



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



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**DATE:** May 15, 2020

ALL PLAN LETTER 20-012

**TO:** ALL MEDI-CAL MANAGED CARE HEALTH PLANS

**SUBJECT:** Private Duty Nursing Case Management Responsibilities For Medi-Cal Eligible Members Under The Age Of 21

**PURPOSE:**

The purpose of this All Plan Letter (APL) is to clarify Medi-Cal managed care health plan (MCP) obligations related to the provision of case management services for Private Duty Nursing (PDN) services that have been approved for members under the age of 21 pursuant to the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit.

**BACKGROUND:**

EPSDT is a Medi-Cal benefit that provides a comprehensive array of preventive, diagnostic, and treatment services, including but not limited to case management, for individuals under the age of 21, as set forth in the Social Security Act (SSA), section 1905(r) and Title 42 of the United States Code (USC), section 1396d(r).<sup>1, 2</sup> In California, the EPSDT benefit is established in Welfare and Institutions Code (WIC).<sup>3, 4</sup>

MCPs are generally required to provide and cover all medically necessary Medi-Cal covered services, other than those services carved out of the MCP contract with the Department of Health Care Services (DHCS). Even for carved-out services, MCPs are responsible for providing case management to ensure the provision of medically necessary services, whether those services are delivered within or outside of the MCP's provider network. State law provides that for individuals under 21 years of age, a service is medically necessary or a medical necessity if it meets the standards set forth in 42

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<sup>1</sup> SSA, section 1905 is available at: [https://www.ssa.gov/OP\\_Home/ssact/title19/1905.htm](https://www.ssa.gov/OP_Home/ssact/title19/1905.htm)

<sup>2</sup> 42 USC, section 1396d is available at:

[http://uscode.house.gov/view.xhtml?req=\(title:42%20section:1396d%20edition:prelim](http://uscode.house.gov/view.xhtml?req=(title:42%20section:1396d%20edition:prelim)

<sup>3</sup> See WIC section 14132(v), available at:

[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=14132.&lawCode=WIC](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=14132.&lawCode=WIC)

<sup>4</sup> For more information regarding EPSDT, see APL 19-010, "Requirements for Coverage of Early and Periodic Screening, Diagnostic, and Treatment Services for Medi-Cal Members Under the Age of 21," or any superseding APL. APLs are available at:

<https://www.dhcs.ca.gov/formsandpubs/Pages/AllPlanLetters.aspx>.

USC, section 1396d(r)(5).<sup>5</sup> Comprehensive case management for medically necessary services, including both basic and complex case management, is described in MCP contracts.<sup>6</sup> Further, the MCP contracts set forth requirements for Services for Children with Special Health Care Needs, which include case management and coordination of care.<sup>7</sup>

For some MCP members under age 21, PDN services may be medically necessary. PDN services are nursing services provided in a member's home by a registered nurse (RN) or licensed vocational nurse (LVN) for a member who requires more individual and continuous care than what would be available from a visiting nurse.<sup>8</sup> RNs and LVNs providing PDN services to MCP members must either be Medi-Cal enrolled as individual providers who offer PDN services independently, or they may offer services through a Medi-Cal enrolled home health agency (HHA).<sup>9</sup> An HHA is a state-licensed public or private organization that provides in-home skilled nursing services.<sup>10</sup>

In some cases, MCPs authorize PDN services. In other cases, an MCP member may be approved to receive PDN services through a program outside of Medi-Cal managed care, such as California Children's Services (CCS) or Medi-Cal fee-for-service. For plans

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<sup>5</sup> See WIC section 14059.5(b), stating, "(1) For individuals under 21 years of age, a service is "medically necessary" or a "medical necessity" if the service meets the standards set forth in Section 1396d(r)(5) of Title 42 of the United States Code. (2) The department and its contractors shall update any model evidence of coverage documents, beneficiary handbooks, and related material to ensure the medical necessity standard for coverage for individuals under 21 years of age is accurately reflected in all materials." See also 42 USC, section 1396d(r)(5) "Such other necessary health care, diagnostic services, treatment, and other measures described in subsection (a) of this section to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State plan."

[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=14059.5.&lawCode=WIC](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=14059.5.&lawCode=WIC)

<sup>6</sup> MCP Contracts, Exhibit A, Attachment 11. MCP boilerplate contracts are available at:

<https://www.dhcs.ca.gov/provgovpart/Pages/MMCDBoilerplateContracts.aspx>

<sup>7</sup> MCP Contracts, Exhibit A, Attachment 11.

<sup>8</sup> See Title 42 of the Code of Federal Regulations, section 440.80, available at:

[https://www.ecfr.gov/cgi-bin/text-idx?SID=2888566bb0df8b362250dc4c2a3311ab&mc=true&node=pt42.4.440&rgn=div5#se42.4.440\\_180](https://www.ecfr.gov/cgi-bin/text-idx?SID=2888566bb0df8b362250dc4c2a3311ab&mc=true&node=pt42.4.440&rgn=div5#se42.4.440_180)

<sup>9</sup> For more information about provider enrollment, see APL 19-004, "Provider Credentialing / Recredentialing and Screening / Enrollment," or any superseding APL.

<sup>10</sup> See Health and Safety Code section 1727, available at:

[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=1727.&lawCode=HSC](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1727.&lawCode=HSC)

participating in the CCS Whole Child Model program, there is no carve-out of PDN services for CCS eligible conditions, and the MCP authorizes PDN services for both CCS covered conditions and under EPSDT.

**POLICY:**

MCPs are contractually obligated to provide case management services to members. Specifically, for Medi-Cal eligible members under the age of 21 who have had PDN services approved, MCPs are required to provide case management, as set forth in the MCP contract, and to arrange for all approved PDN services, whether or not the MCP is financially responsible for the PDN services.<sup>11</sup>

If the MCP is the entity that approved the PDN services for an eligible member under the age of 21, the MCP is primarily responsible for providing case management to arrange for all approved PDN service hours. If another entity, such as CCS, has authorized PDN services and is primarily responsible for providing case management for those PDN services, MCPs must still provide case management as necessary, including, at the member's request, arranging for all approved PDN services. MCPs must use one or more Medi-Cal enrolled HHAs or individual nurse providers, or any combination thereof, to meet the member's approved PDN service needs.

PDN Case Management Responsibilities

When an eligible member under the age of 21 is approved for PDN services and requests that the MCP provide case management services for those PDN services, the MCP obligations include, but are not limited to:

- Providing the member with information about the number of PDN hours the member is approved to receive;
- Contacting enrolled HHAs and enrolled individual nurse providers to seek approved PDN services on behalf of the member;
- Identifying potentially eligible HHAs and individual nurse providers and assisting them with navigating the process of enrolling to become a Medi-Cal provider; and
- Working with enrolled HHAs and enrolled individual nurse providers to jointly provide PDN services to the member.

Members may choose not to use all approved PDN service hours, and MCPs are permitted to respect the member's choice. MCPs must document instances when a member chooses not to use approved PDN services. When arranging for the member to

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<sup>11</sup> Acceptance of available PDN services is at the member's discretion. Members are not required to use all approved PDN service hours.

receive authorized PDN services, MCPs must document all efforts to locate and collaborate with providers of PDN services and with other entities, such as CCS.

### Policies and Procedures

MCPs are required to issue new or revised policies and procedures that comply with the requirements of this APL. Within 90 days of the release of this APL, MCPs must submit copies of the new or updated policies and procedures to their Managed Care Operations Division (MCPD) Contract Manager for review and approval.

### Notice to Members

The MCP is required to issue a notice to every member under the age of 21 for whom it has currently authorized PDN services on or before July 31, 2020. The notice must:

- Explain that the MCP has primary responsibility for case management of PDN services.
- Describe the case management services available to the member in connection with PDN services, as set forth above.
- Explain how to access those services.
- Include a statement that the member may:
  - Utilize the MCP's existing grievance and appeal procedures to address difficulties in receiving PDN services or their dissatisfaction with their case management services;
  - File a Medi-Cal fair hearing as provided by law; or
  - Email DHCS directly at [EPSDT@dhcs.ca.gov](mailto:EPSDT@dhcs.ca.gov).
- Include a statement that if the member has questions about their legal rights regarding PDN services, they may contact Disability Rights California at (888) 852-9241.

### Monitoring & Oversight

DHCS will audit MCP compliance with the PDN services case management policy outlined in this APL and the case management requirements set forth in the MCP's contract with DHCS. If the MCP fails to comply with the requirements of this APL or the case management requirements in the MCP's contract, DHCS may require a corrective action plan and/or assess monetary penalties as provided for in the MCP contract and any applicable state or federal statutes and regulations.<sup>12</sup>

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<sup>12</sup> For more information on corrective action, see APL 18-003, "Administrative and Financial Sanctions," or any superseding APL.

MCPs are responsible for ensuring that their subcontractors and network providers comply with all applicable state and federal laws and regulations, contract requirements, and other DHCS guidance, including APLs and Policy Letters. These requirements must be communicated by each MCP to all subcontractors and network providers.

If you have any questions regarding this APL, please contact your MCOD Contract Manager.

Sincerely,

Original Signed by Nathan Nau

Nathan Nau, Chief  
Managed Care Quality and Monitoring Division