

DATE: December 31, 2024

ALL PLAN LETTER 24-019

TO: ALL MEDI-CAL MANAGED CARE PLANS

SUBJECT: MINOR CONSENT TO OUTPATIENT MENTAL HEALTH TREATMENT OR COUNSELING

PURPOSE:

The purpose of this All Plan Letter (APL) is to provide guidance to Medi-Cal managed care plans (MCPs) regarding the provision of non-specialty mental health outpatient treatment or counseling services to minors as a result of Assembly Bill (AB) 665 (Chapter 338, Statutes of 2023)¹ which amended Family Code (Fam. Code) section 6924.^{2,3}

BACKGROUND:

AB 665 amends certain statutory sections that allow minors 12 years of age or older to consent to outpatient mental health treatment or counseling.

Before July 1, 2024, minors could consent to Medi-Cal outpatient mental health treatment or counseling without a parent or guardian's consent only if:

- (1) the minor would present a danger of serious physical or mental harm to self or others without the mental health treatment or counseling or was the alleged victim of incest or child abuse; **and**
- (2) the minor, in the opinion of the attending professional person, was mature enough to participate intelligently in the outpatient services.

AB 665 aligns with existing law⁴ and effective July 1, 2024, removes requirement (1) above, that a minor must present a danger of serious physical or mental harm to self or

¹ See AB 665, Fam. Code section 6924. AB 665 bill text is available at: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB665.

² See Fam. Code section 6924(a)(1). State law is searchable at: <https://leginfo.legislature.ca.gov/>.

³ Fam. Code section 6924 does not authorize a minor to consent to or receive convulsive therapy or psychosurgery as defined in subdivisions (f) and (g) of section 5325 of Welfare and Institutions Code (W&I), or psychotropic drugs without the consent of the minor's parent or guardian. AB 665 does not change this. See Fam. Code section 6924(f).

⁴ See Health and Safety Code (H&S) section 124260(b)(1).



others without mental health treatment or be an alleged victim of incest or child abuse in order to consent to outpatient mental health treatment or counseling. In doing so, AB 665 aligns Fam. Code section 6924 with similar law that authorizes a minor who is 12 years of age or older to consent to outpatient mental health treatment or counseling services if the minor is mature enough to participate intelligently.⁵

AB 665 also aligns with existing law by requiring the professional person treating or counseling the minor to consult with the minor before determining whether involvement of the parent or guardian would be appropriate.⁶

POLICY:

Effective July 1, 2024, without consent from a parent or legal guardian⁷, minors 12 years of age or older may consent to non-specialty outpatient Medi-Cal mental health treatment or counseling if, in the opinion of the attending professional person, the minor is mature enough to participate intelligently in the outpatient services.⁸ The professional person must use their clinical judgment and expertise to make a determination regarding the minor's maturity to participate intelligently in these services.

MCPs are responsible for ensuring that minors can consent to non-specialty outpatient Medi-Cal mental health treatment or counseling and county Mental Health Plans (MHPs) are responsible for ensuring that minors can consent to specialty mental health outpatient treatment or counseling in accordance with Fam. Code section 6924 and DHCS guidance.^{9,10}

⁵ See H&S section 124260, subd. (b)(1).

⁶ See H&S section 124260(c).

⁷ The 2024 MCP Contract includes "Authorized Representatives" in addition to a minor's parent or legal guardian. The MCP boilerplate Contract is available at:

<https://www.dhcs.ca.gov/provgovpart/Pages/MMCDBoilerplateContracts.aspx>

⁸ See Fam. Code sections 6924(a)(1) and (b).

⁹ See BHIN 24-046 and the Minor Consent Services section of the Medi-Cal Provider Manual. BHINs are searchable at:

https://www.dhcs.ca.gov/formsandpubs/Pages/Behavioral_Health_Information_Notice.aspx.

Medi-Cal Provider Manuals are available at: <https://mcweb.apps.prd.cammiis.medi-cal.ca.gov/publications/manual>.

¹⁰ AB 665 does not override W&I section 16001.9, subdivision (a)(24)(C), which provides that all children in foster care have the right, at 12 years of age or older, to consent to or decline mental health services, without the consent or knowledge of any adult.

Minors already eligible for full scope Medi-Cal can consent to outpatient mental health services without applying to enroll in limited scope Medi-Cal for Minor Consent Services.¹¹

Professional Person¹²

A “professional person” in Fam. Code section 6924 means either (1) a professional person as defined in H&S section 124260 or (2) a chief administrator of an agency referred to in Fam. Code section 6924, subdivision (a)(1) and (3). AB 665 added several professionals to the definition of a “professional person,” including a registered psychologist, a registered psychosocial assistant, and a psychology trainee (while working under the supervision of a licensed professional); an associate clinical social worker; a social work intern; a clinical counselor trainee (while working under the supervision of a licensed professional); and a board-certified or board eligible psychiatrist.¹³

Parent/Guardian Involvement and Notification¹⁴

State law requires that the parent or guardian of a minor receiving outpatient mental health treatment or counseling be involved in the treatment unless, after consulting with the minor, the professional person determines that the involvement of the minor’s parent or guardian would be inappropriate.

MCPs, Network Providers, Subcontractors, or Downstream Subcontractors must establish and ensure safeguards are in place to suppress confidential information and prevent appointment notifications, Notice of Adverse Benefit Determination documents, and any other communication that would violate the minor’s confidentiality from being inappropriately delivered to the minor’s parent or guardian. MCPs, Network Providers, Subcontractors, or Downstream Subcontractors are prohibited from disclosing any information relating to Minor Consent Services without the express consent of the minor.

¹¹ See the Medi-Cal Eligibility Procedures Manual section 4V(2)(b). The Medi-Cal Eligibility Procedures Manual is searchable at: <https://www.dhcs.ca.gov/services/medi-cal/eligibility/Pages/MedEligProcManual.aspx>.

¹² A “professional person” is defined in Fam. Code section 6924(a)(2) and H&S section 124260.

¹³ Please note: “professional person” as defined in H&S section 124260 does not precisely align with the list of providers defined as Licensed Mental Health Professionals in California’s Medicaid State Plan. However, MCPs and any provider contracted to provide outpatient mental health treatment or counseling are still subject to the requirements of Fam. Code section 6924, subd. (a)(1)(B).

¹⁴ See Fam. Code section 6924(d).

Following consultation with the minor, the professional person must note their determination regarding the appropriateness of involvement of the parent or guardian in the Member record, stating either:

- (1) whether and when the person attempted to contact the minor's parent or guardian, and whether the attempt to contact was successful; **or**
- (2) the reason why, in the professional person's opinion, it would be inappropriate to contact the minor's parent or guardian.

The requirements in this APL necessitate a change in MCPs' contractually required policies and procedures (P&Ps). MCPs must submit their updated P&Ps to the Managed Care Operations Division (MCOD)-MCP Submission Portal¹⁵ within 90 days of the release of this APL.

MCPs are responsible for ensuring that their Subcontractors, Network Providers, and Downstream Subcontractors comply with all applicable state and federal laws and regulations, Contract requirements, and other DHCS guidance, including APLs and Policy Letters. These requirements must be communicated by each MCP to all Subcontractors and Network Providers. DHCS may impose Corrective Action Plans (CAP), as well as administrative and/or monetary sanctions for non-compliance. MCPs should review their Network Provider and/or Subcontractor Agreements, including Division of Financial Responsibility provisions as appropriate, to ensure compliance with this APL. For additional information regarding administrative and monetary sanctions, see APL 23-012, and any subsequent iterations on this topic. Any failure to meet the requirements of this APL may result in a CAP and subsequent sanctions.

If you have any questions regarding this APL, please contact your MCO Contract Manager.

Sincerely,

Original Signed by Bambi Cisneros

Bambi Cisneros
Acting Chief, Managed Care Quality and Monitoring Division
Assistant Deputy Director, Health Care Delivery Systems

¹⁵ The MCO-MCP Submission Portal is available at:
<https://cadhcs.sharepoint.com/sites/MCO-MCPSubmissionPortal/SitePages/Home.aspx>.