

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



MICHELLE BAASS  
DIRECTOR



GAVIN NEWSOM  
GOVERNOR

**DATE:** March 7, 2022

ALL PLAN LETTER 21-010 (*Revised*)

**TO:** ALL MEDI-CAL MANAGED CARE HEALTH PLANS

**SUBJECT:** MEDI-CAL COVID-19 VACCINATION INCENTIVE PROGRAM

**PURPOSE:**

The purpose of this All Plan Letter (APL) is to provide guidance to Medi-Cal managed care health plans (MCPs) regarding the Medi-Cal COVID-19 Vaccination Incentive Program. For the purposes of this APL, MCPs include Cal MediConnect Medicare-Medicaid Plans (MMPs). Revised text is found in *italics*.

**BACKGROUND:**

As of August 8, 2021, 48.7 percent of Medi-Cal beneficiaries ages 12 years and older compared with 73.7 percent of all Californians ages 12 years and older have received at least one dose of a COVID-19 vaccine. Approximately 14 million Californians are enrolled in Medi-Cal, including individuals from diverse racial and ethnic groups, those with complex care needs, seniors and persons with disabilities, those who live in rural/frontier communities, individuals experiencing homelessness, refugee and immigrant communities, those dually eligible for Medicare and Medi-Cal, and other individuals who may be hard to reach or face health disparities.

MCPs are responsible for managing care for the vast majority of Medi-Cal beneficiaries. As part of their contractual obligations, MCPs are required to provide case management and care coordination for members, making them well positioned to provide enhanced coordination services, partner with primary care providers, pharmacies and other trusted community partners, and conduct outreach for vaccine distribution for their members, including harder-to-reach populations.

The Department of Health Care Services (DHCS) is allocating up to \$350 million to incentivize COVID-19 vaccination efforts in the Medi-Cal managed care delivery system for the service period of September 1, 2021 through February 28, 2022 (“performance period”). MCPs are eligible to earn incentive payments for activities that are designed to close vaccination gaps with their enrolled members. Participating MCPs will develop Vaccination Response Plans to improve vaccine access and to develop the infrastructure to support this work in the long term. DHCS is seeking Centers for Medicare and Medicaid Services (CMS) approval for this program in accordance with 42 Code of Federal Regulations (CFR) sections 438.6(b)(2) and 433.15(b)(7), as

*applicable*, but will go live at the state's risk even if CMS approval is still pending. Terms of the program may be modified to obtain CMS approval.

**POLICY:**

Effective September 1, 2021, participating MCPs may be eligible to participate in the Medi-Cal COVID-19 Vaccination Incentive Program.

**MCP Eligibility and Participation**

MCP participation in this incentive program is voluntary, but strongly encouraged. MCPs that elect to participate must adhere to program and applicable federal and state requirements in order to earn incentive payments.

All MCPs, including Cal MediConnect MMPs, are eligible to participate, except the following:

- Family Mosaic Project;
- Programs of All-Inclusive Care for the Elderly;
- Rady Children's Hospital San Diego (California Children's Services pilot program); and
- MCPs that are not primarily responsible for physical health care, such as county Mental Health Plans and Dental Managed Care Plans.

**Impacted and Focus Populations**

This incentive program covers all MCP members who are not fully vaccinated against COVID-19. This includes members who received the first dose of a multi-dose vaccine prior to September 1, 2021, but not subsequent recommended doses.

To assist Primary Care Providers and, if applicable, other local partners as needed with outreaching to their assigned members, MCPs must share *data on their unvaccinated members to those entities, subject to federal and state data security and privacy rules governing protected health information/personally identifiable information. In order to assist MCPs with identification of unvaccinated members, DHCS transmits to MCPs, COVID vaccination data from CDPH CAIR2 and Medi-Cal FFS claims on a weekly basis through the MCPs SFTP "Member Spec" folder.*

DHCS has identified some populations of focus served by MCPs who have *faced barriers* in the initial phases of vaccine distribution and *or have had low uptake*. These include members who:

- Are homebound and unable to travel to vaccination sites;
- Are 50-64 years of age with one or more chronic diseases;
- Self-identify as persons of color; and
- Are youth 12-25 years of age.

MCPs are encouraged to consider strategies particularly for, but not limited to, these populations of focus. As information and strategies evolve, DHCS may identify additional populations of focus.

### **Incentive Program Structure**

The incentive program is designed to encourage MCPs to attain specific performance measures that include both process and outcome measures. The maximum amount of MCP incentive payments that may be earned by all MCPs for these measures is \$250 million. The maximum incentive amount that each individual MCP is eligible to earn will be established in proportion to the MCP's enrolled membership relative to total Medi-Cal managed care enrollment, as determined by DHCS and subject to the requirement of 42 CFR 438.6(b)(2) that incentive payments not exceed five percent of the value of capitation payments attributable to the enrollees or services covered by the incentive arrangement. Additionally, there will be a \$100 million pool of funds available for MCPs to utilize for direct *non-monetary* member incentives (e.g., \$50 gift card to grocery store) as part of the MCP's Vaccination Response Plan.

To fully meet the vaccine needs of members, the measures will allow MCPs to earn incentives for increasing outreach efforts to underserved communities, building and monitoring data systems, and coordinating with regional partners to ensure all members have equitable access to vaccines, regardless of demographic factors such as disability, race, and/or ethnicity. See the Process and Outcome Measures section below for details regarding MCP incentive structures.

### Vaccination Response Plan

Participating MCPs are required to develop a Vaccination Response Plan, and submit this plan to DHCS for review and approval. MCP Vaccination Response Plan submissions are due no later than September 1, 2021. DHCS will review MCP Vaccination Response Plan submissions on a rolling and expedited basis. This Vaccination Response Plan must be broad reaching, but must consider the outcome measures and prioritize impacted and focus populations as described above. MCPs must specifically identify strategies for collaborating and supporting organizations, which include but are not limited to community-based organizations, trusted local partners, tribal partners, community health workers, promotoras, pharmacies, local health departments, and faith-based partnerships, in their Vaccination Response Plans to increase vaccine uptake success. MCPs must also identify strategies to ensure homebound members are contacted, that opportunities to receive the vaccine are identified, and coordination activities to receive the vaccine are implemented. MCPs must report to DHCS on their activities under the Vaccine Response Plan at the program's conclusion.

DHCS has developed a Vaccination Response Plan Template that contains the required components of the Vaccination Response Plan, which *participating* MCPs are required to use. DHCS will provide this template via email upon initial issuance of this APL; however, MCPs can request a copy of this template by emailing [mcqmd@dhcs.ca.gov](mailto:mcqmd@dhcs.ca.gov). MCPs must submit their Vaccination Response Plans on the template to [mcqmd@dhcs.ca.gov](mailto:mcqmd@dhcs.ca.gov) by September 1, 2021.

#### Process and Outcome Measures

MCPs collectively may earn up to \$250 million, statewide, for achieving specified process and outcome measures. Please refer to Attachment A for outcome measures.

- Process Measure (20%)
  - MCPs may earn 20% of their maximum incentive allocation, as determined by DHCS, for development and submission of a Vaccination Response Plan that addresses all of the components listed in the Vaccination Response Plan Template and is approved by DHCS.
  - MCPs must submit their Vaccination Response Plan to DHCS by September 1, 2021, and all Vaccination Response Plans must have a start or implementation date no later than September 21, 2021.
  - Payment to each MCP will be made following DHCS' approval of its Vaccination Response Plan.
- Outcome Measures (80%)
  - MCPs may earn 80% of their maximum incentive amount for achievement of outcomes measures specified by DHCS. Please refer to Attachment A for the structure of the payment as tied to specific outcomes measures and further details regarding each outcome measures.
  - Partial payments will be made available for MCPs that make some progress in improving vaccination rates but do not meet pre-specified endpoints for full payment.
  - DHCS will make incentive payments on a schedule to be determined DHCS. Payments will be based on achievement of specified outcome measures.

#### Direct Member Vaccine Incentives

A \$100 million pool of funds *is* available for MCPs to utilize for direct *non-monetary* member incentives (e.g., \$50 gift card to grocery store) *in accordance with the direct member incentive strategy described in their Vaccination Response Plan*. MCPs may *not* access or reallocate these funds for other purposes. In order to draw funds from the

direct member incentive pool, MCPs must attest to meeting specified requirements as outlined in Attachment B.

MCPs that elect to offer direct member incentives must comply with applicable state and federal requirements, including but not limited to the *guidance and safeguards outlined by the U.S. Department of Health and Human Services Office of the Inspector General* related to offering or providing a reward or incentive in connection with a beneficiary receiving a COVID-19 vaccine.<sup>1</sup> *Along with compliance with these requirements, MCPs must also meet the requirements outlined in the Vaccination Response Plan Template as follows:*

- *Institute controls to ensure member incentives are only available for medically necessary vaccinations (i.e., MCPs have controls in place to track vaccinated members to ensure no duplicative member incentives).*
- *Verify member incentives, including “in-kind” (i.e. non-monetary) incentives, do not exceed \$50 per member (single or multi-dose).*
- *The value of member incentives must be uniform and standardized.*
- *Member incentives must be provider agnostic, and on equal terms for all vaccinations administered by all participating Medi-Cal-enrolled providers, regardless of their Network Provider status or relationship with the MCP.*
- *Ensure member incentives are paid out in accordance with federal and state fraud and abuse laws (including, but not limited to civil monetary penalty and anti-kickback statutes).*
- *MCPs may only use a vendor to aid in the dispersal and tracking of member incentives if they can assure:*
  - *The vendor will appropriately track member incentives that are not issued by the MCP directly, and*
  - *That use of the vendor does not inhibit MCP compliance with all applicable requirements, including but not limited to requirements in the Vaccination Response Plan Template.*
- *Demonstrate that 100% of applicable MCP revenues for direct member vaccine incentives are expended on direct incentives to members.*
- *The incentive meets the six safeguards set forth in the U.S. Department of Health and Human Services Office of the Inspector General guidance to ensure*

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<sup>1</sup> See Frequently Asked Questions – Application of the Office of Inspector General’s Administrative Enforcement Authorities to Arrangements Directly Connected to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency at:  
<https://oig.hhs.gov/coronavirus/authorities-faq.asp>

*sufficiently low risk under the Federal anti-kickback statutes and Beneficiary Inducements Civil Monetary Penalty.*

*MCPs may provide member incentives only to members ages 5 and over, or the parent(s) or guardian(s) of members if appropriate, who have received a qualifying dose of a COVID-19 vaccine. Member incentives may be provided to any members for whom the COVID-19 vaccine has federal approval, but reimbursement amounts the MCP can claim may not exceed \$50 maximum per member, inclusive of all vaccine doses, including boosters.*

*Consistent with the process and outcome measures, the determination of the initial allocation across MCPs was proportional to each MCP's enrollment as compared to the total Medi-Cal managed care enrollment of participating MCPs. MCPs may receive reimbursement, up to their initial allocated amount, for distributed direct non-monetary member incentives not to exceed a maximum of \$50 per member. MCPs may provide cash-equivalent incentives (such as gift cards), non-cash equivalent incentives (such as products or merchandise that promote or are associated with good health practices), or both. MCPs may request reimbursement up to cash-equivalent value or the fair market value, as applicable, of the incentives, not to exceed \$50 per member. Any unspent funds from the initial \$100 million pool will be made available to reimburse MCPs that distributed and report qualifying direct member incentives above their initial allocation.*

*MCPs seeking reimbursement for direct member incentives are required to track, and securely transmit to DHCS, the record of each direct member incentive issued for each of the two (2) reporting periods listed below. The first reporting period will be an interim reporting period, as the second reporting period will be inclusive of the first reporting period to allow for reporting allowable direct member incentives that were not captured in the first report. This data must be reported in the format provided in Attachment B. DHCS will perform validations on the data submitted in Attachment B and may reduce reported amounts to align with applicable requirements. The reporting periods are defined by the date of the applicable vaccination dose that qualifies the member for a direct member incentive.*

- *Reporting Period 1: September 1, 2021 – November 30, 2021*
  - *Data due to DHCS: March 31, 2022*
- *Reporting Period 2: September 1, 2021 – February 28, 2022*
  - *Data due to DHCS: August 30, 2022*

### Payment and Other Considerations

DHCS will issue payment for process and outcome measures upon approving the MCP's Vaccination Response Plan and assessing achievement of outcomes at three intervals: as of October 31, 2021, January 2, 2022, and March 6, 2022.

As a condition of participation, MCPs will be expected to report to DHCS all available data and information that DHCS deems to be necessary to evaluate the MCP's performance on specified incentive program measures and for the disbursement of funds from the direct member incentive pool.

Incentive payments earned by MCPs under this program must be excluded from all applicable risk mitigation calculations. In addition, these incentive payments must be independent of, and must not interact with, the application of savings percentages and quality withholds to capitation rates for Cal MediConnect MMPs.

### **Member Outreach**

DHCS requests MCPs to outreach to members using all communication mechanisms. Calls and text messages are exempt from the Telephone Consumer Protection Act (TCPA) under a COVID-19 exemption if they meet the following requirements:<sup>2,3</sup>

- The caller must be from a hospital, or be a health care provider, state or local health official, or other government official, as well as a person under the express direction of such an organization and acting on its behalf.
- The content of the call must be:
  - Solely informational;
  - Made necessary because of the COVID-19 outbreak; and
  - Directly related to the imminent health or safety risk arising out of the COVID-19 outbreak.

Based on guidance in the Federal Communications Commission (FCC) notice, the rise in COVID-19 cases across California poses a significant and imminent health and safety risk for all state citizens, including Medi-Cal beneficiaries. To address the surge in COVID-19 cases, DHCS is requesting that MCPs conduct outreach to their members regarding the availability of COVID-19 vaccines; the goal of these outreach campaigns is to increase vaccine rates to stop the spread of COVID-19.

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<sup>2</sup> See Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, 105 Stat. 2394 (1991), codified at 47 U.S.C. Section 227, available at: <https://www.govinfo.gov/content/pkg/USCODE-2011-title47/pdf/USCODE-2011-title47-chap5-subchapII-partI-sec227.pdf>.

<sup>3</sup> See [FCC Public Notice, Consumer and Governmental Affairs Bureau Clarification on Emergency COVID-19 Related Calls, DA 20-793](#).

MCPs may use calls and text messages that meet the requirements of the TCPA COVID-19 exemption as part of this outreach campaign. As a reminder, texting campaigns related to COVID-19 can be submitted as File and Use only if the MCP has previously received approval on a texting campaign (as of June 18, 2019, forward). If prior approval has not been given, the MCP must submit the texting campaign template for review and approval prior to implementing the campaign. Please refer to the March 30, 2020, email from DHCS related to texting flexibilities. DHCS will prioritize and expedite the review of MCP File and Use texting campaign request submissions.

MCPs may submit their vaccine outreach campaign member materials to DHCS under the File and Use flexibility set forth in [APL 20-004](#).<sup>4</sup> DHCS will make every effort to review and approve submissions expeditiously. MCPs may use *consumer-facing educational and informational* materials developed by the California Department of Public Health (CDPH) without undergoing DHCS review.<sup>5</sup>

MCPs are responsible for ensuring that their Subcontractors and Network Providers comply with all applicable state and federal laws and regulations, contract requirements, and other DHCS guidance, including APLs and Policy Letters.<sup>6</sup> These requirements must be communicated by each MCP to all Subcontractors and Network Providers. If you have any questions regarding this APL, please contact your MCOD Contract Manager.

Sincerely,

*Original signed by Dana Durham*

*Dana Durham*, Chief  
Managed Care Quality and Monitoring Division

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<sup>4</sup> APLs are available at: <https://www.dhcs.ca.gov/formsandpubs/Pages/AllPlanLetters.aspx>

<sup>5</sup> CDPH-developed materials are available on DHCS' COVID-19 Response webpage, located at: <https://www.dhcs.ca.gov/Pages/DHCS-COVID%E2%80%919119-Response.aspx>.

<sup>6</sup> For more information on Subcontractors and Network Providers, including the definition and applicable requirements, see APL 19-001, and any subsequent APLs on this topic.