



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



GAVIN NEWSOM
GOVERNOR

DATE: December 3, 2020

Behavioral Health Information Notice No: 20-065

TO: California Alliance of Child and Family Services
California Association for Alcohol/Drug Educators
California Association of Alcohol & Drug Program Executives, Inc.
California Association of DUI Treatment Programs
California Association of Social Rehabilitation Agencies
California Consortium of Addiction Programs and Professionals
California Council of Community Behavioral Health Agencies
California Opioid Maintenance Providers
California State Association of Counties
California Tribal Chairpersons
Coalition of Alcohol and Drug Associations
County Behavioral Health Directors
County Behavioral Health Directors Association of California
County Drug & Alcohol Administrators
Indian Health Program Executive Directors

SUBJECT: Obligations Related to Indian Health Care Providers in Drug Medi-Cal Organized Delivery System (DMC-ODS) Counties

PURPOSE:

This Behavioral Health Information Notice is to remind DMC-ODS counties of their obligations to reimburse Indian Health Care Providers for the provision of DMC-ODS services. DMC-ODS counties are obligated to reimburse Indian Health Care Providers even when the provider is not contracted with the county, and DMC-ODS counties are obligated to contract with an adequate network of Indian Health Care Providers.

This Information Notice also provides guidance concerning the required reimbursement rates for Urban Indian Organizations and Tribal 638 providers or Indian Health Service (IHS) facilities.

DEFINITIONS:

American Indian/Alaska Native (AI/AN) – Any person defined in 25 United States Code sections 1603(13), 1603(28), or section 1679(a), or who has been determined eligible

as an Indian under 42 CFR section 136.12.

Indian Health Care Provider (IHCP) – A health care program operated by the IHS (“IHS facility”), or by a Tribal 638 Provider, or Urban Indian Organization as those terms are defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

Indian Health Service (IHS) facilities – Facilities and/or health care programs administered and staffed by the federal Indian Health Service.

Tribal 638 Providers - Federally recognized Tribes or Tribal organizations that contract or compact with the IHS to plan, conduct and administer one or more individual programs, functions, services or activities under Public Law 93-638. Tribal 638 providers must appear on the “List of American Indian Health Program Providers” set forth in [APL 17-020, Attachment 1](#) in order to qualify for reimbursement as a Tribal 638 Provider under this IN.

Urban Indian Organizations - Nonprofit corporate body situated in an urban center, governed by an urban Indian controlled board of directors, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 1653(a) of U.S. Code: Title 25, Chapter 18.

BACKGROUND:

The DMC-ODS provides a continuum of care for substance use disorders pursuant to a waiver approved by the Centers for Medicare & Medicaid Services. California counties participating in the DMC-ODS (DMC-ODS counties) provide an array of services including those listed in Welfare and Institutions Code section 14124.24(a)(1) through (6), and those authorized by the DMC-ODS. DMC-ODS counties are considered Pre-Paid Inpatient Health Plans (PIHPs) for purposes of federal law through intergovernmental agreements with the Department of Health Care Services (DHCS). All PIHPs, including DMC-ODS counties, must comply with applicable requirements set forth in 42 CFR Part 438, including 42 CFR 438.14, which describes PIHP obligations in relation to IHCPs and AI/AN Medi-Cal beneficiaries. These duties are further incorporated into the DHCS/County DMC-ODS intergovernmental agreements.

DMC-ODS counties are required to reimburse for the provision of DMC services, including the expanded range of DMC-ODS services, through the county’s Behavioral Health Subaccount of the Support Services Account of the Local Revenue Fund 2011,

and any other available county funds (see Welf. & Ins. Code section 14124.24(a)(6) and Welf & Ins. Code section 14124.24(c)(1)). In addition, in accordance with 2011 Realignment and as part of the State/County DMC-ODS intergovernmental agreement, counties participating in DMC-ODS generally¹ take on full financial responsibility for obligations related to DMC-ODS services.

In order to receive reimbursement from a county or the state for the provision of DMC-ODS services (whether or not the IHCP is contracted with the county), an IHCP must be enrolled as a DMC provider and certified by DHCS to provide those services.

DISCUSSION:

The following are some key obligations of DMC-ODS counties with respect to IHCP reimbursement and the rights of AI/AN Medi-Cal enrollees.

Medi-Cal AI/AN Beneficiaries Are Entitled to Receive Services from Out-of-Network IHCPs

All AI/AN Medi-Cal beneficiaries whose county of responsibility is a DMC-ODS county may choose to receive DMC-ODS services at any DMC-certified IHCP, whether or not the IHCP has a current contract with the beneficiary's county of responsibility and whether or not the IHCP is located in the beneficiary's county of responsibility. DMC-ODS counties must reimburse DMC-certified IHCPs for the provision of these services to AI/AN Medi-Cal beneficiaries, even if the DMC-ODS county does not have a contract with the IHCP.

DMC-ODS counties are not obligated to pay for services provided to non-AI/AN beneficiaries by IHCPs that are not contracted with the DMC-ODS county.

Services that Can Be Provided Depend on the Beneficiary's County of Responsibility

Only Medi-Cal beneficiaries for whom the county of responsibility is a DMC-ODS county are entitled to DMC-ODS services. This applies to AI/AN Medi-Cal beneficiaries as well as non-AI/AN Medi-Cal beneficiaries.

¹ While there are state general fund obligations for certain DMC-ODS services and populations, counties are reimbursed for any expenditures incurred on the state's behalf through the CPE process.

DMC-ODS Counties Must have Sufficient IHCPs Participating in Their Provider Network

DMC-ODS counties must contract with a sufficient number of IHCPs to ensure that AI/AN Medi-Cal beneficiaries in the county can access DMC-ODS services at an IHCP. This requirement is set forth in federal law and is incorporated into the State/County DMC-ODS intergovernmental agreement. (See 42 CFR 438.14(b)(1) and DMC-ODS Contract, Exhibit A, Attachment 1, Section II(B)(4)(i)). If the county or county designee refuses to contract with the IHCP for the purposes of delivering DMC-ODS services to non-AI/AN Medi-Cal beneficiaries, the IHCP may follow the contract denial process set forth in paragraph 148 of the Special Terms and Conditions of the Medi-Cal 2020 Waiver.

County Contracts with IHCPs Must Permit Both AI/AN and Non-AI/AN County Beneficiaries to Utilize the IHCP.

As with any other contracted DMC-ODS provider, where a county contracts with an IHCP, the contract must permit both AI/AN and non-AI/AN beneficiaries to obtain DMC-ODS services from the IHCP. The rates that the county must pay to an IHCP for services rendered by contracting IHCPs to non-AI/AN beneficiaries is the same as the rates paid for services rendered to AI/AN beneficiaries.

DMC-ODS Counties' Obligations to Reimburse IHCPs

A DMC-ODS county must reimburse an IHCP-Federally Qualified Health Center (FQHC) that is a participating provider with the DMC-ODS county's provider network at the rate it negotiated with the IHCP-FQHC. When an IHCP is enrolled in Medi-Cal as a FQHC (an IHCP-FQHC), but is not a participating provider with the DMC-ODS county's provider network, the DMC-ODS county must reimburse the IHCP-FQHC at the rate it would pay to a FQHC that is a contracted provider but is not an IHCP. Typically this amount may be the DMC-ODS county interim rate unless the county has negotiated distinct rates for FQHC's to deliver DMC-ODS services. The amount the county pays the IHCP-FQHC for Medi-Cal beneficiaries under these requirements is payment in full.

If the IHCP providing DMC-ODS services is an Urban Indian Organization and not enrolled in Medi-Cal as a FQHC, the DMC-ODS county must reimburse the IHCP at the greater of the rate negotiated between the county and the IHCP and the DMC-ODS county interim rate.

If the IHCP providing DMC-ODS services is a Tribal 638 provider or an IHS facility, the California Medicaid State Plan sets forth specific criteria governing the reimbursement

rate to which Tribal 638 providers and IHS facilities are entitled.² If the services are provided by one of the health professionals identified in the California Medicaid State Plan, and if the service does not exceed the three daily visit limit set forth in Supplement 6, the DMC-ODS county must pay the IHCP the all-inclusive rate published in the Federal Register.³ If the services are not provided by one of the health professionals identified in the California Medicaid State Plan, the DMC-ODS county must reimburse the IHCP at the greater of the rate negotiated between the county and the IHCP and the DMC-ODS county interim rate.

For beneficiaries with Medicare Part B coverage, the rates that a DMC-ODS county must pay to either an Urban Indian Organization, a Tribal 638 provider, or an IHS facility will vary in accordance with the all-inclusive rate published in the Federal Register, and must account for any reimbursement the IHCP receives from Other Health Coverage, including Medicare.

Processing and Paying IHCP Claims

To initiate payment, IHCPs must submit claims to the Medi-Cal beneficiary's county of responsibility in accordance with that county's claiming requirements. The rate on the claim should reflect the rate the IHCP should be paid for the service in accordance with the guidance above. If the rate claimed is incorrect for any reason, the amount due to the IHCP from the DMC-ODS county shall be consistent with the guidance in this notice. The amount the county pays the IHCP-FQHC for Medi-Cal beneficiaries under these requirements is payment in full.

Claims from IHCPs must be paid in accordance with the timeliness requirements in 42 CFR §§ 447.45 and 447.46.

Examples

- An AI/AN Medi-Cal beneficiary whose county of responsibility is Orange County (a DMC-ODS county) receives a covered DMC-ODS service from a Tribal 638 provider or an IHS facility located in Riverside County. The DMC-ODS service was provided by one of the health professionals identified in the Medi-Cal State

² The relevant State Plan pages are in Supplement 6 to Attachment 4.19-B, available at:

<https://www.dhcs.ca.gov/formsandpubs/laws/Pages/Attachment419-B.aspx>

The relevant Provider Manual sections are available at: <https://files.medi-cal.ca.gov/pubsdoco/Publications/masters-MTP/Part2/indhealthcd.pdf>

³ The 2020 IHS all-inclusive rate is available in the [Federal Register](#). PIHPs are responsible for monitoring the Federal Register for future updates to the annual IHS all-inclusive rates published by IHS.

Plan and is the first ambulatory visit for the day. The Tribal 638 provider or IHS facility may submit a claim to Orange County and Orange County must reimburse the tribal 638 provider or IHS facility at the IHS all-inclusive rate even though the provider is not in the Orange County DMC-ODS provider network.

- An AI/AN Medi-Cal beneficiary whose county of responsibility is San Luis Obispo County (a DMC-ODS County) receives a covered DMC-ODS service from an Urban Indian Organization enrolled in Medi-Cal as a FQHC located in Santa Barbara County. The Urban Indian Organization may submit a claim to San Luis Obispo County using a rate negotiated between the county and the IHCP or, in the absence of a negotiated rate, the rate paid to a contracted non-IHCP FQHC. San Luis Obispo County must reimburse the Urban Indian Organization at the negotiated rate or the rate it would otherwise pay a non-IHCP FQHC. Typically this amount may be the DMC-ODS county interim rate unless the county has negotiated distinct rates for FQHC's to deliver DMC-ODS services.

Please e-mail any questions regarding this IN to CountySupport@dhcs.ca.gov.

Sincerely,

Original signed by

Marlies Perez
Acting Chief
Medi-Cal Behavioral Health Division