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ACTING DIRECTOR

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



GAVIN NEWSOM  
GOVERNOR

DATE: 11/7/2019

BH INFORMATION NOTICE NO.: 19-049

TO: CALIFORNIA ALLIANCE OF CHILD AND FAMILY SERVICES  
CALIFORNIA ASSOCIATION OF ALCOHOL & DRUG PROGRAM  
EXECUTIVES, INC.  
CALIFORNIA CONSORTIUM OF ADDICTION PROGRAMS AND  
PROFESSIONALS  
CALIFORNIA COUNCIL OF COMMUNITY BEHAVIORAL HEALTH  
AGENCIES  
CALIFORNIA OPIOID MAINTENANCE PROVIDERS  
CALIFORNIA STATE ASSOCIATION OF COUNTIES  
COALITION OF ALCOHOL AND DRUG ASSOCIATIONS  
COUNTY BEHAVIORAL HEALTH DIRECTORS ASSOCIATION OF  
CALIFORNIA  
COUNTY DRUG & ALCOHOL ADMINISTRATORS  
COUNTY BEHAVIORAL HEALTH DIRECTORS

SUBJECT: CENTERS FOR MEDICARE AND MEDICAID SERVICES (CMS)  
PAYMENT ERROR RATE MEASUREMENT (PERM) MEDICAL  
REVIEW MEDICAL RECORD REQUESTS

REFERENCES: Welfare and Institutions Code (W&I), Section 14124.2 (W&I  
§14124.2) (b) (1), W&I § 14123 subdivision (b), W&I § 14124.2, W&I  
§ 14100.2, Health Insurance Portability and Accountability Act  
(HIPAA).

## Background

The Department of Health Care Services (DHCS) is writing this Information Notice to inform you of an important review being conducted by the U.S. Department of Health and Human Services and CMS. As a result of the Improper Payments Information Act, which was enacted by Congress in 2002, CMS conducts the PERM review in all 50 states every three years.

The Medicaid Program, also known as Medi-Cal in California, has been identified as a program at risk for significant erroneous payments. The purpose of PERM is to identify

where erroneous payments were made in the Medicaid Programs and report the improper payment estimates to Congress.

### **Role of CMS PERM Contractor(s)**

The CMS Statistical Contractor will sample 2,774 claims from Fiscal Year 2018-19. CMS will contract with the Review Contractor (RC) to perform the medical review. The RC collects medical records from the Mental Health Plans (MHPs)/Providers and performs the medical and data processing reviews on the sampled claims to determine if the claims were paid correctly. The RC will request the beneficiaries medical records directly from the MHPs/Providers identified on each claim.

Specialty Mental Health Providers, where Medi-Cal claims are selected at random for review, will receive a letter from the RC requesting copies of all documentation related to the service(s) for a specific claim selected in the sample. The letter will be on official CMS letterhead and in most cases will be sent via fax. The MHPs/Providers are required to submit the requested documentation, along with the coversheet supplied by the RC, no later than the due date on the RC's letter. The letter will include the beneficiary's name, date of birth, the date of service, and the documentation that will be required to be submitted based on the service(s) provided. Each letter will contain a unique identifier for the claim that has been selected. This unique identifier is the PERM ID.

The type of supporting claim documentation that will be requested will vary depending upon the services provided to the Medi-Cal beneficiaries. The documentation may be in the form of medical records such as: progress notes, intake sheets, laboratory reports, physician's orders, nurse's notes, treatment plans, discharge summaries, prior authorization documentation, or original prescriptions. Additional types of documentation that may be requested includes time sheets, delivery invoices, scheduling logs, and attendance logs. It is important to include all documentation supporting the service(s) provided to the beneficiary for the selected claim.

### **Responsibilities of the MHPs/Providers**

Federal regulations require that the MHPs/Providers provide the medical record documentation to support claims for Medicaid – Title 19 and Children's Health Insurance Program (CHIP) – Title 21 services upon request. Experience has shown the cause of most errors in medical reviews has been no documentation or insufficient documentation to support the claim. Accordingly, DHCS is urging all MHPs/Providers to comply with requests from the RC in order to avoid disallowances. The letter the RC will send to the MHPs/Providers will include instructions regarding how to submit the

requested records/documentation, and it is imperative that these instructions be precisely followed. Failure to submit the requested documentation by the due date specified by the RC will result in an error counted against California, and the MHPs/Providers will be required to remit the claim amount back to the State.

### **Additional information**

W&I § 14100.2 mandates that Medi-Cal Program information be kept confidential and that it may be used or disclosed "for purposes directly connected with the administration of the Medi-Cal Program." These purposes include conducting or assisting investigations, prosecutions, or proceedings related to Medi-Cal, audits, and legislative investigations. Additionally, HIPAA Privacy regulations require health care providers and organizations, as well as their business associates, to develop and follow procedures that ensure the confidentiality and security of Protected Health Information when it is transferred, received, handled, or shared. Furthermore, only the minimum health information necessary to conduct business is to be used or shared.

Medical records provided to the RC for Medicaid/CHIP patients do not violate the HIPAA. Patient authorization is not required to respond to this request. CMS and its contractors will comply with the HIPAA Privacy Act and regulations. To learn more about the responsibilities as a Mental Health Plan/Provider for PERM, please refer to the Provider Education FAQs on the CMS PERM Provider page at: <https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicaid-and-CHIP-Compliance/PERM/Providers.html>.

Failure to respond to RC requests for records/documentation may result in suspension from the Medi-Cal Program pursuant to W&I § 14124.2(b) (1). In addition, as per W&I § 14124.2, Medi-Cal providers must make records available to DHCS at or near the time the service is rendered.

If you have any questions or concerns about PERM, please contact the DHCS PERM Project Manager by e-mail at [PERM@dhcs.ca.gov](mailto:PERM@dhcs.ca.gov). Prompt response to all requests for medical record documentation from the RC, will ensure unnecessary errors are not counted against California in this PERM review.

Sincerely,

Brenda Grealish, Chief  
Medi-Cal Behavioral Health Division