DATE: January 20, 2017

TO: ALL MEDI-CAL DENTAL MANAGED CARE PLANS


The Department of Health Care Services (Department) issues this All Plan Letter (APL) under Exhibit E, Additional Provisions, Provision 5, section d, of the Medi-Cal Dental Geographic Managed Care and Prepaid Health Plan contracts (Contracts). This APL is incorporated into the Contracts, shall be complied with by Contractor. As set forth under Exhibit E, Provision 5, section d, “APLs issued by MDSD subsequent to the effective date of this Contract shall provide clarification of Contractors obligations pursuant to this contract, and may include instructions to the Contractor regarding implementation of mandated obligations pursuant to changes in State or federal statutes or regulations, or pursuant to judicial interpretation.”

Due to the publication of the Medicaid and Children’s Health Insurance Program (CHIP) Managed Care Final Rule (CMS-2390-F, 81 FR 27498) on May 6, 2016 (“final rule”), the Department issues this APL, which is part of a series of APLs, to provide guidance and direction to the Medi-Cal Dental Managed Care Plans (Plans). In accordance with the law, Plans are required to comply with these managed care regulations effective July 5, 2016.

The below-identified final rule provisions are incorporated by reference into the Contracts. Modernized Managed Care Regulation 42 C.F.R. §438.706, Optional Imposition of Sanction, provides that the State may only impose temporary management if it finds (1) “There is continued egregious behavior by the MCO, including but not limited to behavior that is described in §438.700, or that is contrary to any requirements of sections 1903(m) and 1932 of the Act,” (2) there is a substantial risk to enrollees’ health, or (3) if it is necessary to ensure the health of enrollees.

The current requirement allows the State to appoint temporary management if the State finds that the MCO has repeatedly failed to meet the requirements of the contract or violates applicable Federal or State law/regulation. Temporary management will not be terminated until the State determines that the MCO behavior will not recur. The State may suspend new enrollment effective of the sanction.

Modernized Managed Care Regulation 42 C.F.R. §438.706, Required Imposition of Sanction, requires that the State impose temporary management (regardless of any other sanction
That may be imposed) if it finds that an MCO has repeatedly failed to meet substantive requirements in sections 1903(m) or 1932 of the Act.

Furthermore, the rule changed to include mandatory appointment of temporary management for repetitive failure to meet requirements of the Act. This is different from the current Dental Managed Care contracts, which do not give non-negotiable terms to appointing temporary management.

Modernized Managed Care Regulations 42 C.F.R. §438.706, Hearing and Duration of Sanction, provides that the State may not delay imposition to provide a hearing or terminate temporary management until the MCO can ensure that the sanctioned behavior will not recur.

The Department holds the Plans responsible for ensuring that (insert summary of requirement). These final rule provisions are incorporated by reference into the Contracts.

For the entire text pertaining to the regulations above, refer to the Medicaid federal register.

If you have any questions, please contact the Medical-Dental Services Division at dmcdeliverables@dhcs.ca.gov.

Sincerely,

Eric Mayes, Chief
Contract Management and Policy Unit
Medi-Cal Dental Services Division
Department of Health Care Services