



State of California—Health and Human Services Agency  
Department of Health Care Services



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**DATE:** May 15, 2020 **HCBA PL#:** 20-001

**TO:** Home and Community Based Alternatives Waiver Agencies

**SUBJECT:** Comprehensive Care Management Services to Arrange Private Duty Nursing Services for Medi-Cal Eligible Waiver Participants Under the Age of 21

**PURPOSE:**

The purpose of this Policy Letter (PL) is to clarify the obligations of Medi-Cal Home and Community Based Alternatives (HCBA) Waiver Agencies to provide Comprehensive Care Management (CCM) to arrange for Private Duty Nursing (PDN) services that have been approved for Waiver participants under the age of 21, pursuant to the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit.

**BACKGROUND:**

EPSDT is a Medi-Cal benefit that provides a comprehensive array of preventive, diagnostic, and treatment services to individuals under the age of 21, as set forth in the Social Security Act (SSA), Section 1905(r) and Title 42 of the United States Code (USC), Section 1396d(r).<sup>1, 2</sup> In California, the EPSDT benefit is established in Welfare and Institutions Code (WIC).<sup>3, 4</sup> Children under the age of 21 can receive EPSDT PDN services through Medi-Cal managed care plans, the California Children's Services (CCS) program, and Medi-Cal fee-for-service.

The HCBA Waiver does not cover PDN services as a benefit for individuals under the age of 21, as PDN services for that population are covered under the EPSDT benefit. However, both the HCBA Waiver and the Waiver Agency contracts with the Department of Health Care Services (DHCS) require HCBA Waiver Agencies to provide CCM to waiver participants under the age of 21, which includes arrangement for approved services, including PDN, regardless of the Medi-Cal funding source.

<sup>1</sup> SSA, Section 1905 is available at: [https://www.ssa.gov/OP\\_Home/ssact/title19/1905.htm](https://www.ssa.gov/OP_Home/ssact/title19/1905.htm)

<sup>2</sup> 42 USC, Section 1396d is available at:

[http://uscode.house.gov/view.xhtml?req=\(title:42%20section:1396d%20edition:prelim](http://uscode.house.gov/view.xhtml?req=(title:42%20section:1396d%20edition:prelim)

<sup>3</sup> See WIC Section 14132(v), available at:

[http://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=14132.&lawCode=WIC](http://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=14132.&lawCode=WIC)

<sup>4</sup> For more information regarding EPSDT, 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 superseding APL. APLs are available at: <https://www.dhcs.ca.gov/formsandpubs/Pages/AllPlanLetters.aspx>

PDN services are nursing services provided in a member's home by a registered nurse (RN) or licensed vocational nurse (LVN) to a member who requires more individual and continuous care than what would be available from a visiting nurse.<sup>5</sup> RNs and LVNs providing PDN services to Medi-Cal beneficiaries must either be Medi-Cal enrolled as individual providers who offer PDN services independently, or they may offer services through a Medi-Cal enrolled home health agency.<sup>6</sup> A home health agency is a State-licensed public or private organization that provides in-home skilled nursing services.<sup>7</sup>

## **POLICY:**

HCBA Waiver Agencies are obligated under both the HCBA Waiver and their HCBA Waiver Agency contracts to provide CCM to HCBA Waiver participants in the Waiver Agency's designated service area. They must provide CCM as set forth in the HCBA Waiver and Waiver Agency contract, including but not limited to, arranging for participants under the age of 21 to receive all approved PDN, regardless of funding source.

CCM ensures access to services, regardless of the funding source.<sup>8</sup> This includes arranging for all approved EPSDT PDN services. The requirement to provide CCM is included in the following parts of the HCBA Waiver Agency contract with DHCS:

- Exhibit A, Statement of Work, paragraph 1. Service Overview
- Exhibit A, Attachment 1, paragraph 1, B, 3, e, iii
- Exhibit A, Attachment 1, paragraph 1, B, 3, f
- Exhibit A, Attachment 1, paragraph 1, D
- Exhibit A, Attachment 1, paragraph 2, A
- Exhibit A, Attachment 1, paragraph 6, C, 2 and 3
- Exhibit A, Attachment 1, paragraph 6, I, 4
- Exhibit A, Attachment 1, paragraph 7, A, 2

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<sup>5</sup> See Title 42 of the Code of Federal Regulations (CFR), Section 440.80, available at: [https://www.ecfr.gov/cgi-bin/text-idx?SID=2888566bb0df8b362250dc4c2a3311ab&mc=true&node=pt42.4.440&rqn=div5#se42.4.440\\_180](https://www.ecfr.gov/cgi-bin/text-idx?SID=2888566bb0df8b362250dc4c2a3311ab&mc=true&node=pt42.4.440&rqn=div5#se42.4.440_180)

<sup>6</sup> For more information about provider enrollment, see APL 19-004, "Provider Credentialing / Recredentialing and Screening / Enrollment," or any superseding APL.

<sup>7</sup> See Health and Safety Code Section 1727, available at:

[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=1727.&lawCode=HSC](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1727.&lawCode=HSC)

<sup>8</sup> "Comprehensive Care Management ensures access to services, regardless of the funding source."

"Comprehensive Care Management services will ensure stabilization and access to Home and Community-Based Services (HCBS)." HCBA Waiver (approved July 1, 2018), Appendix C, C-1/C-3 Service Title: Comprehensive Care Management, pg. 111 of 325

- Exhibit A, Attachment 2:
  - Paragraph 2, A, 2, e
  - Paragraph 4, D, 1
  - Paragraph 4, F, 1, C
  - Paragraph 5, D and E

The entity that approves an HCBA Waiver participant to receive EPSDT PDN hours is primarily responsible for providing the case management to arrange for all approved PDN service hours. For example, if CCS or a managed care plan authorized the Waiver participant to receive EPSDT PDN services, then that entity is primarily responsible for providing case management to arrange for those EPSDT PDN services to be received by the Waiver participant. However, the Waiver Agency is still obligated by the HCBA Waiver and the Waiver Agency Contract to provide the participant CCM, which includes but is not limited to, at the request of the participant, working collaboratively with the entity that approved the hours to arrange for the participant to receive all the approved PDN hours.

If the Waiver participant's EPSDT PDN hours are approved by Medi-Cal fee-for-service and the participant is not enrolled in a managed care plan or CCS, then the Waiver Agency is primarily responsible to arrange for the participant to receive all approved PDN hours. In arranging for PDN hours, the Waiver Agency must use one or more Medi-Cal enrolled home health agencies or individual nurse providers, or any combination thereof, to meet the participant's approved PDN service needs.

#### CCM Responsibilities to Arrange PDN Service

The Waiver Agency's CCM responsibilities to arrange for approved EPSDT PDN services for Waiver participants include, but are not limited to:

- Requesting from DHCS and, upon receipt, providing the Waiver participant with information about the number of PDN hours the participant is approved to receive;
- Contacting enrolled home health agencies and enrolled individual nurse providers to seek approved PDN services on behalf of the Waiver participant;
- Identifying potentially eligible home health agencies and individual nurse providers, and assisting them with navigating the process of enrolling to become a Medi-Cal provider; and
- Working with enrolled home health agencies and enrolled individual nurse providers to jointly provide PDN services to the Waiver participant.

Participants may choose not to use all approved PDN service hours, and Waiver Agencies are permitted to respect the participant's choice. Waiver Agencies must document instances when a participant chooses not to use approved PDN services. When arranging for the Waiver participant to receive approved EPSDT PDN services, Waiver Agencies must document all efforts to locate and collaborate with PDN service providers and other entities, such as CCS.

### Policies and Procedures

Waiver Agencies are required to issue new or revised policies and procedures on Waiver Agency responsibilities detailed in this PL. Within 90 days of the date on this PL, Waiver Agencies must submit copies of new or updated policies and procedures to their assigned DHCS Contract Manager for review and approval.

### Notice to Participants

By July 31, 2020, Waiver Agencies are required to issue standard notice language on their organization's letterhead, to every Waiver participant under the age of 21 who is not enrolled in a managed care plan or CCS, and is currently authorized by fee-for service Medi-Cal to receive PDN services. The notice will include the following:

- Explain that the Waiver Agency has primary responsibility for CCM to arrange for PDN services.
- Describe the CCM available to the participant in connection with PDN services, as set forth above.
- Explain how the Waiver Agency will arrange PDN services.
- Include a statement that the participant may:
  - Utilize the Waiver Agency's existing grievance and appeal procedures to address difficulties in receiving PDN services, or their dissatisfaction with the CCM;
  - File a Medi-Cal fair hearing as provided by law; or
  - Email DHCS directly at [EPSDT@dhcs.ca.gov](mailto:EPSDT@dhcs.ca.gov).
- Include a statement that if the participant has questions about their legal rights regarding PDN services, they may contact Disability Rights California at (888) 852-9241.

Waiver Agencies are responsible for ensuring that their delegates comply with all applicable State and federal laws and regulations, the HCBA Waiver, contract

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requirements, and other DHCS guidance, including PLs. These requirements must be communicated by each Waiver Agency to all delegated entities and subcontractors.

For further information about this PL, please contact your assigned DHCS Contract Manager or submit a question to the HCBA email inbox at:

[HCBAalternatives@dhcs.ca.gov](mailto:HCBAalternatives@dhcs.ca.gov).

Sincerely,

**ORIGINAL SIGNED BY**

Evelyn Schaeffer, Chief  
Integrated Systems of Care Division  
Department of Health Care Services