



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



GAVIN NEWSOM
GOVERNOR

DATE: March 20, 2019

MHSUDS INFORMATION NOTICE NO.: 19-018 SUPERSEDED BY: [BHIN 21-075](#)

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

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

SUPERSEDES: [MHSUDS Information Notice 17-060](#)

PURPOSE

On August 13, 2015, the Centers for Medicare & Medicaid Services (CMS) approved the DMC-ODS amendment to California's Bridge to Reform Section 1115 Demonstration Project, No. 11-W-00193/9. On June 17, 2016, CMS approved the addition of the DMC-ODS amendment to California's Medi-Cal 2020 Section 1115(a) Medicaid Demonstration Waiver, No. 11-W-00193/9.

Counties that opt into the DMC-ODS agree to provide, or arrange for the provision of, DMC-ODS services to its beneficiaries through Prepaid Inpatient Hospital Plans (County Plans).

This Information Notice provides an overview of DHCS' procedure for determining whether a County Plan has:

- Failed to award a sufficient number of provider contracts and/or utilized inappropriate fiscal limitations when establishing its network of providers for its DMC-ODS; or
- Failed to adhere to its established provider selection criteria when awarding DMC-ODS provider contracts.

BACKGROUND

Special Term and Condition (STC) 147 of the DMC-ODS authorizes County Plans to choose which DMC providers to contract with when building its DMC-ODS provider network. If a County Plan decides not to award a contract to an applicant, STC 148 requires the County Plan to serve that applicant with a written decision that includes the basis for the denial.

Attachment Y of the DMC-ODS STCs requires DHCS to implement a review process for applicants who have been denied a contract by a County Plan. To ensure that the County Plan is complying with the State and County Plan Intergovernmental Agreements and Title 42, Code of Federal Regulations, section 438.214, denied applicants may request that DHCS determine whether the County Plan has:

- Failed to award a sufficient number of provider contracts and/or utilized inappropriate fiscal limitations when establishing its network of providers for its DMC-ODS; or
- Failed to adhere to its established provider selection criteria when awarding DMC-ODS provider contracts.

Applicants that submit a bid to be a contract provider, but are not selected, must first exhaust the County Plan's protest procedure before requesting the DHCS review. If the County Plan does not render a decision within thirty calendar days after the protest was filed with the County Plan, the protest shall be deemed denied, and the provider may request a DHCS review.

DISCUSSION

Prior to requesting a DHCS review, the applicant must notify the County Plan of its intent to request a DHCS review via certified mail, facsimile, or personal delivery within thirty calendar days from the date of the County Plan's appeal decision. The notice must be accompanied by a Proof of Service.

The applicant must request a DHCS review by completing and electronically submitting the DMC-ODS Provider Selection Review Form (Review Form) along with the required supporting documents to ODSSubmissions@dhcs.ca.gov within thirty calendar days

from the date of the County Plan's appeal decision. The Review Form can be found on the DHCS website at

http://www.dhcs.ca.gov/provgovpart/Pages/County_Resources.aspx .

The required supporting documents listed on the Review Form include the following:

1. Proof of Service to the County Plan;
2. County Plan's solicitation document;
3. Applicant's response to the County Plan's solicitation document;
4. The County Plan's written decision not to contract;
5. Documentation submitted for purposes of the County Plan level appeal;
6. Decision from County Plan level appeal; and
7. Evidence demonstrating the County Plan's failure to adhere to its provider selection process or inadequacies in the County Plan's provider network.

The County Plan shall have ten working days from the date set forth on the applicant's Proof of Service to submit a written response, with supporting documents, to the applicant via certified mail, facsimile, or personal delivery and to DHCS via email to ODSSubmissions@dhcs.ca.gov.

The County Plan's response shall include:

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

Within ten calendar days of receiving the County Plan's written response to the applicant's request for review, DHCS shall set a date for a facilitated discussion with the parties to discuss their respective positions set forth in the review documentation. Following the facilitated discussion, DHCS shall review the evidence provided and determine whether sufficient evidence was presented to demonstrate that the County Plan:

- Failed to award a sufficient number of provider contracts and/or utilized inappropriate fiscal limitations when establishing its network of providers for its DMC-ODS; or

- Failed to adhere to its established provider selection criteria when awarding DMC-ODS provider contracts.

If DHCS determines sufficient evidence was presented to substantiate either of the above deficiencies, DHCS will require the County Plan to submit a Corrective Action Plan (CAP). The CAP shall detail how the County Plan will remedy the issue(s) identified by DHCS and include the date that the correction will be achieved. DHCS' determination will not require the County Plan to contract with the appealing provider. The determination will only require that the County Plan remedy the substantiated deficiency(ies). The determination issued by DHCS is final and cannot be appealed.

If the DHCS approved CAP is not implemented by the date specified, DHCS may terminate the County Plan's DMC-ODS Intergovernmental Agreement, and the County Plan will revert to providing State Plan services.

DHCS does not have the authority to enforce State or Federal equal employment opportunity laws. If the provider believes the County Plan violated laws or terms outside the scope of the DHCS' DMC-ODS provider selection review process, it may file a claim with the appropriate department.

QUESTIONS

Please address all questions regarding this Information Notice to Cynthia Hudgins, Quality Monitoring Section Chief, at (916) 713-8636 or by email at Cynthia.Hudgins@dhcs.ca.gov.

Sincerely,

Original signed by

Brenda Grealish, Acting Deputy Director
Mental Health & Substance Use Disorder Services