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GAVIN NEWSOM
GOVERNOR

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Supersedes: [BHIN 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 Hospital Association
California Opioid Maintenance Providers
California State Association of Counties
Coalition of Alcohol and Drug Associations
County Behavioral Health Directors
County Behavioral Health Directors Association of California
County Drug & Alcohol Administrators

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

PURPOSE: The purpose of this Behavioral Health Information Notice (BHIN) is to provide updated guidance regarding DMC-ODS counties' 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 BHIN also provides guidance concerning the required reimbursement rates for Urban Indian Organizations, Tribal Federally Qualified Health Centers (Tribal FQHCs), Tribal 638 providers and 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 Title 42 of the Code of Federal Regulations (C.F.R.), section 136.12.

Indian Health Care Provider (IHCP) – A health care program operated by the IHS (“IHS facility”), an Indian Tribe, a Tribal Organization, or Urban Indian Organization (otherwise

known as an I/T/U) as those terms are defined in section 4 of the Indian Health Care Improvement Act (Title 25 of the United States Code (U.S.C.), section 1603).¹

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 IHS to plan, conduct and administer one or more individual programs, functions, services or activities under [Public Law 93-638](#).

- Tribal 638 providers enrolled in Medi-Cal as an Indian Health Services-Memorandum of Agreement (IHS/MOA) provider 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 BHIN.
- Tribal 638 providers enrolled in Medi-Cal as a Tribal FQHC provider, are governed by and must enroll in Medi-Cal consistent with the Tribal FQHC criteria established in the California Medicaid State Plan,² the [Tribal FQHC section](#) of the Medi-Cal provider manual, and [APL 21-008](#). Tribal 638 providers enrolled in Medi-Cal as a Tribal FQHC must appear on the [“List of Tribal Federally Qualified Health Center Providers”](#), which is included in [APL 21-008, Attachment 2](#).

Note: IHCPs cannot be designated as both an IHS/MOA and a Tribal FQHC provider in Medi-Cal.

Urban Indian Organizations (UIO) – A 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 Title 25 of the U.S.C., section 1653(a).

BACKGROUND:

The DMC-ODS program provides a continuum of care for substance use disorders pursuant to waivers approved by the Centers for Medicare & Medicaid Services. California counties participating in the DMC-ODS (“DMC-ODS counties”) provide an

¹ 42 C.F.R. § 438.14(a).

² See [Supplement 6 to Attachment 4.19-B of the California Medicaid State Plan](#).

array of services including those listed in Welfare and Institutions Code section 14124.24, subdivisions (a)(1) through (6), and those authorized by the DMC-ODS.³

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 Title 42 of the CFR, Part 438, including section 438.14, which describes PIHP obligations in relation to IHCPs and AI/AN Medi-Cal beneficiaries. These duties are further incorporated into the intergovernmental agreements between DHCS and DMC-ODS counties.

DMC-ODS counties are required to reimburse providers 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 eligible under federal law for federal Medicaid reimbursement.⁴ In addition, in accordance with 2011 Realignment and as part of the intergovernmental agreements between DHCS and DMC-ODS counties, DMC-ODS counties generally⁵ assume full financial responsibility for obligations related to DMC-ODS services.

In order to receive reimbursement from a DMC-ODS 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, except for eligible out of state providers.⁶

POLICY:

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

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. DMC-

³ See also [BHIN 21-075](#) for additional DMC-ODS requirements for the period of 2022 to 2026.

⁴ See Welf. & Inst. Code, §§ 14124.24, subd. (a)(6); 14124.24, subd. (c)(1).

⁵ 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.

⁶ Pursuant to eligibility as outlined by [CMCS Informational Bulletin, December 14, 2016, Indian Provisions in the Final Medicaid and Children's Health Insurance Program Managed Care Regulations.](#)

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.⁷

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. DMC-ODS counties may choose to contract with IHCPs for the care of non AI/AN Medi-Cal beneficiaries and, if they do, the IHCP reimbursement obligations described below apply.

DMC-ODS Counties Must Have Sufficient IHCPs Participating in Their Provider Networks

Each DMC-ODS county must make a good faith effort to contract with all IHCPs located in the DMC-ODS county and document those efforts, as provided for in [BHIN 21-023](#). All DMC-ODS counties that are the county of responsibility for AI/AN Medi-Cal beneficiaries must comply with Title 42 of the C.F.R., Part 438.14, including the requirement to demonstrate that there are sufficient IHCPs participating in the provider network to ensure timely access to services available under the contract from such providers for AI/AN enrollees who are eligible to receive services.⁸

DMC-ODS Counties' Obligations to Reimburse IHCPs

1. Reimbursement of IHS-MOA and IHS Facilities

California's Medicaid State Plan sets forth specific criteria governing the reimbursement rate to which IHS/MOA providers and IHS facilities are entitled.⁹ If the service is provided by one of the health professionals identified in Supplement 6 to Attachment 4.19-B of California's Medicaid State Plan, and if the service does not exceed the three daily visit limit set forth in Supplement 6,¹⁰ the DMC-ODS county must pay the IHS/MOA or IHS Facility the All-Inclusive Rate (AIR) published in the Federal Register, which is inapplicable to UIOs.¹¹ If the service is not provided by one of the health professionals

⁷ 42 C.F.R. § 438.14(b)(2),(4); [BHIN 21-075](#), p. 25.

⁸ 42 C.F.R. § 438.14(b)(1); [BHIN 21-075](#), p. 25.

⁹ See [Supplement 6 to Attachment 4.19-B](#) of the California Medicaid State Plan.

¹⁰ The IHS MOA clinics may bill for up to three visits a day for one patient, if one is a medical visit, one is an ambulatory visit, and one is a mental health visit, as defined in [Supplement 6 to Attachment 4.19-B](#) of the California Medicaid State Plan.

¹¹ The 2022 IHS all-inclusive rate is available [here](#). PIHPs, including DMC-ODS counties, are responsible for monitoring the Federal Register for future updates to the annual IHS all-inclusive rates published by IHS.

identified in Supplement 6 to Attachment 4.19-B of California's Medicaid State Plan, the DMC-ODS county must reimburse the IHS/MOA at the amount it would receive if the services were provided under the State Plan's FFS payment methodology.

2. Reimbursement of Tribal FQHCs

Tribal FQHCs are a distinct and separate provider type from IHCPs that are enrolled as FQHCs. If the IHCP providing DMC-ODS services is a Tribal FQHC, California's Medicaid State Plan sets forth specific criteria governing the reimbursement rate to which Tribal FQHCs are entitled.¹² If DMC-ODS services are provided by one of the health professionals identified in the Tribal FQHC section of the Medi-Cal Provider Manual, the DMC-ODS county must pay the Tribal FQHC the Alternative Payment Methodology (APM) as specified in the State Plan.¹³ The APM is equivalent in amount to the AIR published in the Federal Register.¹⁴ Tribal FQHCs must be reimbursed at the applicable rate for up to three visits per day in any combination of different visits in the following visit categories: medical, mental health, dental, and ambulatory. For example, Tribal FQHCs can be reimbursed for a combination of three different medical visits with a primary care physician, nurse practitioner, and a specialist.¹⁵ If the service is not provided by one of the health professionals identified in the Tribal FQHC section of the Medi-Cal Provider Manual, the DMC-ODS county must reimburse the Tribal FQHC at the amount it would receive if the services were provided under the State Plan's FFS payment methodology.

3. Reimbursement of IHCPs Enrolled as FQHCs

When an IHCP is enrolled in Medi-Cal as a FQHC, but not as a Tribal FQHC, the DMC-ODS county must reimburse an IHCP that is a participating provider with the DMC-ODS county's provider network at the rate it negotiated with the IHCP. When an IHCP is enrolled in Medi-Cal as a FQHC, but is not a participating provider within the DMC-ODS county's provider network, the DMC-ODS county must reimburse the IHCP at the rate it would pay to a FQHC that is a contracted provider but is not an IHCP. The amount the DMC-ODS county pays the IHCP that is enrolled as a FQHC is payment in full.

4. Reimbursement of UIOs

¹² See [Supplement 6 to Attachment 4.19-B](#) of the California Medicaid State Plan, p. 4.

¹³ Tribal FQHC [provider manual](#); see [Supplement 6 to Attachment 4.19-B](#) of the California Medicaid State Plan, p. 4.

¹⁴ The 2022 IHS all-inclusive rate is available [here](#).

¹⁵ See [APL 21-008](#).

If the IHCP providing DMC-ODS services is an UIO and not enrolled in Medi-Cal as a FQHC, the DMC-ODS county must reimburse the IHCP at the amount it would receive if the services were provided under the State Plan's FFS payment methodology.

5. Reimbursement for Beneficiaries with Medicare Part B Coverage

For beneficiaries with Medicare Part B coverage, the rates that a DMC-ODS county must pay to either a Tribal FQHC, an IHS/MOA provider, or an IHS facility will vary in accordance with the AIR published in the Federal Register, and must account for any reimbursement the IHCP receives from Other Health Coverage, including Medicare. Where the APM applies, DMC-ODS services must pay Tribal FQHC providers as follows for each visit:

- 1) For Medi-Cal beneficiaries with full Medicare coverage or Medicare Part B only, irrespective of Medicare Part D coverage, the required payment is the difference between the "APM Rate (Excluding Medicare)" and 80 percent of the Medicare FQHC prospective payment system rate.¹⁶
- 2) For Medi-Cal beneficiaries that do not have Medicare Coverage or have Medicare Part A only, irrespective of Medicare Part D coverage, the required payment is the "APM Rate (Excluding Medicare)."¹⁷

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.

Claims from IHCPs must be paid in accordance with the timeliness requirements in Title 42 of the C.F.R. Parts 438.14(b)(2)(iii), 447.45, and 447.46.

¹⁶ See 42 U.S.C. § 1395w-4(e)(6)(A)(ii).

¹⁷ See [Attachment 1](#) to [APL 21-008](#) for the specific Non-Dual Rate.

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 an IHS/MOA provider or an IHS facility located in Riverside County. The DMC-ODS service was provided by one of the health professionals identified in Supplement 6 to Attachment 4.19-B of California's Medicaid State Plan and is the one allowed ambulatory visit or one allowed medical visit for the day. The IHS/MOA provider or IHS facility may submit a claim to Orange County and Orange County must reimburse the IHS/MOA or IHS facility at the IHS AIR 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 Lassen County (a DMC-ODS county) receives a covered DMC-ODS service from a Tribal FQHC provider located in Humboldt County. The DMC-ODS service was provided by one of the health professionals identified in the Tribal FQHC section of the Medi-Cal provider manual and is the third medical visit for the day. The Tribal FQHC provider may submit a claim to Lassen County and Lassen County must reimburse the Tribal FQHC provider at the APM (equivalent in amount to the IHS AIR) even though the provider is not in the Lassen 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 UIO enrolled in Medi-Cal as a FQHC located in Santa Barbara County. The UIO may submit a claim to San Luis Obispo County using a rate negotiated between the DMC-ODS 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 UIO at the negotiated rate or the rate it would otherwise pay a non-IHCP FQHC.

Please e-mail any questions regarding this BHIN to the County Monitoring Section at CountySupport@dhcs.ca.gov.

Sincerely,

Original signed by

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