

DATE: May 3, 2023

ALL PLAN LETTER 23-009

TO: ALL MEDI-CAL MANAGED CARE HEALTH PLANS

SUBJECT: AUTHORIZATIONS FOR POST-STABILIZATION CARE SERVICES

PURPOSE:

The purpose of this All Plan Letter (APL) is to clarify Medi-Cal managed care health plans (MCPs) contractual obligations for authorizing post-stabilization care services.

BACKGROUND:

Per Health and Safety Code section 1371.4 and Welfare and Institutions Code section 14454, MCPs are responsible for coverage and payment of Emergency Services and post-stabilization care services regardless of whether or not the Provider that furnishes the services is a Network Provider, Subcontractor, Downstream Subcontractor, or Out-of-Network Provider. This is further reiterated in the MCP Contract and section 1300.71.4 of Title 28 of the California Code of Regulations (CCR), which sets forth the rules for Emergency Medical Condition and post-stabilization responsibilities for Medically Necessary Covered Services after stabilization of an Emergency Medical Condition and until a Member can be discharged or transferred.

POLICY:

In accordance with Title 28 CCR section 1300.71.4, when a Member is stabilized, but the health care Provider believes that they require additional Medically Necessary Covered Services and may not be discharged safely, the MCP, “shall approve or disapprove a health care provider’s request for authorization to provide necessary post-stabilization medical care within one half hour of the request.” To clarify, the “health care provider” as referenced herein refers to both Out-of-Network Providers (i.e., non-contracting Providers) and Network Providers.¹ If the MCP fails to approve or disapprove a health care Provider’s request for authorization to provide Medically Necessary post-stabilization care services within one half hour of the request, the Medically Necessary post-stabilization care services are deemed as authorized.^{2,3}

¹ California Codes are searchable by Code at:

<https://leginfo.legislature.ca.gov/faces/codes.xhtml>.

² Boilerplate Contracts are available at:

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

³ The CCR is searchable at:

https://govt.westlaw.com/calregs/index?_lrTS=20210423013246097&transitionType=Default&contextData=%28sc.Default%29.

Title 28 CCR section 1300.71.4, and specifically the “one half hour” requirement, must apply to all Network Provider Agreements, as well as all applicable Subcontractor and Downstream Subcontractor Agreements.

The MCP is also financially responsible for post-stabilization care services obtained from Out-of-Network Providers and Network Providers that are not pre-authorized by the MCP, but administered to maintain, improve, or resolve the Member's stabilized condition if:

- 1) The MCP does not respond to a request for pre-approval within the time allotted, which is one half hour per Title 28 CCR section 1300.71.4;
- 2) The MCP cannot be contacted; or
- 3) The MCP and the treating Provider cannot reach an agreement concerning the Member's care and an MCP physician is not available for consultation. In this situation, the MCP must give the treating Provider the opportunity to consult with an MCP physician and the treating Provider may continue with care of the Member until an MCP physician is reached or one of the following criteria is met:
 - a. An MCP physician with privileges at the treating Provider's hospital assumes responsibility for the Member's care;
 - b. An MCP physician assumes responsibility for the Member's care through transfer;
 - c. The MCP and the treating Provider reach an agreement concerning the Member's care; or
 - d. The Member is discharged.

All requests for authorization, and all responses to such requests for authorization, of Medically Necessary post-stabilization care services must be fully documented. Documentation must include, but not be limited to, the date and time of the request, the name of the health care Provider making the request, and the name of the MCP representative responding to the request.

If the requirements contained in this APL, including any updates or revisions to this APL, necessitate a change in an MCP's contractually required policies and procedures (P&Ps), the MCP must submit its updated P&Ps to its Managed Care Operations Division (MCOD) Contract Manager within 90 days of the release of this APL. If an MCP determines that no changes to its P&Ps are necessary, the MCP must submit an email confirmation to its MCOD Contract Manager within 90 days of the release of this APL, stating that the MCP's P&Ps have been reviewed and no changes are necessary. The email confirmation must include the title of this APL as well as the applicable APL release date in the subject line.

MCPs are further 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.⁴ These requirements must be communicated by each MCP to all Subcontractors and Network Providers. DHCS may impose Corrective Action Plans (CAP), as well as administrative and/or monetary sanctions for non-compliance. For additional information regarding administrative and monetary sanctions, see APL 22-015, and any subsequent iterations on this topic. Any failure to meet the requirements of this APL may result in a CAP and subsequent sanctions.

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

Sincerely,

Original signed by Dana Durham

Dana Durham, Chief
Managed Care Quality and Monitoring Division

⁴ For more information on Subcontractors and Network Providers, including the definition and applicable requirements, see APL 19-001, and any subsequent APLs on this topic.