



C A L I F O R N I A   D E P A R T M E N T   O F

# Mental Health

1600 9th Street, Sacramento, CA 95814  
(916) 654-2309

May 18, 2009

DMH INFORMATION NOTICE NO.: 09-07

TO: LOCAL MENTAL HEALTH DIRECTORS  
LOCAL MENTAL HEALTH PROGRAM CHIEFS  
LOCAL MENTAL HEALTH ADMINISTRATORS  
COUNTY ADMINISTRATIVE OFFICERS  
CHAIRPERSONS, LOCAL MENTAL HEALTH BOARDS

SUBJECT: IMPLEMENTATION OF THE CONLAN V. SHEWRY (2008)

REFERENCE: DMH INFORMATION NOTICE NO.: 07-01  
IMPLEMENTATION OF THE CONLAN v. BONTA (2002)  
102 CAL.APP. 4<sup>th</sup> 745, and CONLAN v. SHEWRY (2005) 131  
CAL.APP. 4<sup>th</sup> 1354 APPELLATE COURT DECISIONS AND  
RELATED SUPERIOR COURT ORDERS

This letter provides guidance to Mental Health Plans (MHPS) regarding their responsibilities pursuant to the order issued by the Superior Court, County of San Francisco in the above-referenced Conlan lawsuit. On September 5, 2008, the Court issued an order requiring the following amendment be made to the Beneficiary Reimbursement Plan (BRP):

Respondents shall allow claimants that allege “**good cause**” for late filing of “**old claims**” to prove such an allegation and, if successful, receive a determination on the merits of their claims. “**Old claims**” are those that arise from paid out of pocket expenses for covered services for dates of service during the period June 27, 1997 through November 16, 2006.

The determination of “good cause” shall be made based upon that standard set forth in Welfare & Institutions Code Section 10951(b)(2), as set forth here:

“**[G]ood Cause** means a substantial and compelling reason beyond the party’s control, considering the length of delay, the diligence of the party making the request, and potential prejudice to the other party. The inability of a person to understand an adequate and language compliant notice, in and of itself, shall not constitute good cause.”

Respondents shall also as part of this order, issue notice letters to all claimants who submitted old claims after November 16, 2007, and whose claims have been denied based upon untimeliness. These claimants will be provided ninety (90) days from receipt of the notice opportunity to submit good cause documentation and have the untimely claim filing excused. If good cause is demonstrated, the claim will then be evaluated on its merits. If good cause is not demonstrated then the claim will be denied as untimely. Claimants will have the opportunity to request a state hearing to challenge the determination that good cause does not exist.

**MHP Instructions for Processing:**

**For claims previously denied for timeliness:**

- Send the claimant who was previously denied, Letter #1 (Enclosure 1). Claimant has 90 days to respond.
- After 90 days if there is no response from claimant, then the old claim denial is upheld and the claim is closed.
- If Request for Review for Determination of Good Cause is not returned timely by claimant within 90 days, then the old claim denial is upheld and the claim is closed. Send letter #2 (Enclosure 2).
- If Request for Review for Determination of Good Cause is received from claimant and approved, then the old claim will be reviewed using the established BRP. Send letter #3 (Enclosure 3).
- If Request for Review for Determination of Good Cause is received from claimant but the Good Cause is denied, then the claim denial is upheld and the claim is closed. Send letter #4 (Enclosure 4).

**For claims submitted untimely:**

- Send the claimant Letter # 5 (Enclosure 5). This notifies claimant they have an untimely claim and gives them 90 days to submit a request for an administrative review of the late filing to prove that the "old claim" was submitted untimely due to "good cause".
- After 90 days if there is no response from claimant, then the claim will be denied for timeliness. Send Letter # 6 (Enclosure 6).

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- If the Request for Review for Determination of Good Cause is not returned timely – then claim is denied for timeliness. Send Letter # 7 (Enclosure 7).
- If Request for Review for Determination of Good Cause is received and approved, then the claim will be reviewed using the established BRPs. Send Letter # 8 (Enclosure 8).
- If Request for Review for Determination of Good Cause is reviewed and denied, then the claim will be denied for good cause and for timeliness. Send Letter #9 (Enclosure 9).

Sincerely,

Original signed by

STEPHEN W. MAYBERG, Ph.D.

Director

Enclosures