



C A L I F O R N I A   D E P A R T M E N T   O F  
**Mental Health**

1600 9th Street, Sacramento, CA 95814  
(916) 654-2309

March 3, 2004

DMH LETTER NO.: 04-05

TO: LOCAL MENTAL HEALTH DIRECTORS  
LOCAL MENTAL HEALTH PROGRAM CHIEFS  
LOCAL MENTAL HEALTH ADMINISTRATORS  
COUNTY ADMINISTRATIVE OFFICERS  
CHAIRPERSONS, LOCAL MENTAL HEALTH BOARDS

SUBJECT: REQUIRED MENTAL HEALTH PLAN (MHP) BENEFICIARY RIGHTS  
POLICIES

The purpose of this policy letter is to provide mental health plans (MHPs) with direction for developing written policies to implement the requirements of Title 42, Code of Federal Regulations (CFR) Part 438, Section 438.100, as published in the June 14, 2002 Federal Register (Vol. 67, No. 115), describing beneficiary rights.

### **BACKGROUND**

As described in DMH Information Notice 03 –13, new Medicaid Managed Care (MMC) regulations were issued by the Centers for Medicare and Medicaid Services (CMS) on June 14, 2002 with a required implementation date of August 13, 2003. These regulations apply to the Medi-Cal mental health managed care program and create new procedural requirements that affect the Department of Mental Health (DMH) and MHPs. Under the new MMC regulations, MHPs are considered Prepaid Inpatient Health Plans (PIHPs) and are required to comply with MMC regulations that apply to PIHPs. The new MMC regulations supersede the regulations governing the Medi-Cal managed mental health care program (Title 9, California Code of Regulations (CCR), Division 1, Chapter 11) when there is a conflict.

The full text of all of the Title 42, CFR Sections cited in this letter can be accessed online, by section, at: [http://www.access.gpo.gov/nara/cfr/waisidx\\_03/42cfr438\\_03.html](http://www.access.gpo.gov/nara/cfr/waisidx_03/42cfr438_03.html).

### **BENEFICIARY RIGHTS**

The Title 42, CFR, Section 438.100 beneficiary rights requiring written MHP policies are as follows; every beneficiary has the right to:

- Be treated with respect and with due consideration for his or her dignity and privacy;
- Receive information on available treatment options and alternatives, presented in a manner appropriate to his or her condition and ability to understand;

- Participate in decisions regarding his or her health care, including the right to refuse treatment;
- Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation;
- Request and receive a copy of his or her medical records, and request that they be amended or corrected;
- Receive information in accordance with Title 42, CFR, Section 438.10, which describes information requirements; and
- Be furnished health care services in accordance with Title 42, CFR, Sections 438.206 through 438.210, which cover requirements for availability of services, assurances of adequate capacity and services, coordination and continuity of care, and coverage and authorization of services.

## **NEW MHP REQUIREMENTS**

MHPs must develop, implement, and maintain written policies that guarantee the beneficiary rights listed above. These policies must be maintained and/or updated as needed. MHPs must communicate these rights to their beneficiaries, employees, and providers and must ensure that beneficiaries' treatment is not adversely affected as a result of them exercising their rights. MHPs are not required to submit new policies to DMH for formal approval, however, new policies will be reviewed in future DMH reviews and External Quality Reviews (EQRs).

## **DMH ASSISTANCE WITH BENEFICIARY RIGHTS IMPLEMENTATION**

Title 42, CFR, Section 438.10, referenced in the list above, describes specific MHP informing material requirements, including but not limited to required information content, format, distribution frequency, and language requirements. This section also requires that MHPs inform beneficiaries of their rights described in Title 42, CFR, Section 438.100 and in this letter; these rights must be included in MHPs' beneficiary brochures. MHP beneficiary brochures will need to be adapted to meet this and other new requirements of Title 42, CFR, Section 438.10. DMH is leading the effort to initially develop and produce these materials by hiring a contractor to create new beneficiary brochures for MHPs. DMH will update MHPs on this process as it progresses.

## **DMH CONTACTS**

MHPs are encouraged to consult with DMH, as needed, to resolve any questions or concerns regarding this letter. Please contact your Medi-Cal contract manager in the County Operations Sections listed below:

**DMH County Operations Medi-Cal Contract Managers**

**Bay Region**

Ruth Walz (Regional Lead) (707) 252-3168  
Contra Costa, San Francisco, San Mateo, Solano

Douglas Mudgett (916) 654-3623  
Marin, Santa Clara, Santa Cruz, Sonoma

Peter Best (916) 657-3487  
Alameda, Monterey, Napa, San Benito

**Northern Region**

Kathleen Carter (916) 651-6613  
Del Norte, Inyo, Lake, Lassen, Mendocino, Nevada, Sierra, Trinity

Stacy Hoang (916) 654-4016  
Glenn, Humboldt, Shasta, Siskiyou, Tehama

Jacqui Naud (916) 654-2996  
Butte, Colusa, Modoc, Plumas

**Central Region**

Vivian Lee (Regional Lead) (916) 651-6281  
Fresno, Madera, Mariposa, Sacramento, Kings, San Joaquin, Tulare, Tuolumne

Lori Hokerson (916) 651-6296  
Amador, El Dorado, Merced, Placer, Stanislaus, Sutter-Yuba, Yolo

Joseph Kim (916) 651-6339  
Alpine, Calaveras, Mono

**Southern Region**

Eddie Gabriel (Regional Lead) (916) 654-3263  
Orange, Los Angeles, San Diego, Ventura

Linda Brophy (916) 654-7357  
Imperial, San Luis Obispo

Troy Konarski (916) 654-2643  
Kern, Riverside, Santa Barbara, San Bernardino

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Sincerely,

*(Original Signed By)*

STEPHEN W. MAYBERG, Ph.D.

Director

cc: California Mental Health Planning Council  
Chief, County Operations North  
Chief, County Operations South