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



GAVIN NEWSOM
GOVERNOR

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Behavioral Health Information Notice No.: 23-006

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: Ongoing Monitoring Activities Process for Mental Health Plans (MHP) and Drug Medi-Cal Organized Delivery System (DMC-ODS) counties

PURPOSE: To inform MHPs and DMC-ODS counties of the ongoing monitoring activities process by the Department of Health Care Services (DHCS).

REFERENCE: [CalAIM 1915\(b\) Waiver](#), [Mental Health Plan \(MHP\) Contract](#), Welfare and Institutions Code section 14184.102(d), [14197.7\(b\), and \(d\), and \(r\)\(1\)](#), and [Title 9 California Code of Regulation, Chapter 11, Sections 1810.380\(d-e\)](#), [Behavioral Health Information Notice 21-053](#), [Behavioral Health Information Notice 22-045](#)

BACKGROUND:

Welfare and Institutions Code section 14197.7 authorizes DHCS to identify findings of noncompliance and impose corrective action plans, and sanctions if DHCS determines that MHPs and DMC-ODS counties (herein referred to as “Behavioral Health Plans”) fail to comply with requirements in federal or state statutes, regulations, California’s Medicaid State Plan, the CalAIM section 1915(b) Waiver, the MHP contract or the DMC-ODS Intergovernmental Agreement.

In accordance with the 1915(b) Specialty Mental Health Services (SMHS) waiver, which expired on December 31, 2021, DHCS implemented an enhanced monitoring and oversight activities process, which consisted of monthly technical assistance and check-in calls with the MHPs. Since then, in accordance with the CalAIM 1915(b) Waiver, DHCS developed a refined ongoing monitoring activities process, which is described below and includes additional monitoring activities.

Ongoing Monitoring Activities Process

The purpose of DHCS' ongoing monitoring activities process is to identify Behavioral Health Plans' (BHP) deficiencies related to state and federal statutes and regulations and contract requirements on an ongoing basis¹. This process provides BHPs with the opportunity to correct and/or prevent deficiencies in collaboration with DHCS. DHCS will work with BHPs to ensure there is clear understanding of expectations throughout this process.

If a Medi-Cal behavioral health delivery system has compliance deficiencies, complaints against them, or other concerns, as described below, DHCS will determine whether to implement the ongoing monitoring activities process.² DHCS has developed a tiered compliance and disallowance rating system, based on outcomes of triennial SMHS reviews and annual DMC-ODS reviews, to monitor BHPs and identify deficiencies related to compliance with contract requirements.

DHCS will inform MHPs and DMC-ODS counties with a notification letter describing the compliance deficiencies identified, the ongoing monitoring activities to be conducted, and the timeframe in which the activities will be conducted. DHCS will provide MHPs and DMC-ODS counties with a resolution letter when ongoing monitoring activities have been completed.

If BHPs fail to comply with the established ongoing monitoring activities, DHCS will assess and may administer administrative and monetary sanctions.^{3,4}

Ongoing Monitoring Activities

Ongoing Monitoring Activities may include, but are not limited to, the following activities.

¹ [Welfare and Institutions Code 14197.7\(b\)](#)

² [CalAIM Section 1915\(b\) Waiver](#)

³ [Behavioral Health Information Notice 22-045](#)

⁴ [Welfare and Institutions Code 14197.7](#)

Monitoring Calls

DHCS will hold individual monitoring calls/webinars with each BHP. Monthly monitoring calls are facilitated by DHCS County Monitoring Liaisons and occur regardless of tier placement (described below) and other compliance status.

Statewide/Regional Technical Assistance (TA) and Training

DHCS will provide TA or training to all BHPs, or groups of BHPs on specific topics.

Focused TA

DHCS will provide TA focused on a BHP's particular area or area(s) of noncompliance.

Focused Training

DHCS will provide training focused on a BHP's particular area or area(s) of noncompliance.

Focused Desk/Onsite Review of the BHP

DHCS will perform desk or onsite reviews focusing on identified or alleged areas of noncompliance. A focused review is a targeted audit of one or more specific areas of the BHP, and it is not to be substituted for a regular site review. A focused review may consist of a delivery system review, and a chart review utilizing a standard sampling methodology, which is the same methodology used in triennial SMHS reviews and Postservice Postpayment DMC-ODS reviews, or a charts review utilizing a modified sampling methodology using a smaller number of claims in the audit sample.

Focused desk and onsite reviews for the purposes of ongoing monitoring activities are separate and in addition to other DHCS compliance reviews. If deficiencies are identified during a focused desk or onsite review, DHCS will issue a findings report outlining deficiencies and a Corrective Action Plan will be required. If there are no findings, a Corrective Action Plan will not be required, and written notification specifying that there were no findings will be provided.

Corrective Action Plan (CAP) Process

A CAP is required for findings of non-compliance. BHPs are required to submit a CAP to DHCS within 60 days of receipt of the findings report. The CAP must include the following information:

- Description of corrective actions, including a timeline for implementation and/or completion of corrective actions;
- Proposed (or actual) evidence of correction that will be submitted to DHCS;

- Processes for monitoring the effectiveness of corrective actions over time; and
- Descriptions of corrective actions required of the county's contracted providers to address findings.

DHCS will confirm receipt of the CAP within 15 business days of submission, and will follow-up with BHPs if the CAP documents are missing required elements and/or need to be resubmitted. After submission of the CAP, if DHCS determines that the CAP is insufficient, the Medi-Cal behavioral health delivery system shall propose an alternative corrective action plan to DHCS.

BHPs must submit CAP(s) electronically via secure email (i.e., using encryption and typing [secure] in the subject line of the email) to MCBHOMDMonitoring@dhcs.ca.gov. Once DHCS has accepted the CAP, DHCS County Monitoring Liaisons will track progress of CAP implementation and resolution of all findings.

Appeals

If BHPs elect to appeal any item within their findings report, the BHPs may do so by submitting an appeal, in writing, within 15 business days after the receipt of the findings report. The appeal may be submitted via secure email (i.e., using encryption and typing "[secure]" in the subject line of the email) to MCBHOMDMonitoring@dhcs.ca.gov.

The Department shall grant or deny the appeal in whole or in part within 30 calendar days after receipt of the appeal. If an appeal is submitted, and/or the original findings are upheld, the BHP shall send the CAP within 60 calendar days of receipt of the notification from DHCS.

Types of Compliance Issues

Findings from Triennial and Annual Reviews - Tiered Compliance and Disallowance Rating System

DHCS has established a tiered framework to prioritize the ongoing monitoring activities process based on BHPs' performance on compliance with applicable requirements in federal or state statutes, regulations, California's Medicaid State Plan, the CalAIM section 1915(b) Waiver, the MHP contract or the DMC-ODS Intergovernmental Agreement. DHCS will use MHPs and DMC-ODS counties compliance and disallowance rates to determine if a plan is required to implement one or more of the ongoing monitoring activities described above (apart from monitoring calls, which are held regardless of tier placement). DHCS will establish two ratings for each MHP: a

system compliance rate and a chart disallowance rate, the latter of which is based on findings from triennial SMHS system and chart reviews. DHCS will establish a compliance rate for each DMC-ODS plan based on findings from annual DMC-ODS compliance reviews.

Compliance and disallowance rates for BHPs are structured in the following four tier system:

- Tier 1 represents a compliance rate of 90-100%
- Tier 2 represents a compliance rate of 80-89%
- Tier 3 represents a compliance rate of 70-79%
- Tier 4 represents a compliance rate of 69% or less.

Percentages for compliance and disallowance ratings are rounded to whole numbers; if a compliance rating includes 0.5 or above, the percentage is rounded up, if it includes 0.4 or below, the percentage is rounded down. MHPs and DMC-ODS counties placed in tier 3-4 (compliance rate below 80%) shall receive an ongoing monitoring notification letter from DHCS outlining next steps and a list of the specific ongoing monitoring activities to be conducted, including the timeline for completion of activities. Once DHCS has determined that the county has completed the ongoing monitoring activities and compliance issues have been sufficiently addressed and corrected, DHCS will issue an ongoing monitoring resolution letter.

MHPs and DMC-ODS counties placed in tiers 1-2 for the compliance/disallowance rate will not be subject to ongoing monitoring activities, apart from monthly monitoring calls. If a MHP falls within a lower tier for one of the ratings and a higher tier in the other rating, each rating will be addressed separately. For example, if an MHP is in Tier 1 for compliance rating and in Tier 4 for their disallowance rating (based on their SMHS triennial system and chart reviews), the MHP would only be subject to ongoing monitoring activities specific to the chart review findings.

Compliance Rating Tier

In determining MHP and DMC-ODS county tier placement, DHCS will utilize the percentage of the number of items out of compliance out of the total number of items reviewed during the triennial SMHS system reviews and annual DMC-ODS reviews. For example, if an MHP is out of compliance on 20 items out of a total of 200 items reviewed, the compliance rate would be 90%, and the MHP would fall under tier 1.

Disallowance Rating Tier

In determining MHP tier placement, DHCS will utilize the percentage of the number of disallowed claims out of the total number of claims reviewed. For example, if 10 of 400 claims are disallowed for an MHP, the disallowance rate would be 98%, and thus the MHP would fall under tier 1. The disallowance rate is only calculated based on chart reviews performed during triennial reviews; disallowances associated with PSPP reviews are not factored into the disallowance rate.

Repeated Findings

When DHCS identifies repeated findings on two or more consecutive triennial SMHS reviews or annual DMC-ODS reviews' Final Findings Report, DHCS will issue an ongoing monitoring notification letter outlining next steps and specific ongoing monitoring activities to be conducted, including the timeline for completion of activities. Once DHCS has determined that the county has completed ongoing monitoring activities *and* compliance issues have been sufficiently addressed and corrected, DHCS will issue an ongoing monitoring resolution letter.

Other Indications of Compliance Concerns

In addition to compliance and disallowance rates, DHCS will consider the following criteria when determining whether to conduct ongoing monitoring activities, regardless of BHP tier placement.

Complaints of a Serious Nature

Complaints may be identified in the grievance or litigation process, or brought to DHCS' attention through news articles or audits from the Centers for Medicaid and Medicare Services (CMS). These complaints may include, but are not limited to, grievances of a serious nature, such as negligence, service denial, service delay, access to care issues, quality of care issues, health and safety issues and/or other serious alleged compliance issues affecting beneficiaries. Complaints may also include incidents and/or patterns of concern regarding the health and safety of beneficiaries.

DHCS will gather and review information from MHPs and DMC-ODS counties and/or any other parties involved, including meeting with key County Behavioral Health staff to discuss alleged compliance concerns.

If DHCS finds that complaint(s) are substantiated, DHCS will issue an ongoing monitoring notification letter to the MHP or DMC-ODS county outlining next steps and specific ongoing monitoring activities to be conducted, including the timeline for completion of activities. Once DHCS has determined that ongoing monitoring activities

have been completed *and* compliance issues have been sufficiently addressed and corrected, DHCS will issue an ongoing monitoring resolution letter.

Longstanding Unresolved CAPs

A CAP will be considered to be longstanding when all findings have not been resolved within six months of the CAP acceptance date. When DHCS identifies a CAP that has not been resolved within six months from the CAP acceptance date, DHCS may issue an ongoing monitoring notification letter to the MHP or DMC-ODS County, outlining next steps and specific ongoing monitoring activities to be conducted, including the timeline for completion of activities. In addition, DHCS may decide to impose monetary sanctions on the MHP and/or DMC-ODS County for failure to meet CAP requirements, consistent with state law and DHCS guidance.^{5, 6}

DHCS will consider the extension of CAPs in exceptional circumstances and cases where CAP is longstanding due to reasons beyond MHP's and DMC-ODS counties' control. MHPs and DMC-ODS counties may request an extension with their county monitoring liaison. If approved, a reasonable timeframe for extension will be granted. Once DHCS has determined that ongoing monitoring activities have been completed *and* compliance issues have been sufficiently addressed and corrected, DHCS will issue an ongoing monitoring resolution letter.

Questions and Technical Assistance

Please direct specific technical assistance and program questions to your DHCS County Monitoring Liaison.

Please direct any general questions regarding the ongoing monitoring activities process described in this BHIN to MCBHOMDMonitoring@dhcs.ca.gov.

Sincerely,

Original signed by

Michele Wong, Chief
Medi-Cal Behavioral Health – Oversight and Monitoring Division

⁵ [Welfare and Institutions Code 14197.7\(e\)\(7\)](#)

⁶ [Behavioral Health Information Notice 22-045](#)