



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



EDMUND G. BROWN JR.
GOVERNOR

DATE: January 20, 2017

TO: ALL MEDI-CAL DENTAL MANAGED CARE PLANS

SUBJECT: **APL 16-014: Final Rule Notice of Modernized Managed Care Regulations: 42 C.F.R. § 438.3 (d) Standard Contract Requirements and 42 C.F.R. §440.262 Access and Cultural Considerations**

The Department of Health Care Services (Department) issues this All Plan Letter (APL) under Exhibit E, Additional Provisions, Provision 5, section d, of the Medi-Cal Dental Geographic Managed Care and Prepaid Health Plan contracts (Contracts). This APL is incorporated into the Contracts, shall be complied with by Contractor. As set forth under Exhibit E, Provision 5, section d, “APLs issued by MDSO subsequent to the effective date of this Contract shall provide clarification of Contractors obligations pursuant to this contract, and may include instructions to the Contractor regarding implementation of mandated obligations pursuant to changes in State or federal statutes or regulations, or pursuant to judicial interpretation.”

Due to the publication of the Medicaid and Children’s Health Insurance Program (CHIP) Managed Care Final Rule (CMS-2390-F, 81 FR 27498) on May 6, 2016 (“final rule”), the Department issues this APL, which is part of a series of APLs, to provide guidance and direction to the Medi-Cal Dental Managed Care Plans (Plans). The final rule modernizes the Medicaid managed care regulations to reflect changes in the usage of managed care delivery systems. The final rule aligns, where feasible, many of the rules governing Medicaid managed care with those of other major sources of coverage, including coverage through Qualified Health Plans and Medicare Advantage plans; implements statutory provisions; strengthens actuarial soundness payment provisions to promote the accountability of Medicaid managed care program rates; and promotes the quality of care and strengthens efforts to reform delivery systems that serve Medicaid and CHIP beneficiaries. It also ensures appropriate beneficiary protections and enhances policies related to program integrity. This final rule also implements provisions of the Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA) and addresses third party liability for trauma codes. In accordance with the law, Plans are required to comply with these managed care regulations effective July 5, 2016. The below-identified final rule provisions are incorporated by reference into the Contracts.

Modernized Managed Care Regulation 42 C.F.R. § [438.3 \(d\)](#) provides that enrollment is voluntary except in the case of mandatory enrollment programs. The entities must accept individuals eligible for enrollment in the order in which they apply without restriction (unless authorized by CMS), up to the limits set under the contract.

Furthermore, 42 C.F.R. § 438.3 (d)(4) provides that discrimination in enrollment practices is prohibited on the basis of race, color, national origin, sex, sexual orientation, gender identity, or

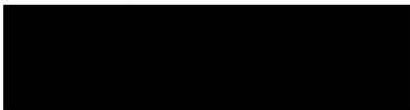
disability. Any policy or practice that has the effect of discriminating on the basis of race, color, national origin, sex, sexual orientation, gender identity or disability is prohibited. Though the Contracts currently include provisions that prohibit discrimination of protected classes, the final rule now expands protected classes to include sexual orientation and gender identify.

42 C.F.R § [440.262](#) requires that the State have methods to promote access and delivery of services in a culturally competent manner to all beneficiaries, including those with limited English proficiency, diverse cultural and ethnic backgrounds, disabilities, and regardless of gender, sexual orientation or gender identity. These methods must ensure that beneficiaries have access to covered services that are delivered in a manner that meet their unique needs. The Contracts already require that the promotion of access and the delivery of services must be in a culturally competent manner, the final rule expands the requirement to include sexual orientation or gender identity.

For the entire text pertaining to the regulations above, refer to the [Medicaid federal register](#).

If you have any questions, please contact the Medi-Cal Dental Services Division at dmcdeliverables@dhcs.ca.gov.

Sincerely,



Eric Mayes, Chief
Contract Management and Policy Unit
Medi-Cal Dental Services Division
Department of Health Care Services