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State Oversight of Medical Loss Ratio

Work Plan for 1915(b) CalAIM Waiver, STC A11

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Purpose

The California Department of Health Care Services (DHCS) submits this work plan to outline its approach to operationalize the Medical Loss Ratio (MLR) requirements set forth by the Centers for Medicare and Medicaid Services (CMS) in the Section 1915(b) California Advancing & Innovating Medi-Cal (CalAIM) waiver’s Special Terms and Conditions (STCs). This work plan describes the approach that DHCS will employ to operationalize and comply with the applicable MLR requirements.

This work plan satisfies the following requirements within STC A11:

- “The State must submit its plan to operationalize this STC A11.a to CMS for review and approval at DMCPMLR@cms.hhs.gov.”
- “The State is required to submit a work-plan to CMS, no later than July 1, 2022, that outlines the key deliverables and timelines to meet this [STC A11.c] remittance requirement.”

Background

Existing federal regulations obligate states to require Medi-Cal managed care plans (MCPs)¹ to calculate and report, annually, a MLR in accordance with Part 438.8 of Title 42 of the Code of Federal Regulations (42 CFR § 438.8). States may elect to require

¹ Within this document, “MCP” includes Dental MCPs unless expressly stated otherwise.

MCPs to provide a remittance if the MCP does not achieve a minimum MLR standard, not less than 85 percent, established by the state.

California law (Welfare and Institutions Code, section 14197.2 [WIC § 14197.2]) establishes a minimum MLR standard of 85 percent commencing July 1, 2019, and imposes a remittance requirement for MCPs, except Dental MCPs, that do not achieve this standard for rating periods beginning on or after July 1, 2023—i.e., starting the Calendar Year (CY) 2024 rating period. DHCS contractually imposed an equivalent remittance requirement for Dental MCPs beginning with the State Fiscal Year (SFY) 2019-20 rating period.

Tables 1.a and 1.b outline key elements of these existing reporting and remittance requirements:

Table 1.a. Existing Federal MLR Reporting/Remittance Requirements	
42 CFR § 438.8(a)	States must require MCPs to calculate and report an MLR in accordance with 42 CFR § 438.8
42 CFR § 438.8(c)	States may elect to mandate a minimum MLR standard, not less than 85 percent, for MCPs.
42 CFR § 438.8(e)(2)(v)(A)	MCPs must exclude from incurred claims non-claims costs such as, but not limited to, amounts paid to third-party vendors for secondary network savings, network development, administrative fees, claims processing, and utilization management.
42 CFR § 438.8(k)(2)	States must collect MLR reports from MCPs within 12 months of the close of the MLR reporting year.

Table 1.b. Existing State MLR Reporting/Remittance Requirements	
WIC § 14197.2(b)	MCPs are required to comply with a minimum MLR standard of 85 percent.
WIC § 14197.2(c)	MCPs, except Dental MCPs, that fall below an MLR of 85 percent for an MLR reporting year are required to provide a remittance of funds. <i>Note: Managed care capitation rates are established on a calendar year basis; hence, this requirement will apply starting with the CY 2024 rating period.</i>
Dental MCP Contracts	Effective SFY 2019-20, Dental MCPs that fall below an MLR of 85 percent for an MLR reporting year are required to provide a remittance of funds.

In December 2021, CMS approved California's Section 1915(b) CalAIM waiver including new MLR reporting and remittance obligations. The new requirements set forth in the Section 1915(b) waiver STCs will significantly increase DHCS' oversight of MLR reporting in the context of delegated arrangements. Such arrangements exist throughout California, with MCPs delegating risk to other health plans, independent physician associations (IPAs), medical groups, hospital systems, and other healthcare entities; at times, these subcontractors in turn sub-delegate further to downstream subcontractors. Capitated arrangements and value-based purchasing through delegated entities is also common in the commercial and Medicare markets. Through the new STC requirements, DHCS is required to oversee the imposition of the MLR reporting and remittance requirements on applicable downstream entities that are direct or indirect subcontractors of MCPs.

The newly adopted reporting and remittance requirements set forth by STC A11 require the following:

Effective for the CY 2022 MLR reporting year:

- For risk-based MCPs, including Dental MCPs, DHCS must collect and submit to CMS the MCP-generated reports detailed in 42 CFR § 438.8(k) and documentation of DHCS's compliance review.
- For MCPs, including Dental MCPs, that delegate risk to subcontractors, DHCS must consider MLR requirements related to third-party vendors; see <https://www.medicaid.gov/federal-policy-guidance/downloads/cib051519.pdf>.

Effective the CY 2023 MLR reporting year:

- DHCS must require MCPs, including Dental MCPs, that delegate risk to subcontractors to impose MLR reporting requirements on their applicable direct and indirect subcontractors equivalent to the information required in 42 CFR § 438.8(k).

Effective no later than the CY 2025 MLR reporting year:

- DHCS must require MCPs, including Dental MCPs, that delegate risk to subcontractors to impose MLR remittance requirements on their applicable direct and indirect subcontractors equivalent to 42 CFR § 438.8(j), i.e., equivalent to DHCS' minimum standard for MCPs and Dental MCPs, as applicable.

In addition, STC A12 requires DHCS to work with CMS to effectuate, no sooner than 2028, an audit of the MLR data covering all years of the 1915(b) CalAIM waiver, i.e., the MLR reporting years aligning with the CY 2022 through CY 2026 rating periods.

Scope

DHCS will use the following definition to identify the subcontractor entities that are subject to the MLR reporting and remittance requirements as outlined in STC A11:

Subcontractors include fully delegated plans, partially delegated plans, and other applicable subcontractors that enter into a subcontractor agreement with, and consequently assume risk from, an MCP or its direct or indirect subcontractors, and receive payment that relates directly or indirectly to the performance of the MCP's obligations under its contract with DHCS.

For purposes of establishing the scope of the STC A11 requirements, DHCS anticipates using the classification of entities outlined in Table 2. In accordance with STC A11, and subject to consideration of a materiality threshold as discussed below, Subcontractor Plans and Other Applicable Subcontractors will be required to satisfy applicable MLR reporting and remittance requirements. Providers that are not subcontractors, purely administrative subcontractors, and subcontractors that assume risk only for services that they provide through their own employees will be considered Non-Reporting Entities and exempt from having to calculate and report MLR. A single entity may be a Non-Reporting Entity in some instances (e.g., for certain services or arrangements) and an Other Applicable Subcontractor in other instances.

DHCS will further refine this scope through a landscape analysis of delegation in Medi-Cal, as discussed further below.

Table 2. Entities Subject to STC A11	
MCPs, or “Prime” Plans	Plans that are contracted directly with DHCS to provide Medi-Cal services in a service area.
Subcontractor Plans	Plans that assume fully or partially delegated risk from a MCP, or its subcontractor, in a given service area but are not contracted directly with DHCS to provide Medi-Cal services in that service area.
Other Applicable Subcontractors	Subcontractors, except Subcontractor Plans, that assume risk and receive payment from the MCP, or its subcontractor, for services provided beyond their own entity, i.e., services which they do not directly deliver to Medi-Cal beneficiaries. This may include IPAs, medical groups, hospital systems, or other entities.
Non-Reporting Entities	Direct providers or provider groups, purely administrative subcontractors, and non-applicable subcontractors that do not assume risk for services provided beyond their own entity.

Materiality Threshold

DHCS supports the goal of STC A11 to improve transparency into the delivery of Medi-Cal services in delegated arrangements and the flow of payments between MCPs and

their subcontractors while continuing to incent the use of innovative models that pay for value and improving health care delivery in Medi-Cal. In an effort to optimize the value of the review of information obtained through MLR reporting, and to minimize excessive operational burden for the delivery system, DHCS will utilize a materiality threshold for determining whether particular entities or contracting arrangements are subject to the enhanced STC A11 reporting and remittance requirements.

MLR reporting by subcontractors will shed light on the flow of capitated revenue in delegated arrangements. The most impactful data is expected to come from the entities that are most involved in providing Medi-Cal services on behalf of MCPs. It is foreseen that these will be the entities with the greatest amount of Medi-Cal revenue, the highest proportion of the MCP's Medi-Cal membership, and a wide scope of services for which they assume risk. At the other end of the spectrum, where an entity assumes risk for a relatively small amount of Medi-Cal revenue or enrollment, or a limited scope of services, the impact of the information gained through increased visibility is low relative to its operational burden.

The materiality threshold for an entity or contracting arrangement is still to be determined, and may be based on one or more of the following: annual Medi-Cal revenue, the Medi-Cal lives for which risk is delegated, the scope of Medi-Cal services for which risk is delegated, or other factors. Each entity or contracting arrangement would have its own materiality value calculated and compared with the materiality threshold. Entities or contracting arrangements that fall below the threshold would not be subject to the enhanced STC A11 reporting and remittance requirements for a given MLR reporting year.

As this process continues, DHCS will make use of the actual MLR data reported by MCPs and their subcontractors to evaluate the continued appropriateness of the established materiality threshold. DHCS is confident that this approach advances its shared objective with CMS to improve transparency into delegated arrangements.

State Oversight and Monitoring

DHCS proposes to allocate significant staffing resources to oversee the implementation and oversight of the new MLR reporting and remittance requirements, subject to budgetary appropriation. This includes the addition of 13 staff in addition to the 12 existing staff who currently support DHCS' review and oversight of MCP-reported MLRs; see Table 3 for details. The additional positions will permit DHCS to enhance its review of third-party vendor requirements and monitor MCPs' imposition of applicable reporting and remittance requirements downstream.

Additionally, the Department will continue to collaborate with contracted subject-matter experts to assist in monitoring compliance with the STC.

Table 3. State Staffing Resources Supporting MLR Workload	
New (Proposed) – 13	Existing - 12
1.0 Staff Services Manager II	1.0 Staff Services Manager II
1.0 Staff Services Manager II	1.0 Staff Services Manager I
1.0 Staff Services Manager I	1.0 Research Data Specialist II
1.0 Research Data Specialist I	1.0 Research Data Specialist I
2.0 Research Data Analyst II	2.0 Research Data Analyst II
6.0 Associate Governmental Program Analyst, or Staff Services Analyst	6.0 Associate Governmental Program Analyst, or Staff Services Analyst
1.0 Attorney IV	

Work Plan and Reporting/Remittance Timelines

DHCS will follow the work plan below to operationalize the MLR requirements in the 1915(b) CalAIM waiver STCs. As additional information is gathered and work progresses, DHCS reserves the right to revisit the components and timing of this work plan as needed to successfully operationalize these requirements. DHCS will review operational requirements and processes annually, and implement changes as appropriate and needed.

Date	Activity	Description
1/1/2022 - 2/28/2022	DHCS Internal Assessment	Analyze STC requirements. Assess approaches, considerations for operationalizing the STC requirements. Prepare a strategy for stakeholder engagement.
3/1/2022 - 6/30/2022	Initial Stakeholder Engagement	Hold workgroups with MCPs, subcontractors, providers, and other stakeholders.
4/1/2022 - 6/30/2022	Initial CMS Engagement	Engage CMS to discuss STC requirements and applicable MLR guidance.
7/1/2022	Work Plan	Submit work plan to CMS.
7/1/2022 - 11/30/2022	Landscape Analysis	Perform a landscape analysis of delegation in Medi-Cal to help identify the layers of delegation that are subject to the new MLR reporting and remittance requirements and to inform the determination of appropriate materiality thresholds. Prepare and disseminate a data collection template. Require MCPs to report information on their delegated arrangements by county or rating region. Review MCP-reported information.
7/1/2022 - 12/31/2022	Policy and Operational Design	Develop the following: - Draft language for MCP contracts including expectations for MCP monitoring and oversight of subcontractor-reported MLR data. - Guidance/standards for appropriate allocation of expenses across multiple lines of business. - Materiality thresholds utilizing data from the landscape analysis.
8/1/2022 - 1/31/2023	Stakeholder Communication - Phase 1	Multiple targeted webinars: - Continue policy discussions. - Discuss reporting requirements. - Discuss CMS feedback on the work plan,

		if any.
10/1/2022 - 1/31/2023	CMS Engagement	Continue discussions and confirm final approach on: <ul style="list-style-type: none"> - Materiality threshold. - Applicability of 42 CFR § 438.8(m). - Other key policy questions necessary for implementation.
2/1/2023 - 5/31/2023	Reporting Template	Draft standard MLR template, template instructions, and FAQ for use by subcontractors.
2/1/2023 - 6/30/2023	Final Guidance	Issue final guidance through All Plan Letter and other methods, as appropriate.
During 2023	State Oversight Process	Develop the following: <ul style="list-style-type: none"> - Process workflows for subcontractor data. - DHCS' review process for MLR submissions. - DHCS' oversight policies and procedures to review compliance and remedies for non-compliance.
During 2023	Stakeholder Communication - Phase 2	Multiple webinars for stakeholder education: <ul style="list-style-type: none"> - Policy, processes, and technical questions. - Facilitate technical assistance for reporting entities on the reporting template and requirements, expectations, and timeframes. Develop a toolkit and Internet resource page.
During 2023	CMS Engagement	Finalize timing and scope of the multi-year audit of the MLR data covering CY 2022 through CY 2026.
Late 2023	Establish MLR Remittance	Finalize MLR remittance process applicable to MCPs for CY 2024.

	Process for CY 2024^[a]	<p><i>Note: This new remittance process will replace the process already in place for Dental MCPs.</i></p> <p><i>Note: The equivalent remittance process for applicable subcontractors will begin as of CY 2025 in accordance with STC A11.c.</i></p>
No later than 12/31/2023	Receipt of CY 2022 MLRs	MCPs submit their CY 2022 MLRs to DHCS.
1/1/2024 - 6/30/2024	DHCS' MLR Review	<p>Review of compliance with CY 2022 MLR reporting requirements.</p> <p>Calculate Dental MCP remittances in accordance with Dental MCP contracts.^[a]</p>
3 rd Quarter 2024	CY 2022 MLRs Submitted to CMS	Submit the MCP-generated MLR reports as well as documentation of DHCS' compliance review to CMS.
During 2024	CY 2023 MLR Reporting by Subcontractors	Upstream reporting of MLRs by applicable subcontractors for CY 2023.
During 2024	Stakeholder Communication - Phase 3	Ongoing technical support for stakeholders, including updates to the toolkit and Internet resource page.
Late 2024	Establish MLR Remittance Process for CY 2025	Update MLR remittance process applicable for CY 2025. The revised methodology will establish dates and processes applicable to subcontractor plans or entities subject to remittance requirements beginning January 1, 2025.
Late 2024	Remittance Collection^[a]	Collect remittance from Dental MCPs for CY 2022 after determination letters are sent.
No later than 12/31/2024	Receipt of CY 2023 MLRs	MCPs submit their CY 2023 MLRs to DHCS accounting for their applicable subcontractors' MLRs.
1/1/2025 - 9/30/2025	DHCS' MLR Review	<p>Review of compliance with CY 2023 MLR reporting requirements, including consideration of subcontractor reporting.</p> <p>Calculate Dental MCP remittances in accordance with Dental MCP contracts.^[a]</p>
4 th Quarter 2025	CY 2023 MLRs Submitted to CMS	Submit the MCP-generated MLR reports as well as documentation of DHCS' compliance review to CMS.

During 2025	CY 2024 MLR Reporting by Subcontractors	Upstream reporting of MLRs by applicable subcontractors for CY 2024.
During 2025	Stakeholder Communication - Phase 3	Ongoing technical support for stakeholders, including updates to the toolkit and Internet resource page.
Late 2025	Remittance Collection^[a]	Collect remittance from Dental MCPs for CY 2023 after determination letters are sent.
No later than 12/31/2025	Receipt of CY 2024 MLRs	MCPs submit their CY 2024 MLRs to DHCS accounting for their applicable subcontractors' MLRs.
1/1/2026 - 9/30/2026	DHCS' MLR Review	Review of compliance with CY 2024 MLR reporting requirements, including consideration of subcontractor reporting. Calculate MCP remittances in accordance with State law and Dental MCP contracts, as applicable. ^[a]
4 th Quarter 2026	CY 2024 MLRs Submitted to CMS	Submit the MCP-generated MLR reports as well as documentation of DHCS' compliance review to CMS.
During 2026	CY 2025 MLR Reporting by Subcontractors	Upstream reporting of MLRs, and remittances as applicable, by applicable subcontractors for CY 2025.
During 2026	Stakeholder Communication - Phase 3	Ongoing technical support for stakeholders, including updates to the toolkit and Internet resource page.
Late 2026	Remittance Collection^[a]	Collect remittance from MCPs, including Dental MCPs, for CY 2024 after determination letters are sent.
No later than 12/31/2026	Receipt of CY 2025 MLRs	MCPs submit their CY 2025 MLRs to DHCS accounting for their applicable subcontractors' MLRs.
1/1/2027 - 9/30/2027	DHCS' MLR Review	Review of compliance with CY 2025 MLR reporting requirements, including consideration of subcontractor reporting and remittances. Calculate MCP remittances in accordance with State law and Dental MCP contracts, as applicable. ^[a]

4 th Quarter 2027	CY 2025 MLRs Submitted to CMS	Submit the MCP-generated MLR reports as well as documentation of DHCS' compliance review to CMS.
During 2027	CY 2026 MLR Reporting by Subcontractors	Upstream reporting of MLRs, and remittances as applicable, by applicable subcontractors for CY 2026.
During 2027	Stakeholder Communication - Phase 3	Ongoing technical support for stakeholders, including updates to the toolkit and Internet resource page.
Late 2027	Remittance Collection^[a]	Collect remittance from MCPs, including Dental MCPs, for CY 2025 after determination letters are sent.
No later than 12/31/2027	Receipt of CY 2026 MLRs	MCPs submit their CY 2026 MLRs to DHCS accounting for their applicable subcontractors' MLRs.
1/1/2028 - 9/30/2028	DHCS' MLR Review	Review of compliance with CY 2026 MLR reporting requirements, including consideration of subcontractor reporting and remittances. Calculate MCP remittances in accordance with State law and Dental MCP contracts, as applicable. ^[a]
4 th Quarter 2028	CY 2026 MLRs Submitted to CMS	Submit the MCP-generated MLR reports as well as documentation of DHCS' compliance review to CMS.
Late 2028	Remittance Collection^[a]	Collect remittance from MCPs, including Dental MCPs, for CY 2026 after determination letters are sent.
Late 2028	Multi-Year Audit	MLR audit covering CY 2022 through CY 2026.

^[a] The collection of remittances from MCPs, except Dental MCPs, is a requirement under State law not the 1915(b) CalAIM waiver STCs. The collection of remittances from Dental MCPs is a requirement of the Dental MCP contracts not the 1915(b) CalAIM waiver STCs. Associated activities are included in this work plan due to overlap with the workload of DHCS staff working on STC A11.

Multi-Year Audit

STC A12 requires DHCS to work with CMS to conduct an audit of the MLR data covering the CY 2022 through CY 2026 MLR reporting years. The audit process may not occur sooner than January 2028 and, ideally, will occur in late 2028 after DHCS has had time to finalize review of the CY 2026 MLRs. DHCS will work with CMS in the future to further define the scope and parameters of this joint audit.