



TOBY DOUGLAS
DIRECTOR

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



EDMUND G. BROWN JR.
GOVERNOR

DATE: January 22, 2015

ALL PLAN LETTER 15-002

TO: ALL MEDI-CAL MANAGED CARE HEALTH PLANS AND MEDICARE-MEDICAID PLANS OPERATING IN COORDINATED CARE INITIATIVE COUNTIES

SUBJECT: MULTIPURPOSE SENIOR SERVICES PROGRAM COMPLAINT, GRIEVANCE, APPEAL, AND STATE HEARING RESPONSIBILITIES IN COORDINATED CARE INITIATIVE COUNTIES

PURPOSE:

The purpose of this All Plan Letter (APL) is to provide guidance and clarification to Medi-Cal managed care health plans (MCPs), Medicare-Medicaid Plans (MMPs), and Multipurpose Senior Services Program (MSSP) providers regarding the complaint, grievance, appeal, and State Hearing requirements during the MSSP Waiver transition.

BACKGROUND:

In January 2012, Governor Brown announced his intent to enhance health outcomes and beneficiary satisfaction for low-income Seniors and Persons with Disabilities by shifting service delivery away from institutional care to home and community-based settings. To implement that goal, Governor Brown enacted the Coordinated Care Initiative (CCI) by signing Senate Bill (SB) 1008 (Chapter 33, Statutes of 2012), SB 1036 (Chapter 45, Statutes of 2012) and SB 94 (Chapter 37, Statutes of 2013).

Currently, MSSP operates under federal 1915(c) Home and Community Based Services (HCBS) Waiver. Pursuant to Welfare & Institutions (W&I) Code Section (§) 14186(b)(7), MSSP will continue to operate as a waiver program in CCI counties for a period of 19 months following either the implementation of the Duals Demonstration, referred to as Cal MediConnect, or the implementation of Managed Long-Term Services and Supports (MLTSS), whichever happens sooner (W&I Code § 14186.3 (b)(2)). At the end of the 19-month period, which varies by county, MSSP will transition from a waiver benefit to a Medi-Cal managed care benefit. As part of this transition, the MSSP payment structure has changed for CCI participating plans from a carved-out fee-for-service (FFS) payment to a managed care capitated payment whereby CCI participating plans that serve MSSP waiver participants will be capitated and responsible for payment to MSSP sites and will be fully at-risk for the cost of MSSP services provided to their members (W&I Code § 14132.275(c)(2)). During the 19-month transition period, MCPs and MMPs participating in CCI are required to reimburse MSSP provider(s) operating in the seven

CCI counties at the capitated rate of \$357.08 for each beneficiary who is also an MSSP Waiver participant being served by that MSSP provider. The capitated payment model applies to MSSP provider sites operating in the seven CCI counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, and Santa Clara for members enrolled in CCI participating plans. MCPs and MMPs, that operate in CCI counties but are not participating in CCI, will continue to have the MSSP benefit carved-out and MSSP provider(s) will continue to be reimbursed through the current FFS process. In addition, all current MSSP Waiver policies and program standards will remain in effect during the transition period.

POLICY:

As stated above, MSSP will continue to be a benefit under the MSSP Waiver for 19 months while it is being integrated into managed care. During this 19-month transition period, the following complaint, grievance, appeal, and State Hearing processes shall apply.

MSSP providers retain responsibility for the complaints, grievances, and appeals of Waiver Participants who are also Plan Members (WPPMs) who utilize MSSP services under the MSSP Waiver (Waiver Services). Waiver applicants are considered WPPMs; therefore, this policy is applicable to Waiver applicants as well. Each WPPM receives notification of "Your Rights under California Welfare Programs" from the MSSP provider upon application to MSSP. The WPPM's rights include the right to express complaints and/or dissatisfaction with any adverse decision made by the MSSP provider regarding enrollment, or when a Waiver Service is reduced, suspended, terminated, or denied.

WPPMs have a right to file a complaint or grievance for any Waiver Service. If a complaint or grievance is regarding a Waiver Service, the WPPM shall follow the local MSSP provider's grievance procedure and/or file a State Hearing request.

A. Local MSSP Provider Grievance and Complaint Process:

The MSSP provider's grievance process provides a structure for receiving, acknowledging, responding to, and tracking WPPM complaints. The local MSSP provider informs the WPPM of the steps to access the local MSSP provider's grievance procedure. The WPPM may submit complaints or concerns to the MSSP provider either orally or in writing. During the investigation of the complaint, all Waiver Services remain in effect.

The local MSSP provider's grievance procedure must include the name, address, and phone number of the person(s) responsible for reviewing, investigating, and resolving the WPPM's grievance. In addition, the MSSP provider must report to the respective MCP of the complaint, grievance, or appeal filed by the beneficiary.

B. State Hearing - MSSP Provider Responsibilities:

Pursuant to the MSSP Provider and Plan Agreement under Article II, Paragraph F, MSSP Provider and MCP/MMP shall comply with any disclosure of confidential information and privacy of WPPMs. The template of the Agreement is available at: <http://www.calduals.org/wp-content/uploads/2014/02/MSSP-Contract-Template-revised-6-6-2013-2.pdf>.

WPPMs have the right to initiate a request for a State Hearing at any time. The following process outlines the steps used by MSSP providers when a WPPM requests a State Hearing:

1. Title 22, California Code of Regulations, § 51014.1 requires that the MSSP provider issue a Notice of Action (NOA) to a WPPM for any adverse decision regarding MSSP enrollment, or when a Waiver Service is reduced, suspended, terminated, or denied by the MSSP provider. The NOA also informs the WPPM, in writing, of his or her right to request a State Hearing. The Request for State Hearing form is mailed to the WPPM at the same time that the WPPM receives the NOA. If the WPPM disagrees with the action taken, he or she must complete the State Hearing form and submit it to the Office of the Chief Referee at the California Department of Social Services (CDSS).
2. After CDSS reviews the form, it notifies the California Department of Aging (CDA) that an appeal has been filed and provides CDA with the date, place, and time of the hearing. Upon notification from CDSS of the hearing date and time, CDA notifies the MSSP provider of the pending hearing.
3. The local MSSP provider participates in a State Hearing by:
 - a. Developing a written position statement that explains the reason for the adverse decision or termination; and
 - b. Being present (in person or by telephone) at the hearing to respond to questions or present additional information.
4. The Administrative Law Judge renders the final disposition and CDSS notifies the WPPM and MSSP provider of the decision after the hearing.

A WPPM who has filed a timely appeal of his/her termination from the MSSP is entitled to continue receiving Waiver Services (including care management) until the hearing is held and a final decision is rendered. These services continue to be provided under the payment code "aid paid pending."

C. MCP and MMP Responsibilities:

During the 19-month period, MCPs and MMPs shall keep records of both referrals and resolutions of all MSSP beneficiary complaints, grievances, and appeals that are received internally and from MSSP sites.

When an MCP or MMP receives a complaint from a beneficiary or from an MSSP provider, the MCP or MMP shall keep a record of all complaints, grievances, and appeals using an internal tracking system. MCPs and MMPs shall develop the tracking system. MCPs and MMPs are not required to submit a report of MSSP complaints, grievances, and appeals to the State.

On the first day of the 20th month following the transition, MCPs and MMPs will be responsible for all MSSP-related complaints, grievances, and appeals pursuant to W&I Code § 14186.3(b)(4)(A). If an MSSP provider receives an MSSP complaint, grievance, or appeal from an MCP/MMP beneficiary, the MSSP provider shall refer or direct the beneficiary to the appropriate MCP/MMP for assistance.

The MSSP complaint, grievance, and appeal process must be in compliance with the three-way contract between the federal Centers for Medicare and Medicaid Services, DHCS, and the MMP in the following sections: Section 2.13 for In-Home Supportive Services (IHSS)-related complaints, grievances, and appeals; Section 2.14 for enrollee grievances; and Section 2.15 for enrollee appeals. The three-way contract is available at: <http://www.calduals.org/implementation/cci-documents/cci-fact-sheets/contracts-mous/>. As indicated in the three-way contract, the MMP shall utilize and refer to the existing IHSS complaints, grievances, and appeals guidelines (See Section 2.13) when processing MSSP complaints, grievances, and appeals. Although Section 2.13 in the three-way contract refers to IHSS-related complaints, grievances, and appeals, the structure under this section will be utilized for MSSP beneficiaries.

If the MSSP complaint, grievance, appeal, or State Hearing request occurs with an MCP, the process must be in compliance with the MCP contract, Exhibit A, Attachment 14, "Member Grievance System."

D. State Responsibilities:

The State's responsibility under the MSSP complaint, grievance, and appeal process is to administer CDSS' State Hearing process.

This process is conducted in response to a WPPM's request for a State Hearing via the Request for State Hearing form.

E. Transition Period:

During the 19-month period, the MCPs/MMPs, and MSSP sites shall collaborate and exchange information (See Exhibit 1) related to WPPM complaints, grievances, and appeals for the purpose of ensuring that any and all existing and pending complaints, grievances, and appeals were accurately transferred to the MCP/MMP after the 19-month transition period.

The MCP/MMP and MSSP sites are required to develop and implement a process prior to the 20th month to ensure a seamless transition of benefits for WPPMs following the 19-month transition period.

If an MSSP provider receives a complaint, grievance, or appeal on the 20th month, the MSSP provider shall refer the beneficiary to the appropriate MCP/MMP for assistance.

Attachments:

Exhibit 1 is a flowchart titled “Responsibilities for MSSP Waiver Participants.” The flowchart illustrates the responsibilities of the MCP, MMP, MSSP provider, and the State regarding the grievance and appeals process. To assist the MCPs and MMPs, the flowchart illustrates examples of the different types of complaints, grievances, and appeals that a WPPM may file and what necessary steps should be taken by the WPPM, MCP, MMP, or the MSSP site to alleviate the issue.

Exhibit 2, titled “Detailed Fair Hearing Process for MSSP Sites,” details the complaint, appeals, and grievance process conducted at the MSSP provider level.

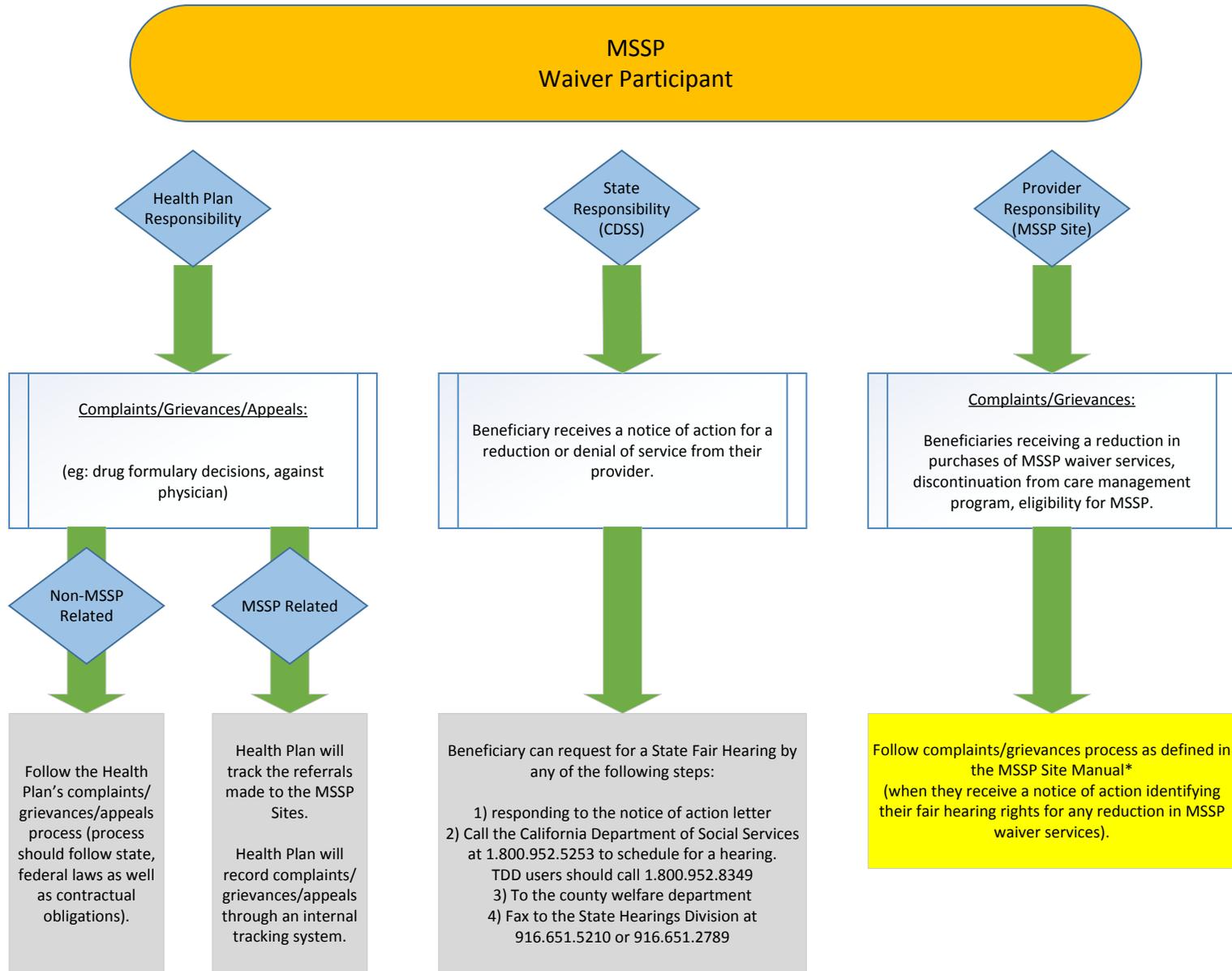
If you have any questions regarding the requirements in this APL, please contact Michael Luu, Chief of the Coordinated Care Initiative Unit, Long-Term Care Division, at Michael.luu@dhcs.ca.gov.

Sincerely,

Original Signed by Sarah C. Brooks

Sarah C. Brooks, Chief
Managed Care Quality and Monitoring Division
Department of Health Care Services

Attachments



*Detailed process for MSSP Sites can be found on the next page.
Flow chart entitled: Exhibit 2 – Detailed State Fair Hearing Process for MSSP Sites

**California Department of Aging (CDA)
Complaint / Grievance Procedures for Waiver Services
Multipurpose Senior Services Program (MSSP)**

