DHCS
CALIFORNIA DEPARTMENT OF
HEALTH CARE SERVICES
Michelle Baass | Director

DATE: February 20, 2024

ALL PLAN LETTER 23-026 *(REVISED)*
SUPERSEDES ALL PLAN LETTER 19-012

TO: ALL MEDI-CAL MANAGED CARE PLANS

SUBJECT: FEDERAL DRUG UTILIZATION REVIEW REQUIREMENTS DESIGNED TO REDUCE OPIOID RELATED FRAUD, MISUSE AND ABUSE

PURPOSE:
The purpose of this All Plan Letter (APL) is to inform Medi-Cal managed care plans (MCPs) of their responsibilities related to the implementation of federal Medicaid Drug Utilization Review (DUR) requirements outlined in section 1004 of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act (H.R. 6, the SUPPORT Act, P.L. 115-271). Revised text is found in *italics*.

BACKGROUND:
Federal law[1] requires each state to develop a DUR program that is targeted, in part, at reducing clinical abuse and misuse of prescription drugs covered under the state's Medicaid program. The SUPPORT Act added measures to combat the opioid crisis in part by reducing opioid abuse and misuse by advancing treatment and recovery initiatives, improving prevention, protecting communities, and bolstering efforts to fight deadly illicit synthetic drugs. There were several Medicaid-related DUR provisions contained within section 1004 of the SUPPORT Act with respect to fee-for-service and Managed Care Organization pharmacy programs. These provisions established drug review and utilization standards to supplement existing requirements under federal law, in an effort to reduce opioid-related fraud, abuse and misuse. Implementation of these strategies was required by October 1, 2019.

The Centers for Medicare and Medicaid Services issued an informational bulletin on August 5, 2019,[2] providing states with detailed guidance on implementation of these specific new requirements. MCPs are encouraged to familiarize themselves with the specific details contained within this bulletin.

[1] See section 1927(g) of the Social Security Act (the Act). section 1927(g) of the Social Security Act (the Act) is available at: https://www.ssa.gov/OP_Home/ssact/title19/1927.htm
[2] The August 5, 2019, Informational Bulletin can be accessed at the following link: https://www.medicaid.gov/federal-policy-guidance/downloads/cib080519-1004.pdf

POLICY:
MCPs must operate a DUR program that complies with the Medicaid-related DUR provisions contained in section 1004 of the SUPPORT Act.

1. Claims Review Requirements

A. Concurrent Utilization Alerts

Describe the automated process for claims review (retrospective) that monitors when an MCP Member is concurrently prescribed opioids and benzodiazepines or opioids and antipsychotics. *MCPs* are provided claims data, including for antipsychotic medications. MCPs are expected to perform, retrospectively, regular care management activities, including a review of concurrent use of opioid and antipsychotic medications, and take action accordingly on issues of concern to the MCP.

B. Permitted Exclusions

The claims review requirements described above do not apply to MCP Members who are receiving hospice or palliative care; receiving treatment for cancer; residents of a long-term care facility, a facility described in section 1905(d) of the Act, or of another facility for which frequently abused drugs are dispensed for residents through a contact with a single pharmacy; MCP Members who are receiving opioid agonist medications for treatment of a substance use disorder; or other individuals the state elects to treat as exempted from such requirements.

2. Program to Monitor Antipsychotic Medications by Children

MCPs are required to have a process to monitor and manage appropriate use of all psychiatric drugs to include antipsychotics, mood stabilizers, and anti-depressant medications for all children under 18 years of age and all foster children. Based on the DUR program monitoring findings, the DUR program must have a process to address and improve concerning findings.

3. Fraud and Abuse Identification

Describe the MCP's process for identifying and addressing fraud and abuse of controlled substances by MCP Members, health care Providers who are prescribing drugs to MCP Members, and pharmacies dispensing drugs to MCP Members. Describe the actions that the MCP will take based on issues identified through program monitoring findings.

MCPs must review their contractually required policies and procedures (P&Ps) to determine if amendments are needed to comply with this APL. If the requirements contained in this APL, including any updates or revisions to this APL, necessitate a change in an MCP's contractually required 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 responsible for ensuring that their Subcontractors and Network Providers comply with all applicable state and federal laws and regulations, Contract requirements, and other Department of Health Care *Services* (DHCS) guidance, including APLs and Policy Letters.[3] 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 23-012, 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 MCOD Contract Manager.

Sincerely,

Original Signed Dana Durham

Dana Durham, Chief
Managed Care Quality and Monitoring Division

[3] 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.