

# COUNTY-PROVIDER CONTRACT TEMPLATE

## Introduction

The Department of Health Care Services (DHCS) is pleased to announce a new technical assistance resource to support counties as they update their contracts with providers receiving BHSA funds consistent with certain requirements defined in the BHSA Policy Manual. Specifically, DHCS is offering example provider contract language to assist counties in meeting their obligation to ensure BHSA-funded providers:

- » Appropriately bill the county's Medi-Cal Behavioral Health Delivery System and make a good faith effort to bill Medi-Cal Managed Care Plans and commercial insurance, where applicable (per BHSA Policy Manual Section 6.C); and
- » Are qualified to deliver services and meet requirements for nondiscrimination and cultural competency, modeled on the corresponding requirements for Medi-Cal providers (per BHSA Policy Manual Section 9.E).

Counties are not required to use this specific language in their county-provider contracts. DHCS offers this example language as one option for counties. We note, moreover, that including this language in county-provider contracts does not absolve counties of the responsibility to monitor for compliance, as described in BHSA Policy Manual Section 9.E.3.

## County-Provider Contract Template Language

### ATTACHMENT [X]

#### Behavioral Health Services Act

##### 1.0 Behavioral Health Services Act

##### 1.1 BHSA: Overview and General Requirements

- A. This Contract is made and entered into by and between [County Name] (hereafter referred to as County) and [Provider Name] (hereafter referred to as Provider).
- B. Provider must comply with the requirements of the Behavioral Health Services Act (BHSA) consistent with this Contract, applicable law and

regulations, the BHSA County Policy Manual (hereafter referred to as the BHSA Policy Manual), and other applicable DHCS guidance.

- C. The defined terms enumerated in the BHSA Policy Manual apply to this Contract, except as otherwise provided.
- D. To the extent there is a conflict between the terms of this Contract and any federal or state statute or regulation or DHCS guidance issued pursuant to the Welfare & Institutions Code (W&I) section 5963.05 (or other applicable bulletin authority), Provider must comply with the statute, regulation, or guidance, and the conflicting Contract provision will no longer be in effect.

## **1.2 Promoting Access to Care through Efficient Use of State and County Resources**

- A. Effective July 1, 2027, Provider must comply with the requirements set forth in this section, which implements County's obligations described in BHSA Policy Manual Section 6.C. These requirements apply with respect to Provider's delivery of any BHSA-funded service under this Contract that is also covered by, as applicable (W&I, § 5891(a)(2)-(3)):
  - 1) County's Medi-Cal Behavioral Health Delivery System (BHDS) (i.e., Specialty Mental Health Services (SMHS), Drug Medi-Cal (DMC) and/or DMC Organized Delivery System (DMC- ODS));
  - 2) A Medi-Cal Managed Care Plan (MCP); or
  - 3) Commercial health insurance.
- B. Services Covered by the Medi-Cal BHDS
  - 1) If Provider receives BHSA funding for services for Behavioral Health Services and Supports or Full Service Partnership services that are also covered by County's Medi-Cal BHDS, Provider must (W&I, § 5891(a)(3); BHSA Policy Manual § 6.C.2):
    - a) Enroll in Medi-Cal, seek SMHS and/or DMC certification, and participate in County's BHDS, as applicable;
    - b) For an individual receiving BHSA-funded services that are also covered by County's BHDS, check whether the individual

is enrolled in Medi-Cal, and if not, refer the individual to the Department of Social Services (DSS) for eligibility screening and enrollment support; and

- c) Submit claims to the BHDS for all covered services for all Medi-Cal members.

C. Services Covered by Medi-Cal MCPs

- 1) If Provider receives BHSA funding for services that are non-specialty mental health services (NSMHS) or substance use disorder (SUD) services covered by Medi-Cal MCPs, Provider must (W&I, § 5891(a)(3)-(4); BHSA Policy Manual § 6.C.2):
  - a) Enroll in Medi-Cal;
  - b) For an individual receiving BHSA-funded services that are also covered by an MCP, check whether the individual is enrolled in Medi-Cal, and if not, refer the individual to DSS for eligibility screening and enrollment support; and
  - c) Make a good faith effort to submit claims to MCPs for all covered services for all Medi-Cal members, in accordance with each MCP's billing requirements, including obtaining prior authorization, when applicable.
- 2) Provider must comply with County policies for the coordination of housing services with MCPs, including making and receiving referrals for housing services to and from the County to MCPs (W&I § 5830(c)(2); BHSA Policy Manual § 7.C.7).

D. Services Covered by Commercial Health Insurance

- 1) If Provider receives BHSA funding for services that are covered by commercial health insurance, Provider must make a good faith effort to meet the following requirements (W&I, § 5891(a)(3)-(4); BHSA Policy Manual § 6.C.3):
  - a) Check whether individuals receiving BHSA-funded services are enrolled in a commercial health plan at the time

individuals request and receive BHSA-funded service; and if so,

- b) Make a good faith effort to submit claims to commercial health plans for all covered services in accordance with each health plan's billing requirements, including obtaining prior authorization, when applicable.
- c) Report complaints about commercial health plan conduct for failure to contract, enter into agreements, or timely reimburse Provider for services to the Department of Managed Health Care, the Department of Insurance, and/or DHCS' Third-Party Liability and Recovery Division, as applicable.

### **1.3 General Standards for BHSA Providers**

Effective July 1, 2027, Provider must comply with the requirements set forth in this section, which implements County's obligations described in BHSA Policy Manual Section 9.E.2. Specifically, with respect to Provider's delivery of BHSA-funded services, Provider shall be qualified to deliver services, comply with nondiscrimination requirements, and deliver services in a culturally competent manner, as described below. These standards generally mirror those applicable to providers participating in Medi-Cal. (W&I, § 5963.02(c)(8)(D)-(G); BHSA Policy Manual § 9.E.2.)

#### **1.3.1 Provider Qualifications**

- A. Providers may only provide BHSA-funded services that require a license, registration, certification, or waiver if they are appropriately licensed, registered, certified, or waived and acting within their scope of practice.
- B. A Provider's qualification to participate in the BHSA program must automatically terminate if the Provider, or its owners, officers or directors are either:
  - 1) Convicted of Medi-Cal fraud, abuse, or malfeasance. For purposes of this section, a conviction shall include a plea of guilty or nolo contendere.
  - 2) Excluded from the Medi-Cal program.

- C. Provider is not required to be certified as a Specialty Mental Health Services (SMHS) provider or Drug Medi-Cal (DMC) provider as a condition of delivering BHSA-funded services under this section. However, Provider may be required to seek SMHS and/or DMC certification in order to comply with the requirements in section [1.2] of this Contract.
- D. Individual and group Providers offering BHSA-Funded services must, consistent with 9 CCR 1810.435(b):
- 1) Possess the necessary license, registration, approval, or certification to operate in accordance with applicable laws and regulations. Each individual practicing as part of a group provider must possess the necessary license or certification.
  - 2) Maintain a safe facility.
  - 3) Store and dispense medications in compliance with State and federal laws and regulations.
  - 4) Maintain client records in a manner that meets State and federal standards.
  - 5) [Reserved]
  - 6) Meet any additional requirements established by the County as part of a credentialing or other evaluation process.
- E. Organizational Providers offering BHSA-Funded services must, consistent with 9 CCR 1810.435(c):
- 1) Possess the necessary license, registration, approval, or certification to operate in accordance with applicable laws and regulations.
  - 2) Provide for appropriate supervision of staff.
  - 3) Possess appropriate liability insurance.
  - 4) Maintain a safe facility.
  - 5) Store and dispense medications in compliance with State and federal laws and regulations.

- 6) Maintain client records in a manner that meets State and federal standards.
  - 7) [Reserved]
  - 8) [Reserved]
  - 9) Meet any additional requirements established by the County as part of a credentialing or other evaluation process.
- F. Provider shall comply with the following State laws governing qualifications for licensure, certification, training, experience, and credentialing with respect to Provider's BHSA-funded services to the same extent these laws would apply to federally funded Medi-Cal services:
- 1) Health and Safety Code, division 10.5, part 2, including:
    - a) Chapter 7.1, commencing with section 11832.
    - b) Chapter 7.3, commencing with section 11833.01.
    - c) Chapter 7.4, commencing with section 11833.05.
    - d) Chapter 7.5, commencing with section 11834.01.
    - e) Chapter 7.6, commencing with section 11834.60.
    - f) Chapter 12, commencing with section 11842.
  - 2) Cal. Code Regs., tit. 9, Division 4, including:
    - a) Chapter 5, commencing with section 10500.
    - b) Chapter 5.5, commencing with section 10700.
    - c) Chapter 8, commencing with section 13000.

### **1.3.2 Nondiscrimination Requirements**

- A. Provider must not engage in any unlawful discriminatory practices in the admission of individuals receiving BHSA-funded services, assignments of accommodations, treatment, evaluation, employment of personnel, or in any other respect on any ground protected under federal or State law,

including sex, race, color, gender, gender identity, religion, marital status, national origin, ethnic group identification, ancestry, age, sexual orientation, medical condition, genetic information, or mental or physical handicap or disability.

- 1) For purposes of this section 1.3.2, any practice that would be considered an “unlawful discriminatory practice” with respect to Medi-Cal services shall also be considered an “unlawful discriminatory practice” with respect to BHSA-funded services.
- 2) Provider shall comply with the following federal nondiscrimination laws with respect to Provider’s BHSA-funded services to the same extent these laws would apply to federally funded Medi-Cal services:
  - a) Title VI of the Civil Rights Act of 1964.
  - b) Rehabilitation Act of 1973.
  - c) Americans with Disabilities Act.
  - d) Section 1557 of the Patient Protection and Affordable Care Act, including the implementing regulations at 45 CFR Part 92.
  - e) Executive Order 13166 (67 Federal Register (FR) 41455) to improve access to federal services for those with limited English proficiency.
  - f) The Drug Abuse Office and Treatment Act of 1972, as amended, relating to nondiscrimination on the basis of drug abuse.
  - g) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism.
- 3) Provider shall comply with the following State nondiscrimination laws with respect to Provider’s BHSA-funded services to the same

extent these laws would apply to federally funded Medi-Cal services:

- a) Health and Safety Code, division 10.5, part 2, chapter 14.
  - b) Title 2, Division 3, Article 9.5 of the Gov. Code, commencing with Section 11135
  - c) Cal. Code Regs., tit. 9, Division 4, chapter 6, commencing with section 10800.
- B. Provider must provide physical access, reasonable accommodations, and accessible equipment for individuals with physical or mental disabilities.
- C. Language and Format
- 1) Provider must comply with all applicable State and federal requirements regarding nondiscrimination, language assistance, information access, including but not limited to, the Dymally-Alatorre Bilingual Services Act, section 1557 of the Patient Protection and Affordable Care Act, the Americans with Disabilities Act, and section 504 of the Rehabilitation Act.
    - a) Provider shall comply with these laws with respect to BHSA-funded services in the same manner as a provider of Medi-Cal services.
  - 2) Language Assistance Services
    - a) Language assistance services must be provided free of charge, be accurate and timely, and protect the privacy and independence of the Limited English Proficiency (LEP) individual. There are two primary types of language assistance services: oral and written. LEP individuals are not required to accept language assistance services, although a qualified interpreter may be used to assist in communicating with an LEP individual who has refused language assistance services.
  - 3) Effective Communication with Individuals with Disabilities

- a) Provider must comply with all applicable requirements of federal and State disability law and take appropriate steps to ensure effective communication with individuals with disabilities. Provider shall comply with these laws with respect to BHSA-funded services in the same manner as a provider of Medi-Cal services.
  - b) Provider must make information provided to individuals receiving BHSA-funded services available in large print (no less than 20-point font) alternative format.
  - c) Provider must not require a BHSA-eligible individual with a disability to provide their own interpreter. Provider is also prohibited from relying on an adult or minor child accompanying an individual with a disability to interpret or facilitate communication except when: 1) there is an emergency involving an imminent threat to the safety or welfare of the individual or the public and a qualified interpreter provided is not available; or, 2) the individual with a disability specifically requests that an accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide that assistance, and reliance on that accompanying adult for that assistance is appropriate under the circumstances. Prior to using a family member, friend, or, in an emergency only, a minor child as an interpreter for an individual with a disability, the Provider must first inform the individual that they have the right to free interpreter services and second, ensure that the use of such an interpreter will not compromise the effectiveness of services or violate the individual's confidentiality. Provider must ensure that the refusal of free interpreter services and the individual's request to use a family member, friend, or a minor child as an interpreter is documented.
  - d) Provider must make reasonable modifications to policies, practices, or procedures when such modifications are necessary to avoid discrimination based on disability.
- 4) Services Provided via Telehealth or Telephone

- a) Services delivered by telehealth must comply with civil rights law, including non-discrimination, accessibility under the Americans with Disabilities Act, access to qualified language interpreters, and accurate, culturally responsive translation.

Provider shall comply with these laws with respect to BHSA-funded services in the same manner as a provider of Medi-Cal services.

### **1.3.3 Cultural Competence**

#### **A. Cultural and Linguistic Policies and Procedures**

- 1) Provider shall ensure that its cultural and linguistic services policies, procedures, and practices are consistent with the principles outlined by County and are embedded in the organizational structure, as well as being upheld in day-to-day operations.
- 2) To ensure equal access to quality care by diverse populations, Provider shall adopt the federal Office of Minority Health Culturally and Linguistically Appropriate Service (CLAS) national standards and comply with the County's efforts to promote the delivery of Covered Services in a culturally competent manner, including to those with LEP and diverse cultural and ethnic backgrounds, disabilities, and regardless of sex which includes sex characteristics, including intersex traits; pregnancy or related conditions; sexual orientation; gender identity and sex stereotypes.