



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



EDMUND G. BROWN JR.
GOVERNOR

DATE: April 1, 2015

ALL PLAN LETTER 15-007

TO: ALL MEDI-CAL MANAGED CARE HEALTH PLANS

SUBJECT: DISPUTE RESOLUTION PROCESS FOR MENTAL HEALTH SERVICES

PURPOSE:

The purpose of this All Plan Letter (APL) is to provide guidance to Medi-Cal managed care health plans (MCPs) on how to submit 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 DHCS's Managed Care Quality and Monitoring Division (MCQMD) and Mental Health Services Division (MHSD).

MCQMD is issuing this APL to describe the existing regulatory requirements that govern the dispute resolution process and to provide instructions on submitting a dispute between an MCP and a mental health plan (MHP). MHSD will provide parallel guidance through a Mental Health and Substance Use Disorders Information Notice to MHPs. MCPs are hereby advised that if an MHP submits a dispute resolution request to DHCS, DHCS will request information, including a position statement, from the affiliated MCP.

BACKGROUND:

Title 9, California Code of Regulations (CCR), Section (§) 1850.505 *et seq.* governs the dispute resolution process between MCPs and MHPs and has been in effect since the onset of the Medi-Cal Specialty Mental Health Services (SMHS) program.

Effective July 1, 2012, the state administrative functions for the operation of Medi-Cal SMHS and applicable functions related to federal Medicaid requirements transferred from the former California Department of Mental Health (DMH) to DHCS. The current requirements found in Title 9, CCR, §1850.505 *et seq.* were promulgated prior to the state administrative functions transfer from the former DMH to DHCS. Notwithstanding the transfer of these functions, DHCS will administer and continue to follow the dispute resolution process set forth in Title 9, CCR, §1850.505 *et seq.*

POLICY:

Pursuant to Title 9, CCR, §1810.370, the MCP is required to enter into a memorandum of understanding (MOU) with the MHP in each of the counties where the MCP operates. Whether or not the MCP and MHP have an executed MOU, the parties are required to document attempts to resolve the disputed issue(s) (Title 9, CCR, §1850.505 (d)(2)).

If an MCP is unable to resolve a dispute with an MHP, the MCP may submit a written "Request for Resolution" (see content requirements below) signed by the MCP's Chief Executive Officer (CEO) or his or her designee, to DHCS. If the MCP has an MOU with the MHP, the Request for Resolution must be submitted within 15 calendar days of the completion of the dispute resolution process described in the MOU. If there is no MOU, a Request for Resolution must be submitted within 30 calendar days following the disputed event.

A Request for Resolution should be submitted via secure email to Sarah Brooks, Chief, MCQMD, at sarah.brooks@dhcs.ca.gov.

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;
2. History of attempts to resolve the issue with the MHP;¹
3. Justification for the MCP's desired remedy; and
4. If applicable, any additional documentation that the MCP deems relevant to resolve the disputed issue(s).

DHCS DISPUTE RESOLUTION PROCESS:

Within seven calendar days after DHCS's receipt of a Request for Resolution from an MCP, a copy of the Request for Resolution will be forwarded to the director of the affiliated MHP via secure email ("Notification"). The MHP will have 21 calendar days to submit a response to the Request for Resolution and any relevant documents to support the MHP position ("MHP Documentation") (Title 9, CCR, §1850.505 (e) and (f)). If the MHP fails to respond, DHCS will render a decision on the disputed issue(s) based on the documentation submitted by the MCP.

At its discretion, DHCS may allow both MCP and MHP representatives the opportunity to present oral arguments.

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

DHCS will review disputes involving the following:

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

MCQMD and MHSD 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 MCP and the MHP, and any oral arguments presented.

Within 30 calendar days from: 1) DHCS's receipt of the MHP documentation; or 2) 21 calendar days after the Notification date, whichever is earlier, the final decision will be communicated via secure email to the MCP CEO and MHP Director. DHCS's decision will state the reasons for the decision, the determination of rates of payment (if the rates of payment were disputed), and any actions the MCP and MHP are required to take to implement the decision (Title 9, CCR, §1850.520(b)).

If DHCS's 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 MCP or MHP is required to follow the financial liability criteria set forth in Title 9, CCR, §1850.530, which specify 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 Title 9, CCR, §1850.530 (Title 9, CCR, §1850.520(c)).

PROVISION OF SERVICES DURING DISPUTE RESOLUTION PROCESS:

The provision of medically necessary specialty, and other mental health services, physical health care services, or related prescription drugs and laboratory, radiological, or radioisotope services to beneficiaries shall not be delayed during the pendency of a dispute between an MHP and an MCP (Title 9, CCR, §1850.525). Therefore, to ensure medically necessary services are not delayed, the respective medical directors of the MCP and MHP are expected to immediately discuss which party will provide the medically necessary mental health services to the beneficiary during a pending dispute (Title 9, CCR, §1850.525(a)).

If the parties cannot agree to an arrangement satisfactory to both parties, and the dispute concerns an MCP's contention that the MHP is required to deliver SMHS to a beneficiary, the MCP shall manage the care of the beneficiary under the terms of its contract with DHCS until the dispute is resolved. The MHP must identify and provide the MCP with the name and telephone number of a psychiatrist or other qualified licensed mental health professional available to provide clinical consultation, including

consultation on medications to the MCP provider responsible for the beneficiary's care (Title 9, CCR, §1850.525(b)).

If the parties cannot agree to an arrangement satisfactory to both parties, and the dispute concerns an MHPs' contention that the MCP is required to deliver the treatment of a mental illness, or to deliver prescription drugs or laboratory, radiological, or radioisotope services required to diagnose or treat the mental illness, the MHP shall be responsible for providing or arranging and paying for those services to the beneficiary until the dispute is resolved (Title 9, CCR, §1850.525(c)).

In the event that Title 9, CCR, §1850.525(b) or (c) does not apply, and the parties cannot agree to a satisfactory arrangement regarding how the services will be provided, the party that was providing the medically necessary mental health services prior to the rise of the dispute should continue to provide such services during the dispute resolution process. If neither party has commenced the provision of medically necessary mental health services, then the party from whom the beneficiary first requested the medically necessary mental health services should provide the services during the dispute resolution process.

If you have any questions regarding this APL, contact Sarah Brooks, Chief, MCQMD at sarah.brooks@dhcs.ca.gov.

Sincerely,

Original Signed by Sarah C. Brooks

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