



California Alliance Comments on DHCS and CBHDA Presentation to the Medi-Cal Children’s Health Advisory Panel

9/23/16

The California Alliance of Child and Family Services is a statewide association of over 120 accredited, private nonprofit organizations providing a broad array of care, service and support options to vulnerable children youth and families.

We have reviewed the presentation materials from DHCS and CBHDA provided for the 9/13/16 MCHAP meeting. We are concerned that the materials generally lack the detailed information needed to explain the unique mental health entitlements for children and families; and in some cases contain misinformation.

General concerns:

1. Both presentations fail to recognize the difference between the Medi-Cal entitlement for adults compared to children. In fact, both documents explain the entitlement for adults but do not provide any information about the entitlement as it relates to those under the age of 21.
2. The DHCS presentation fails to describe a plan to ensure that the state’s contractors (county mental health plans) are providing the entitled specialty mental health services (SMHS) to Medi-Cal beneficiaries under the age of 21.

Specific Concerns: DHCS Slide Deck:

1. Slide 3: DHCS states that “DHCS is California’s single state agency (SSA) for Medi-Cal, California’s Medicaid Program”. As such, DHCS is the sole entity recognized by the Centers for Medicare and Medicare Services (CMS). Later slides (12, 13, 51), however, appear to shift responsibility to the counties despite the fact that CMS clearly holds the state responsible for delivering the entitled services enumerated in California’s 1915(b) waiver renewal and in the accompanying special terms and conditions set by CMS, as well as in other communication between DHCS and CMS.
2. Slide 11: The timeline provided states that in 1995 “California Institutes Medicaid Early and Periodic Screening, Diagnosis and Treatment (EPSDT)”. In doing so, California committed to providing all EPSDT services to beneficiaries under the age of 21, but as of this date one

specialty mental health service (crisis residential) is not available and others are not provided consistently across the state.

3. Slide 21: This slide provides the definition of medical necessity for adults which is much more restrictive than the EPSDT definition for children. It fails to include the definition of medical necessity for beneficiaries under the age of 21: “a reasonable probability a child will not progress developmentally as individually appropriate” (CCR Title 9, Chapter 11 1830.210).
4. Slide 61: The list provided under “MHP Outpatient” is incomplete. The list omits “Intensive Care Coordination”, “Intensive Home Based Services”, “Therapeutic Foster Care”, and “Therapeutic Behavioral Services”. These are all EPSDT SMHS entitlements for Medi-Cal beneficiaries under the age of 21. All were developed as the result of class action law suits filed against California due to the state’s failure to provide the EPSDT entitlement to specific populations of children and youth. This same slide also indicates that all SMHS are to be provided by the county mental health plan (MHP). Other slides, however, indicate that “mild and moderate mental health needs” are the responsibility of the Medi-Cal managed care plans, although regulations specify no level of severity of need for Medi-Cal beneficiaries under the age of 21 to access SMHS.
5. Slide 62: This slide refers to the MOU between the county MHP and Medi-Cal managed care plan (MCP). DHCS required that MHPs submit these MOUs to DHCS by June, 2014. To date there has been no confirmation that the MOUs have been submitted to DHCS, and if they have, there has been no published analysis of the content.
6. Slide 65: The Special Terms and Conditions (STC) discussed here were due September 1, 2016. As of today’s date the DHCS website contains locations for data to comply with each STC, however, 3 of the 4 required data sets are without data and the 4th leads to a series of electronic links and the required data is not available at the final link. Similarly, each county was to post local information; however, a survey of 10 counties done today found none of the required data on any of the county websites.
7. Slides 69 through 73: These slides relate to “Continuum of Care Reform” developed by the state Department of Social Services (CDSS), but do not mention how DHCS will ensure that the related SMHS mandated services will be made available to youth involved in this project.
8. Slides 74 through 83: These slides relate to SMHS developed in response to the Katie A v. Bonta class action law suit. This slide fails to mention that just approximately 25% of youth entitled to these services are currently receiving any of the services created in 2011.
9. Slide 85: DHCS had failed to include “crisis residential” as an entitled SMHS to beneficiaries under the age 21. After repeated requests to correct that omission prior to the 9/13/16 committee hearing, DHCS has made the correction to the posted presentation.
10. Slide 86: The slide incorrectly states that crisis residential treatment services programs must have a Social Rehabilitation Facility license and that crisis residential services “by definition” are only provided to adults. Crisis residential is a SMHS which is included in the federal mandate and in the state’s mental health plan for beneficiaries of all ages. DHCS, however, has not required that county MHPs provide the service and, as demonstrated by the slide,

has denied that the benefit is available to beneficiaries under age 21. AB741(Williams) currently on the governor's desk, after progressing through the legislative process with unanimous votes, would ensure that crisis residential services are available to youth. DHCS has informed the author and sponsors, however, that the department will recommend that the governor not sign this bill "because it is not timely".

11. Slide 87: The slide mentions the children's crisis services survey. This survey was completed in late summer 2015 in response to a letter from a group of attorneys who were concerned about the statewide lack of crisis services to individuals under the age of 21. The results of the survey were due in October 2015. No results have been provided to the general public or to the Oversight and Accountability Commission (OAC), however, despite repeated requests.
12. Slide 88: The slide references SB 82 (Steinberg; statutes of 2013) which created startup funds to counties for a number of crisis services. Language in the bill limited most of the services to adults. SB 82 funding was \$142.5 million. All awards are expected to add a total of 1,185 crisis stabilization and crisis residential treatment beds and 18 peer respite beds. Approximately 41 of these beds will be dedicated to youth. The slide fails to mention that SB 833 (Committee on Budget and Fiscal Review; statutes 2016) created startup funds for crisis services specifically for individuals under the age of 21; however, the \$30 million in funding provided by SB 833 are less than a quarter of those provided for adult crisis services in SB 82.

Specific Concerns: LA County DMH Slide Deck

1. Slide 4: Identifies "significant impairment" as a criterion for receiving SMHS. This is a requirement for adults to receive SMHS. For Medi-Cal beneficiaries under age 21, the criteria make no mention of level of impairment. Level of impairment simply is not a criterion for determining medical necessity for SMHS for beneficiaries under age 21.
2. Slide 4: Item 4 is in error. The criteria for those under age 21 is left out of the description. For those under age 21, the proposed intervention likely would "allow the child to progress developmentally as individually appropriate."
3. Slides 6 and 7: The slides contain conflicting information. Slide 7 states that specialty mental health services are to be provided by the county mental health plan while slide 6 states that "non-serious mental health issues" are served by a variety of entities other than the county mental health plan. Eligibility for SMHS for populations under age 21 is not limited by severity of impairment. Reference on the slide to "non-serious mental health issues" is misleading and incorrect. The slide should read, "Except for beneficiaries under age 21, populations with non-serious mental health issues are served by primary care, Medi-Cal Managed Care Plan providers, or fee-for-service mental health providers."
4. Slide 8: The list of target populations provided is not in the state Medicaid Plan or any regulation - state or federal.
5. Slide 9: This slide states that the penetration rate for EPSDT specialty mental health services in LA County is 5.3%. Given that the generally accepted level of need for mental health services in the general population of youth is 20%, this rate is unacceptably low.

6. Slides 15 through 34: The majority of LA County slides provide examples of MHSA funded programs. Although we applaud LA County for including children and youth in their county MHSA plan, the slides lack critical information such as ages of youth involved so it is impossible to determine how many individuals under the age of 21 have received services (“Transition aged youth” included in most LA MHSA programs include individuals up to age 26.). The outcome reports provided include a very small number of clients compared to those that previous slides state were involved in the MHSA programs.

Thank you for this opportunity to comment on the meeting materials. Please let me know if you have any questions.

A handwritten signature in black ink that reads "Lynn M. Thull". The signature is written in a cursive style with a large, stylized initial "L".

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