



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



GAVIN NEWSOM
GOVERNOR

January 29, 2019

To: Tribal Chairpersons, Designees of Indian Health Programs,
and Urban Indian Organizations

Subject: Notice of Proposed Change to the Medi-Cal Program

The purpose of this letter is to provide information regarding a proposed change to the Department of Health Care Services' (DHCS) Medi-Cal Program that will be submitted to the Centers for Medicare and Medicaid Services (CMS). DHCS is forwarding this information for your review and comment.

DHCS is required to seek advice from designees of Indian Health Programs and Urban Indian Organizations on Medi-Cal matters having a direct effect on Indians, Indian Health Programs or Urban Indian Organizations per the American Recovery and Reinvestment Act of 2009 (ARRA). DHCS must solicit the advice of designees prior to submission to CMS of any State Plan Amendment, waiver requests or modifications, or proposals for demonstration projects in the Medi-Cal program.

Please see the enclosed summary for a detailed description of this DHCS proposal.

QUESTIONS AND COMMENTS:

Indian Health Programs and Urban Indian Organizations may also submit written comments or questions concerning this proposal within 30 days from the receipt of notice. Comments may be sent by email to Ashley.draper@dds.ca.gov or by mail to the address below:

Contact Information

Ashley Draper
Department of Developmental Services
Community Services Division
1600 Ninth Street, M.S. 3-8
Sacramento, CA 95814

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and Urban Indian Organizations

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In addition to this notice, DHCS plans to cover this SPA and waiver amendment in the next quarterly Medi-Cal Indian Health webinar. Please note that Indian Health Programs and Urban Indian Organizations may also request a consultation on this proposal at any time as needed.

Sincerely,

Original Signed By

Sandra Willburn, Chief
Primary, Rural, and Indian Health Division
Department of Health Care Services
MS 8502
P.O. Box 997413,
Sacramento, CA 95899-7413

Enclosure



**Department of Health Care Services (DHCS)
Tribal and Designees of Indian Health Programs Notice**

PURPOSE

DHCS proposes to submit amendments to both the 1915(c) Home and Community Based Services (HCBS) Waiver for Persons with Developmental Disabilities and the HCBS 1915(i) State Plan Amendment (SPA) to the Centers for Medicare and Medicaid Services (CMS) to seek approval to:

- Add Community Crisis Homes (CCH) as a new provider type to the Waiver,
- Add Community Based Adult Services (CBAS) as a new service,
- Add Adult Day Health Care Center (ADHC) as a new provider type,
- Provide time-limited rate increases to specified service providers.

BACKGROUND

Pursuant to the Lanterman Developmental Disabilities Services Act (Lanterman Act)¹, people with developmental disabilities, as defined in Welfare and Institutions Code (W&I) Code section 4512(a)², receive, as an entitlement, services and supports based on their individual needs and choices in the least restrictive environment. The Department of Developmental Services (DDS) is responsible for administering the Lanterman Act. Currently, there is a need to increase community capacity and develop new alternatives, particularly for consumers with the most complex needs.

To continue the development of alternative living arrangements Senate Bill 856³ requires DDS to develop the residential option of CCHs. Specifically, W&I Code, section 4698 (b)(1)⁴ requires DDS to “establish a community–based residential option consisting of community crisis homes for adults with developmental disabilities receiving regional center services who require crisis intervention services and who would otherwise be at risk of admission to the acute crisis center . . .” CCHs are required by statute to be an alternative to placements such as an out-of-state placement, a general acute hospital, an acute psychiatric hospital, or an institution for mental disease. The first client was placed in a CCH on January 1, 2018 and two additional homes were licensed in 2018. There are thirteen homes projected to open during 2019.

The 1915(c) Waiver amendment will also include the addition of CBAS as a new service and ADHC Centers as a new provider type for this service. These additions will include the establishment of the rate to be based on the Schedule of Maximum Allowances, to align the HCBS Waiver for Persons with Developmental Disabilities with services available in the 1915(i) State Plan.

¹ Lanterman Act Developmental Services Act (Lanterman Act) W& I Code section 4500 et seq. is available at: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=4500.&lawCode=WIC

² W&I Code Section 4512(a) can be found at:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=4512.&lawCode=WIC

³ Senate Bill 856, Chapter 30, Statutes of 2014, is available at:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB856

⁴W&I Code Section 4698(b)(1) can be found at: [W&I Code Section 4698 \(b\)\(1\)](#)

Lastly, the 2018 Budget Act provided DDS with time limited funding for service provider rate increases. DDS was tasked with determining the methodology of how the funds will be distributed, in consultation with the California Department of Finance (CDOF). These funds will be available for 12 months upon CMS approval. The increases will be provided to specified service providers of Community-Based Day Services, In-Home respite agencies, and providers of Community Living Arrangement Services with rates set using the Alternative Residential Model.

SUMMARY OF PROPOSED CHANGES

DHCS plans to submit proposed Waiver amendment and state plan changes to CMS in March 2019, with a proposed effective date of May 1, 2019, for the following proposed changes:

1915(c) Waiver Amendment⁵

- Adding CCHs as a new provider type for Behavioral Intervention Services
- Requiring that CCHs be an Adult Residential Facility or Group Home licensed by the DDS pursuant to Health and Safety Code sections 1567.80 through 1567.87⁵
- Limiting categorically needy and medically needy recipients to 18 months in a CCH unless additional days are approved by DDS and reviewed monthly thereafter
- Adding a rate methodology for CCHs made up of the following three components, the sum total of which may not exceed the rate limit determined by the DDS:
 - facility component (including payroll costs of facility staff and facility related costs such as lease, facility maintenance, repairs, cable/internet, etc.)
 - individualized services and supports component (including the salaries, wages, payroll taxes, and benefits of individuals providing individualized services and supports and other consumer specific program costs), and
 - transition plan component (including salaries, wages, payroll taxes and benefits of direct care staff providing services and supports needed to support a consumer during times of transition and other consumer specific program costs)
- Adding CBAS as a new service and adding ADHC Centers as a new provider type under this service. Furthermore, the rate for these services will be set based on the Schedule of Maximum Allowances
- Time Limited Rate Increase
 - A time limited rate increase for specified service providers of Community-Based Day Services, In-Home respite agencies, and providers of Community Living Arrangement Services with rates set using the Alternative Residential Model;
 - The 2018 Budget Act provided DDS with time limited funding for service provider rate increases. DDS was tasked with determining the methodology of how the funds will be distributed, in consultation with the CDOF. These funds will be available for 12 months upon CMS approval. Each of the above service provider types will receive a rate increase of approximately 2.1%.

⁵ Health and Safety Code sections 1567.80 through 1567.87 is available at: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=2.&title=&part=&chapter=3.&article=9.7

1915(i) State Plan

- Time Limited Rate Increase
 - A time limited rate increase for specified service providers of Community-Based Day Services, In-Home respite agencies, and providers of Community Living Arrangement Services with rates set using the Alternative Residential Model;
 - The 2018 Budget Act provided DDS with time limited funding for service provider rate increases. DDS was tasked with determining the methodology of how the funds will be distributed, in consultation with the CDOF. These funds will be available for 12 months upon CMS approval. Each of the above service provider types will receive a rate increase of approximately 2.1%.

IMPACT TO TRIBAL HEALTH PROGRAMS

Providers are able to apply to become CCH and ADHC Centers if they meet all state licensure requirements and DDS laws and regulations. The Waiver establishes the provider qualifications that must be met to be enrolled as provider. Pursuant to 25 USC 1647a⁶, tribal health programs are not required to be licensed through the Department of Social Services and Department of Public Health to become providers.

IMPACT TO FEDERALLY QUALIFIED HEALTH CENTERS (FQHCs)

Providers are able to apply to become CCH and ADHC Centers if they meet all state licensure requirements and DDS laws and regulations. The Waiver establishes the provider qualifications that must be met to be enrolled as provider.

IMPACT TO INDIAN MEDI-CAL BENEFICIARIES

Eligible Indian Medi-Cal beneficiaries will be able to receive Behavioral Intervention Services in a CCH, as well as CBAS in ADHC Centers.

RESPONSE DATE

Indian Health Programs and Urban Indian Organizations may submit written comments or questions concerning this proposal within 30 days from the receipt of notice. Comments may be sent by email to Ashley.draper@dds.ca.gov or by mail to the address below:

CONTACT INFORMATION:

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Community Services Division
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⁶ 25 United States Code (USC) 1647a is available at:
<http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title25-section1647a&num=0&edition=prelim>