 12801, 12951, 12977, 12983, 12984, and 13108 of, the Revenue and Taxation Code, and adds Section 14301.11 to the Welfare and Institutions Code, relating to health, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.)

SB 94 (Chapter 37, Statutes of 2013)

Permits the mandatory enrollment of those eligible for Medicare and Medi-Cal (Duals) into MCPs. The bill delinks CCI. It authorizes DHCS for 2014 to offer federal Medicare Improvements for Patients and Provider Act of 2008 compliant contracts to Medicare Advantage Special Needs Plan for Duals (D-SNP) in Cal MediConnect counties, and to continue to provide benefits to their enrollees in their service areas as approved on January 2013. Beneficiaries enrolled in a Medicare Advantage or D-SNP plan operating in a CCI county shall be exempt from passive enrollment into Cal MediConnect. The bill requires that risk corridor provisions be included in DHCS contracts with MCPs in the eight CCI counties. Risk corridors provide for the sharing of additional costs or profits resulting from the capitated rates paid by DHCS to MCPs. The risk corridors will be in place for 24 months, commencing with mandatory enrollment of beneficiaries into MCPs for their LTSS. It establishes a provision known as the "Poison Pill" where all components of the CCI would become inoperative, if the CCI does not provide net savings to the state General Fund.

(Amends Section 6253.2 of the Government Code, amends Sections 10101.1, 12300.7, 12306, 12306.1, 12306.15, 14182.16, 14182.17, 14186, 14186.1, 14186.2, 14186.3, 14186.36, and 14186.4 of, amends and adds Sections 14132.275, 14183.6, and 14301.1 of, and adds Sections 14132.277, 14182.18, and 14186.11 to, the Welfare and Institutions Code, repeals Section 10 of Chapter 33 of the Statutes of 2012, and repeals Sections 15, 16, and 17 of Chapter 45 of the Statutes of 2012, relating to Medi-Cal, and making an appropriation therefor, to take effect immediately, bill related to the budget.)

SB X 1-1 (Chapter 4, Statutes of 2013-2014, First Extraordinary Session)-

Implements provisions of the ACA and is a companion bill to AB X 1-1. The bill requires an alternative benefit package for the "new adult" population, where the same benefits as full-scope Medi-Cal are provided, except an asset test is to be required in order for the new adult population to access LTSS. It requires MCPs to provide non-specialty mental health services to all enrollees and transfers mental health services currently available through Medi-Cal fee-for-service, plus group counseling, to MCPs. It requires Medi-Cal to provide enhanced substance use disorder (SUD) services to current and newly eligible adults. SUD services will be carved out of managed care, but MCPs are required to provide Screening and Brief Intervention and Referral to Treatment services. It expands former foster youth coverage to include individuals up to the age of 26, instead of age 18. The bill establishes a hospital presumptive eligibility program. It enhances enrollment by allowing DHCS to determine eligibility and enrollment by using projected annual income information, eligibility information used by other public assistance programs, and income information to enroll uninsured parents who have children currently enrolled in Medi-Cal.

(Amends Sections 11026, 14005.39, and 14132 of, amends and repeals Section 14008.85 of, amends, repeals, and adds Sections 14005.28, 14005.31, 14005.32, 14007.1, and 14007.6 of, adds Sections 14000.7, 14005.63, 14005.65, 14005.66, 14005.67, 14005.68, 14007.15, 14011.66, 14014.5, 14057, 14102, 14103, 14132.02, and 14132.03 to, and adds Article 5.9 (commencing with Section 14189) to Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to health.)

SB X 1-3 (Chapter 5, Statutes of 2013-2014, First Extraordinary Session)

Authorizes and provides requirements and guidelines for health plans/insurers, regarding changes to eligibility and enrollment requirements for those health plans/insurers providing bridge plan products. The bill requires amendments to MCP contracts, in order for contracted MCPs to provide bridge plan products to plan enrollees and other eligible individuals. It allows the Exchange (Covered CA) to negotiate contracts with MCPs to serve as bridges for those patients transitioning between Medi-Cal coverage and Covered CA. It authorizes DHCS to delegate implementation of SB X 1-3 to Covered CA. It requires MCPs, when bidding to provide a bridge product, to offer a consumer premium contribution that is equal to or less than the lowest silver plan in their rating region.

(Amends, repeals, and adds Sections 100501 and 100503 of, and adds and repeals Sections 100504.5 and 100504.6 of, the Government Code, amends, repeals, and adds Section 1366.6 of, and adds and repeals Section 1399.864 of, the Health and Safety Code, amends, repeals, and adds Section 10112.3 of, and adds and repeals Section 10961 of, the Insurance Code, and adds and repeals Section 14005.70 of the Welfare and Institutions Code, relating to health care coverage.)

If you have any questions regarding this APL, please contact Camille Kustin at camille.kustin@dhcs.ca.gov. If you have questions about how a specific chaptered bill affects your Medi-Cal managed care plan contract, please contact your contract manager.

Sincerely,

Original Signed by Margaret Tatar

Margaret Tatar
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