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**DATE:** November 12, 2019

All Plan Letter 19-014  
Supersedes All Plan Letter 18-006

**TO:** ALL MEDI-CAL MANAGED CARE HEALTH PLANS

**SUBJECT:** RESPONSIBILITIES FOR BEHAVIORAL HEALTH TREATMENT  
COVERAGE FOR MEMBERS UNDER THE AGE OF 21

**PURPOSE:**

The purpose of this All Plan Letter (APL) is to provide guidance to Medi-Cal managed care health plans (MCPs) about the provision of medically necessary Behavioral Health Treatment (BHT) services for members under the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit and in accordance with mental health parity requirements.

**BACKGROUND:**

On July 7, 2014, the Centers for Medicare and Medicaid Services (CMS) released guidance on coverage of BHT services pursuant to federal law.<sup>1</sup> Federal law requires the EPSDT benefit to include a comprehensive array of preventive, diagnostic and treatment services for low-income individuals under 21 years of age, which encompasses BHT services.<sup>2, 3</sup> In accordance with federal EPSDT requirements, Medi-Cal provides coverage for all medically necessary BHT services for eligible beneficiaries under 21 years of age. This applies to any health condition, including children diagnosed with autism spectrum disorder (ASD)<sup>4</sup> and children for whom a licensed

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<sup>1</sup> The CMS Informational Bulletin dated July 7, 2014, is available at:

<http://www.medicaid.gov/Federal-Policy-Guidance/Downloads/CIB-07-07-14.pdf>

<sup>2</sup> Title 42 of the United States Code (USC), Section 1396d(r). The USC is searchable at:

<https://uscode.house.gov/>.

<sup>3</sup> Title 42 of the Code of Federal Regulations (CFR), Section 440.130(c). The CFR is searchable at: <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>.

<sup>4</sup> ASD is a developmental disability that can cause significant social, communication, and behavioral challenges. A diagnosis of ASD now includes several conditions that previously were diagnosed separately: autistic disorder, pervasive developmental disorder not otherwise specified and Asperger syndrome. These conditions are now all called ASD in the Diagnostic and Statistical Manual V.

physician, surgeon, or psychologist determines that BHT services are medically necessary.<sup>5</sup>

On March 30, 2016, CMS issued a final rule (CMS-2333-F) that applied certain requirements from the Mental Health Parity and Addiction Equity Act of 2008 (Pub. L. 110-343, enacted on October 3, 2008) to services covered by MCPs. The general parity requirement contained in Title 42 of the Code of Federal Regulations section 438.910(b) prohibits treatment limitations for mental health benefits from being more restrictive than the predominant treatment limitations applied to medical or surgical benefits.<sup>6</sup> In accordance with federal law, mental health parity also applies to BHT services.

BHT services include applied behavioral analysis and a variety of other behavioral interventions that have been identified as evidence-based approaches that prevent or minimize the adverse effects of behaviors that interfere with learning and social interaction. The goal is to promote, to the maximum extent practicable, the functioning of a beneficiary, including those with or without ASD. Examples of BHT services include behavioral interventions, cognitive behavioral intervention, comprehensive behavioral treatment, language training, modeling, natural teaching strategies, parent/guardian training, peer training, pivotal response training, schedules, scripting, self-management, social skills package, and story-based interventions.

**POLICY:**

For members under the age of 21, MCPs are required to provide and cover, or arrange, as appropriate, all medically necessary EPSDT services, including BHT services, when they are covered under Medicaid, regardless of whether California's Medicaid State Plan covers such services for adults. Additionally, MCPs must comply with mental health parity requirements when providing BHT services.

For the EPSDT population, state and federal law define a service as "medically necessary" if the service is necessary to correct or ameliorate defects and physical and/or mental illnesses and conditions.<sup>7</sup> A BHT service need not cure a condition in order to be covered. Services that maintain or improve the child's current health

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<sup>5</sup> For additional information on EPSDT requirements, including the definition of "medically necessary," see APL 19-010: *Requirements for Coverage of Early and Periodic Screening, Diagnostic, and Treatment Services for Medi-Cal Members Under the Age of 21*, or any future version of this APL. APLs are available at: <https://www.dhcs.ca.gov/formsandpubs/Pages/AllPlanLetters.aspx>.

<sup>6</sup> For additional information on mental health parity, see APL 17-018: *Medi-Cal Managed Care Health Plan Responsibilities for Outpatient Mental Health Services*, or any future version of this APL.

<sup>7</sup> 42 USC 1396d(r); Welfare and Institutions Code section 14059.5(b)(1). See also: EPSDT – A Guide for States: Coverage in the Medicaid Benefit for Children and Adolescents, JUNE 2014 at pp. 23-24, available at: [https://www.medicaid.gov/medicaid/benefits/downloads/epsdt\\_coverage\\_guide.pdf](https://www.medicaid.gov/medicaid/benefits/downloads/epsdt_coverage_guide.pdf)

condition are considered a clinical benefit and must be covered to “correct or ameliorate” a member’s condition. Maintenance services are defined as services that sustain or support rather than those that cure or improve health problems. MCPs must cover all services that prevent a child’s condition from worsening or that prevent the development of additional health problems. The common definition of “ameliorate” is to “make more tolerable.” Therefore, MCPs must cover BHT services regardless of whether California’s Medicaid State Plan covers such services for adults, when the BHT services have an ameliorative, maintenance purpose.

Medical necessity decisions are individualized. Therefore, MCPs are prohibited from imposing service limitations on any EPSDT benefit other than medical necessity. The determination of whether a service is medically necessary for an individual child must be made on a case-by-case basis, taking into account the particular needs of the child.

MCPs must comply with mental health parity requirements when providing BHT services. Treatment limitations for BHT services may not be more restrictive than the predominant treatment limitations applied to medical or surgical benefits. Additionally, mental health parity requirements stipulate that MCPs must disclose utilization management criteria.

### **CRITERIA FOR BHT SERVICES FOR MEMBERS UNDER THE AGE OF 21**

A member must:

- 1) Have a recommendation from a licensed physician, surgeon or psychologist that evidence-based BHT services are medically necessary;
- 2) Be medically stable; and
- 3) Not have a need for 24-hour medical/nursing monitoring or procedures provided in a hospital or intermediate care facility for persons with intellectual disabilities.

MCPs are responsible for coordinating the provision of services with other entities, including but not limited to Regional Centers and County Mental Health plans, to ensure that MCPs and other entities are not providing duplicative services.

### **COVERED SERVICES**

BHT services for ASD, or where there is suspicion of ASD that is not yet diagnosed, must be:

- 1) Medically necessary, as defined for the EPSDT population;
- 2) Provided and supervised in accordance with an MCP-approved behavioral treatment plan that is developed by a BHT service provider who meets the requirements in California’s Medicaid State Plan; and,

- 3) Provided by a qualified autism provider who meets the requirements contained in California's Medicaid State Plan or licensed provider acting within the scope of their licensure.<sup>8</sup>

BHT services for members without an ASD diagnosis must be:

- 1) Medically necessary, as defined for the EPSDT population;
- 2) Provided in accordance with an MCP-approved behavioral treatment plan; and,
- 3) Provided by a licensed provider acting within the scope of their licensure.

Medi-Cal does not cover the following as BHT services under the EPSDT benefit:

- 1) Services rendered when continued clinical benefit is not expected, unless the services are determined to be medically necessary.
- 2) Provision or coordination of respite, day care, or educational services, or reimbursement of a parent, legal guardian, or legally responsible person for costs associated with participation under the behavioral treatment plan.
- 3) Treatment where the sole purpose is vocationally- or recreationally-based.
- 4) Custodial care. For purposes of BHT services, custodial care:
  - a. Is provided primarily to maintain the member's or anyone else's safety; and,
  - b. Could be provided by persons without professional skills or training.
- 5) Services, supplies, or procedures performed in a non-conventional setting, including, but not limited to, resorts, spas, and camps.
- 6) Services rendered by a parent, legal guardian, or legally responsible person.
- 7) Services that are not evidence-based behavioral intervention practices.

### **BEHAVIORAL TREATMENT PLAN**

BHT services must be provided, observed, and directed under an MCP-approved behavioral treatment plan. The behavioral treatment plan must be person-centered and based on individualized, measurable goals and objectives over a specific timeline for the specific member being treated. The behavioral treatment plan must be reviewed, revised, and/or modified no less than once every six months by the provider of BHT services. The behavioral treatment plan may be modified or discontinued only if it is determined that the services are no longer medically necessary under the EPSDT medical necessity standard.<sup>9</sup> Decreasing the amount and duration of services is prohibited if the therapies are medically necessary.

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<sup>8</sup> See California's Medicaid State Plan, Limitations on Attachment 3.1-A, 13c – Preventive Services, BHT, and Attachment 3.1-A, Supplement 6. California's Medicaid State Plan is available at: <https://www.dhcs.ca.gov/formsandpubs/laws/Pages/CaliforniStatePlan.aspx>

<sup>9</sup> See footnote 7, *supra*.

The approved behavioral treatment plan must also meet the following criteria:

- 1) Include a description of patient information, reason for referral, brief background information (e.g., demographics, living situation, or home/school/work information), clinical interview, review of recent assessments/reports, assessment procedures and results, and evidence-based BHT services.
- 2) Delineate both the frequency of baseline behaviors and the treatment planned to address the behaviors.
- 3) Identify measurable long-, intermediate-, and short-term goals and objectives that are specific, behaviorally defined, developmentally appropriate, socially significant, and based upon clinical observation.
- 4) Include outcome measurement assessment criteria that will be used to measure achievement of behavior objectives.
- 5) Include the member's current level of need (baseline, behavior parent/guardian is expected to demonstrate, including condition under which it must be demonstrated and mastery criteria [the objective goal]), date of introduction, estimated date of mastery, specify plan for generalization and report goal as met, not met, modified (include explanation).
- 6) Utilize evidence-based BHT services with demonstrated clinical efficacy tailored to the member.
- 7) Clearly identify the service type, number of hours of direct service(s), observation and direction, parent/guardian training, support and participation needed to achieve the goals and objectives, the frequency at which the member's progress is measured and reported, transition plan, crisis plan, and each individual provider who is responsible for delivering services.
- 8) Include care coordination that involves the parents or caregiver(s), school, state disability programs, and other programs and institutions, as applicable.
- 9) Consider the member's age, school attendance requirements, and other daily activities when determining the number of hours of medically necessary direct service and supervision.
- 10) Deliver BHT services in a home or community-based setting, including clinics. Any portion of medically necessary BHT services that are provided in school must be clinically indicated as well as proportioned to the total BHT services received at home and in the community.
- 11) Include an exit plan/criteria. However, only a determination that services are no longer medically necessary under the EPSDT standard can be used to reduce or eliminate services.<sup>10</sup>

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<sup>10</sup> See footnote 7, *supra*.

**CONTINUITY OF CARE**

MCPs must offer members continued access to out-of-network providers of BHT services (continuity of care) for up to 12 months, in accordance with existing contract requirements and APL 18-008: *Continuity of Care for Medi-Cal Members Who Transition into Medi-Cal Managed Care*, or any future version of this APL.

**TIMELY ACCESS STANDARDS**

MCPs must provide BHT services in accordance with timely access standards, pursuant to Welfare and Institutions Code section 14197 and the MCP contracts.

MCPs are responsible for ensuring that their delegates comply with all applicable state and federal laws and regulations, contract requirements, and other DHCS guidance, including applicable APLs and Policy Letters. These requirements must be communicated by each MCP to all delegated entities and subcontractors.

For questions regarding this APL, contact your Managed Care Operations Division contract manager.

Sincerely,

Original signed by Nathan Nau

Nathan Nau, Chief  
Managed Care Quality and Monitoring Division