

State of California—Health and Human Services Agency



EDMUND G. BROWN JR.
GOVERNOR



DATE: July 9, 2018

ALL COUNTY LETTER (ACL) NO. 18-85
MENTAL HEALTH AND SUBSTANCE USE DISORDER SERVICES (MHSUDS)
INFORMATION NOTICE (IN) NO. 18-029

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY FISCAL OFFICERS
ALL COUNTY ADMINISTRATIVE OFFICERS
ALL CHIEF PROBATION OFFICERS
ALL TITLE IV-E AGREEMENT TRIBES
COUNTY WELFARE DIRECTORS ASSOCIATION OF CALIFORNIA
CHIEF PROBATION OFFICERS OF CALIFORNIA
COUNTY BEHAVIORAL HEALTH DIRECTORS
COUNTY BEHAVIORAL HEALTH DIRECTORS ASSOCIATION OF CALIFORNIA
CALIFORNIA COUNCIL OF COMMUNITY BEHAVIORAL HEALTH AGENCIES
CALIFORNIA ALLIANCE OF CHILD AND FAMILY SERVICES
CALIFORNIA STATE ASSOCIATION OF COUNTIES

SUBJECT: CLARIFICATION REGARDING SHARING OF CANS ASSESSMENTS BY COUNTY PLACING AGENCIES AND MENTAL HEALTH PROGRAMS

REFERENCE: ASSEMBLY BILL (AB) 403 and AB 1997 (CHAPTER 773, STATUTES OF 2015 and CHAPTER 612, STATUTES OF 2016); AB 1006 (CHAPTER 714, STATUTES OF 2017); WELFARE AND INSTITUTIONS CODE 706.6, 832, 11400(f), 16501.1; [ACL NO. 16-84/MHSUDS IN. NO. 16-049](#); [ACL NO. 17-28](#); [PATHWAYS TO MENTAL HEALTH SERVICES – CORE PRACTICE MODEL GUIDE](#); [COUNTY FISCAL LETTER \(CFL\) NO. 16/17-22](#); [MHSUDS IN NO. 17-052](#); [ACL NO. 18-09/MHSUDS IN. NO. 18-007](#).

This IN is being issued to clarify the expectations of the California Department of Social Services (CDSS) and the Department of Health Care Services (DHCS) regarding the sharing of Child and Adolescent Needs and Strengths (CANS) assessments between county placing agencies and county Mental Health Plans (MHPs).

ACL No. 18-09/MHSUDS IN. No. 18-007 provided direction to county placing agencies and county MHPs regarding the utilization of CANS assessments.

Page 5 of ACL 18-09/MHSUDS IN 18-007 states in part as follows:

County placing agencies and county MHPs must share CANS assessments for children, youth and [Non-Minor Dependents] NMDs assessed and/or served by either system and completion of a universal information release form shall not be required for this purpose.

This IN clarifies that if a child, youth or NMD has an existing CANS assessment completed by a county MHP, and if the child is referred to a county placing agency, the MHP is required to share the existing CANS assessment with the county placing agency as early as possible. When evaluating the application of the HIPAA Privacy Rule to CANS assessments, county MHPs are authorized to share CANS assessment information as allowed under 45 C.F.R. Section 164.506(c)(1), a section of the HIPAA Privacy Rule. This section states that “[a] covered entity may use or disclose protected health information for its own treatment, payment or health care operations.” For purposes of Section 164.506(c)(1) “[t]reatment means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party . . .” (45 C.F.R. Section 501.) Importantly, for the limited purpose of “coordination or management of health care” such third parties need not be covered entities. (see e.g. DHHS, Office for Civil Rights, HIPAA Privacy Rule and Sharing Information Related to Mental Health, pgs. 8-9 [www.hhs.gov/sites/default/files/hipaa-privacy-rule-and-sharing-info-related-to-mental-health.pdf] (Guidance from the U.S. Department of Health and Human Services, Office for Civil Rights, indicating that, pursuant to the above rules, a health care provider can disclose an individual’s PHI to a social services agency providing health care supportive housing.); see also Welfare and Institutions Code section 5328.04 and Civil Code sections 56.10(c)(20) and 56.103.)

Substance Use Disorder Information

Notwithstanding the above, counties must be cognizant of the fact that questions, responses, and ratings on the CANS assessment rating a child/youth/NMD’s or caregiver’s problems with substance abuse (i.e., substance use disorder (SUD)-specific questions) are subject to Part 2 of Title 42 of the Code of Federal Regulations (42 CFR Part 2) and cannot be released without a completed and signed release of information/authorization. If an authorization or release is not in place for the SUD-specific questions, MHPs are still required to share the remaining portions of the CANS assessment, as allowed under state and federal privacy laws. However, in order to ensure compliance with 42 CFR Part 2, county MHPs must redact the portions of the CANS assessment that discuss or evaluate the child/youth/NMD’s or caregiver’s

problems with substance abuse until an authorization or release is obtained. Without an authorization, these SUD-specific questions, responses, and ratings must be redacted irrespective of whether the questions indicate that a specific child has a substance use disorder. MHPs must share any redacted, SUD-specific information promptly upon obtaining the necessary authorization or release. SUD specific information in the CANS assessment is crucial to ensuring appropriate services for children/youth, and MHPs are expected to facilitate sharing of this information as expeditiously as possible.

Child Placing Agencies

When the child-placing agency has completed the CANS prior to the MHP, the child-placing agency must use the clarification described above to share the existing CANS assessment with the MHP as early as possible. Regardless of which county agency completes the CANS, a release of information must be obtained prior to sharing the CANS assessment with entities other than the county placing agency or MHP during a child and family team meeting. Counties are encouraged to use the release of information attached to ACL 18-09 for this purpose.

Inquiries

Please direct all Child and Family Team questions, including CANS-related inquiries, to the CDSS Integrated Services Unit at (916) 651-6600 or email CWScoordination@dss.ca.gov, or contact the DHCS Mental Health Services Division at (916) 322-7445 or email KatieA@dhcs.ca.gov.

Sincerely,

Original Signed By:

BRENDA GREALISH
Acting Deputy Director
Mental Health and Substance Use
Disorder Services

Original Signed By:

GREGORY E. ROSE, MSW
Deputy Director
Children and Family Services Division
California Department of Social Services