DHCS
CALIFORNIA DEPARTMENT OF
HEALTH CARE SERVICES
Michelle Baass | Director

DATE: December 19, 2018

ALL PLAN LETTER 18-022
SUPERSEDES ALL PLAN LETTER 16-017

TO: ALL MEDI-CAL MANAGED CARE HEALTH PLANS

SUBJECT: ACCESS REQUIREMENTS FOR FREESTANDING BIRTH CENTERS AND THE PROVISION OF MIDWIFE SERVICES

PURPOSE:
The purpose of this All Plan Letter (APL) is to clarify the requirements for Medi-Cal managed care health plans (MCPs) regarding their responsibilities to provide members with access to freestanding birth centers (FBCs) as well as to services provided by Certified Nurse Midwives (CNMs) and Licensed Midwives (LMs). This APL supersedes APL 16-017.[1]

BACKGROUND:
The Department of Health Care Services (DHCS) policy pertaining to FBCs, CNMs, and LMs, as contained in this APL, is supported by federal and state law, official guidance from the federal Centers for Medicare & Medicaid Services (CMS), and the California State Plan.

Freestanding Birth Centers
Federal law mandates coverage of FBC services and requires separate payments to providers administering prenatal labor and delivery or postpartum care in an FBC.[2] CMS guidance clarifies that the FBC benefit category is considered both a service and a setting for services.[3] Federal law defines an FBC[4] as a health facility –

(i) that is not a hospital;
(ii) where childbirth is planned to occur away from the pregnant woman's residence;

[1] A listing of APLs by number is available at: http://www.dhcs.ca.gov/formsandpubs/Pages/AllPlanLetters.aspx.
[2] See Title 42 United States Code [USC] Sections 1396d (a)(28), 1396d (l)(3)(A), and 1396d (l)(3)(C).
Title 42 USC Section 1396d is available at: http://uscode.house.gov/view.xhtml?req=(title:42%20section:1396d%20edition:prelim)%20OR%20(granuleid:USC-prelim-title42-section1396d)&f=treesort&edition=prelim&num=0&jumpTo=true
[3] See CMS State Health Official letter (SHO) #16-006, which is available at: https://www.medicaid.gov/federal-policy-guidance/downloads/smd16006.pdf.
[4] See Title 42 USC Section 1396d (l)(3)(B).

(iii) that is licensed or otherwise approved by the state to provide prenatal labor and delivery or postpartum care and other ambulatory services that are included in the plan; and
(iv) that complies with such other requirements relating to the health and safety of individuals furnished services by the facility as the state shall establish.

California State Plan Amendment (SPA) 11-022 added FBCs – also referred to in the SPA as Alternative Birth Centers (ABCs) – to the State Plan, as federally mandated.[5] SPA 11-022 did not change the scope of services at ABCs or the requirement that ABCs be certified as Comprehensive Perinatal Services Program providers.[6] The DHCS Provider Manual contains additional information about ABC services.[7]

Certified Nurse Midwives and Licensed Midwives

Federal law mandates coverage of services furnished by CNMs, as legally authorized by the state,[8] and California law requires coverage of both CNMs and LMs.[9] The California State Plan authorizes CNMs and LMs as providers of all services permitted within the scope of the practitioner's license.[10]

While CNMs and LMs are both authorized under state law to provide prenatal, intrapartum, and postpartum care, including family planning care for the mother and immediate care for the newborn, there are some differences between the two provider types with regard to licensing and supervision requirements, as well as the circumstances under which care may be provided.[11] For instance, a CNM is licensed as a registered

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[5] SPA 11-022 is available at: http://www.dhcs.ca.gov/formsandpubs/laws/Documents/Recent%20Amendment%20SPA%2011-022.pdf
[6] See Welfare Institutions Code (WIC) Section 14148.8, which is available at: http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=14148.8.&lawCode=WIC.
[7] The DHCS Provider Manual section on ABCs is available at: http://files.medi-cal.ca.gov/pubsdoco/publications/masters-mtp/part2/altern_m00o03.doc.
[8] See 42 USC Section 1396d (a)(17).
[9] See WIC Sections 14132.4 and 14132.39 at: http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=9.&title=&part=3.&chapter=7.&article=4.
[10] The California State Plan, Section 3 – Services, is available at: http://www.dhcs.ca.gov/formsandpubs/laws/Pages/Section3.aspx. See Limitations on Attachment 3.1-A.
[11] See Business and Professions Code (BPC) Sections 2746 – 2746.8 for CNMs and BPC Sections 2505 – 2523 for LMs. In particular, see BPC Sections 2746.5 (CNMs) and 2507 (LMs). BPC is available at:

nurse and certified as a nurse midwife by the California Board of Registered Nursing,[12] while an LM is licensed as a midwife by the Medical Board of California.[13] Under state law, CNMs are permitted to "attend cases of normal childbirth," whereas LMs are permitted to "attend cases of normal pregnancy and childbirth, as defined" and must adhere to a detailed set of restrictions and requirements when a patient's condition deviates from the legal definition of normal.[14] The DHCS Provider Manual details supervision, billing, and enrollment requirements, along with covered services, for each provider type.[15]

POLICY:
MCPs are required to provide their members with access to FBC services. In accordance with federal and state network adequacy requirements, each MCP must include a minimum of one FBC in its provider network, to the extent that FBCs are available in the MCP's contracted service area.[16] If the MCP is unable to provide access to FBC services in-network, the MCP must reimburse out-of-network FBCs for services provided to its members, in accordance with the MCP contract.

MCPs are also required to provide their members with access to both CNMs and LMs as providers of services permitted within each practitioner's scope of practice. In accordance with federal and state network adequacy requirements, each MCP must include a minimum of one CNM and one LM in its provider network, to the extent that CNMs and LMs are available in the MCP's contracted service area.[17] If the MCP is unable to provide access to these provider types in-network, the MCP must reimburse out-of-network CNMs and LMs at no less than the applicable Medi-Cal fee-for-service (FFS) rate, in accordance with the MCP contract, for services provided to its members.

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http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=BPC&division=2.&title=&part=&chapter=&article=.

[12] Additional information about CNMs can be found on the California Board of Registered Nursing website at: https://www.rn.ca.gov/practice/index.shtml

[13] Additional information about LMs can be found on the Medical Board of California's website at: http://www.mbc.ca.gov/Licensees/Midwives/

[14] See BPC Section 2507 at: http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=2507.&lawCode=BPC

[15] See the DHCS Provider Manual section on Non-Physician Medical Practitioners at: http://files.medi-cal.ca.govpublications/masters-mtp/part2/nonph_m00o03o11.doc

[16] See SHO #16-006. Also, for details on requirements pertaining to network adequacy, see APL 18-005, "Network Certification Requirements."

[17] See APL 18-005, "Network Certification Requirements."

MCPs must document efforts to include each of the above provider types in their provider networks. MCPs are not required to contract with an FBC, a CNM, or an LM if any of the following circumstances apply:

1) The provider is unwilling to accept the higher of the MCP's contract rates or the Medi-Cal FFS rates.

2) The provider does not meet the MCP's applicable professional standards or has disqualifying quality of care issues (i.e., the MCP has documented concerns with the provider's quality of care).[18]

At a minimum, MCPs must ensure that staff assisting members through telephone inquiries inform members of their right to obtain services from out-of-network FBCs, CNMs, and LMs when access to these provider types is not available in-network. If DHCS identifies deficiencies in an MCP's network, DHCS may require the MCP to submit documentation of its ability to provide members with information about out-of-network access.[19]

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 the Managed Care Operations Division (MCOD)-MCP Submission Portal[20] 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 attach an attestation to the Portal 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 attestation 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 DHCS guidance, including APLs and Policy Letters. 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. MCPs should review their Network

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[18] For details on professional standards and quality deficiencies, see APL 17-019, "Provider Credentialing/ Recredentialing and Screening/Enrollment."
[19] These requirements are further outlined in the Network Certification Requirements APL.
[20] The MCOD-MCP Submission Portal is located at: https://cadhcs.sharepoint.com/sites/MCOD-MCPSubmissionPortal/SitePages/Home.aspx.

Provider and/or Subcontractor Agreements, including Division of Financial Responsibility provisions as appropriate, to ensure compliance with this APL. 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 by Dana Durham

Dana Durham, Chief
Managed Care Quality and Monitoring Division