



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



EDMUND G. BROWN JR.
GOVERNOR

DATE: November 28, 2017

MHSUDS INFORMATION NOTICE NO.: 17-060

TO: COUNTY BEHAVIORAL HEALTH DIRECTORS
COUNTY DRUG & ALCOHOL ADMINISTRATORS
COUNTY BEHAVIORAL HEALTH DIRECTORS ASSOCIATION OF CALIFORNIA
COALITION OF ALCOHOL AND DRUG ASSOCIATIONS
CALIFORNIA ASSOCIATION OF ALCOHOL & DRUG PROGRAM EXECUTIVES, INC.
CALIFORNIA OPIOID MAINTENANCE PROVIDERS

SUBJECT: DEPARTMENT OF HEALTH CARE SERVICES (DHCS) DRUG MEDI-CAL ORGANIZED DELIVERY SYSTEM (DMC-ODS) PROVIDER SELECTION APPEALS PROCESS

PURPOSE

This Information Notice provides an overview of the DMC-ODS Waiver provider selection appeal process for providers contesting a county's decision to deny contracting for DMC-ODS Waiver services.

BACKGROUND

DHCS is required to implement a provider appeal process for DMC-ODS Waiver services. The Centers for Medicare and Medicaid Services has outlined guidelines for this appeal process in the Special Terms and Conditions of California's Medi-Cal 2020 Section 1115(a) Medicaid Demonstration, Attachment Y. The provider appeal process gives providers an opportunity to appeal erroneous rejections from the county they attempted to contract with and ensures counties are adhering to their provider selection criteria as required in State and County Intergovernmental Agreements and Title 42, Code of Federal Regulations, Section 438.214.

DISCUSSION

Counties can contract with a network of providers to ensure DMC-ODS Waiver services are available to beneficiaries. If a provider determines its proposal for DMC-ODS Waiver services is erroneously rejected by a county, the provider has the right to appeal the decision through an appeal procedure established by the county. If the county level appeal is unsuccessful, the provider may elevate its appeal to DHCS, if the provider:

- Meets all objective qualification criteria needed to provide services;

- Has reason to believe the county has an inadequate network of providers to meet beneficiary needs; and
- Can demonstrate it is capable of high quality services under the current, DHCS approved, county rates for service.

DHCS will review the evidence presented during the appeal and make a determination. DHCS will base its decision on the provider's ability to successfully demonstrate:

- The contract was denied for reasons unrelated to the quality of the provider/network adequacy; and/or
- The county rejection was based on arbitrary or inappropriate county fiscal limitations; and/or
- The county did not adhere to established selection criteria for awarding provider contracts.

To initiate the DHCS appeal process the provider must notify the county of its intent to appeal to DHCS via certified mail, facsimile, or personal delivery within 30 calendar days from the date of the county's appeal decision. The notice must be accompanied by a Proof of Service.

The provider is required to notify DHCS of its intent to appeal the county's decision by submitting the DMC-ODS Waiver Provider Selection Appeal Form (Appeal Form) within 30 calendar days from the date of the county's appeal decision. The Appeal Form can be found on the DHCS website at http://www.dhcs.ca.gov/provgovpart/Pages/County_Resources.aspx and submitted, along with the required supporting documents to ODSSubmissions@dhcs.ca.gov.

The required supporting documents are listed on the Appeal Form and include the following:

1. Proof of Services to the county;
2. County's solicitation document;
3. Provider's response to the county's solicitation document;
4. County's written decision not to contract;
5. Documentation submitted for purposes of the county level appeal;
6. Decision from county level appeal; and
7. Evidence supporting the basis of the DHCS appeal.

Upon being notified of a provider's intent to appeal to DHCS, the county has ten working days from the date set forth on the provider's Proof of Service to submit a written response, with supporting documents, to DHCS via email. This response must also be delivered to the provider via certified mail, facsimile, or personal delivery within the same ten working day timeframe. The response must include:

- The qualification and selection procedures set forth in its solicitation documents; and
- Current data pertaining to the number of providers within the county, the capacity of those providers, and the number of beneficiaries served in the county, including any anticipated change in need and the rationale for the change; and
- The basis for asserting the appealing provider should not have awarded contract based upon the county's solicitation procedures.

Upon receiving the county's response to the provider's appeal, DHCS has ten calendar days to schedule an appeal meeting. This meeting will be facilitated by DHCS.

If it is determined the county has erroneously rejected a providers proposal, the county is required to submit a Corrective Action Plan (CAP) to address the deficiency. The CAP is required to detail how the county will follow its solicitation procedure to remedy the issue(s) identified by DHCS and include the date this will be achieved. If the DHCS approved CAP is not promptly implemented, DHCS may terminate the county's DMC-ODS Waiver contract and the county will revert to providing State Plan services. The decision issued by DHCS is final and cannot be appealed.

DHCS does not have the authority to enforce State or Federal equal employment opportunity laws. If the provider believes the county violated laws or terms outside the scope of the provider appeal process, it may file a claim with the appropriate department.

QUESTIONS

Please address all questions regarding this Information Notice to Janet Rudnick, Utilization Review Section Chief, at (916) 327-2638 or by email at janet.rudnick@dhcs.ca.gov.

Sincerely,

Original signed by

Karen Baylor, Ph.D., LMFT, Deputy Director
Mental Health & Substance Use Disorder Services