Medicaid Parity Final Rule: Summary of the DHCS Parity Compliance Plan for County Behavioral Health Systems

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CBHDA contacts: Linnea Koopmans, lkoopmans@cbhda.org and Paula Wilhelm, pwilhelm@cbhda.org.

Overview: In March 2016, the Centers for Medicare & Medicaid Services issued final regulations applying the Mental Health Parity and Addiction Equity Act of 2008 to Medicaid managed care, the Children's Health Insurance Program (CHIP), and Alternative Benefit Plans. The parity regulations were issued as a separate ruling from the Medicaid Managed Care Final Rule but are contained within the same section of code[1] and are considered part of the Final Rule.

Applicability: Federal parity requirements apply whenever a Medi-Cal beneficiary is enrolled in a managed care plan. Parity applies across the entire Medi-Cal benefit package, regardless of delivery system. Federal parity regulations therefore apply to Medi-Cal services managed by county behavioral health delivery systems including mental health plans (MHPs), Drug Medi-Cal Organized Delivery Systems (DMC-ODS), and Drug Medi-Cal (DMC) state plan counties.

Compliance Date: Federal parity compliance is October 2, 2017. The California Department of Health Care Services (DHCS) Parity Compliance Plan is posted on the Department's Final Rule webpage along with a six-page summary.

Parity Assessment Process: The Medicaid Parity Final Rule requires compliance with five key concepts across delivery systems, including: 1) aggregate lifetime and annual dollar limits; 2) financial requirements; 3) quantitative treatment limitations; 4) non-quantitative treatment limitations; and 5) information requirements. Definitions of these terms can be found in the CMS Parity Toolkit and DHCS Parity Compliance Plan. To assess compliance with parity requirements, DHCS mapped Medi-Cal benefits into four classifications – inpatient, outpatient, prescription drugs, and emergency care – and conducted a cross-system analysis. The analysis included surveying of each Medi-Cal delivery system and a comprehensive evaluation across federal and state authorities, statutes, regulations, and policy guidance governing the Medi-Cal program. The resulting findings are included in the DHCS Parity Compliance Plan, which outlines several significant policy changes for county behavioral health systems.

Key Policy Changes for County Behavioral Health Systems: In many cases, a parity policy finding resulted when managed care plans (MCPs) and county behavioral health systems were assessed to be out of alignment due to more prescriptive state guidance applied to MCPs. For these areas, DHCS is developing policy guidance for county behavioral health systems to align

[1] Federal Medicaid parity regulations are found in 42 CFR Part 438, Subpart K

with existing policies applied to MCPs. The below table outlines key parity findings applicable to county MHPs and SUD systems. DHCS is in the process of developing guidance via Information Notice, and the state-county contract for each system will be amended in 2018 to include parity requirements.

Parity requirements and Drug Medi-Cal: As noted above, parity requirements apply across a Medi-Cal enrollee's benefits package. This includes Drug Medi-Cal benefits in counties that opt into the DMC-ODS waiver *and* in those that continue to deliver services under the state plan. DHCS's parity compliance plan applies SUD-related parity findings to all county SUD programs but discusses those findings in terms of managed care functions, which are not the responsibility of counties delivering state plan DMC services. DHCS is still working to determine how the findings marked as "DMC-ODS" below will be applied and operationalized in ODS waiver versus state plan DMC counties.

Parity Compliance Findings Applicable to County Behavioral Health Systems		
Policy Area	**Description**	**Applicability**
Uniform Method of Determining Ability to Pay (UMDAP)	State statute[2] requires counties to charge non Medi-Cal beneficiaries for SMHS based on their ability to pay using the UMDAP process. Counties do not charge Medi-Cal beneficiaries for SMHS, therefore DHCS intends to amend statute to conform with current practice. Existing statute does not apply to DMC services, so this finding only applies to MHPs.	MHP
Authorization processes and timeframes for specialty mental health services	DHCS assessed the use of prior authorization, concurrent authorization, and retrospective authorization across delivery systems. Current authorization policies of DMC-ODS counties and DMC state plan counties were assessed to be in parity across delivery systems. For SMHS, new requirements will be adopted for MHPs regarding prior authorization and concurrent authorization, including circumstances for authorizations and timeframes. Most notably, MHPs will be required to conduct concurrent reviews for inpatient psychiatric stays and complete the review within five business days upon receipt of request.	MHP
Statewide credentialing policy	Existing guidance to MCPs establishes a statewide credentialing process. DHCS will align with this policy when developing credentialing guidance for MHPs and SUD systems which will also comply with new provisions of the Medicaid Managed Care Final Rule[3] and Cures Act established new requirements for provider screening and enrollment.	MHP, DMC-ODS
Statewide continuity of care policy	Medi-Cal managed care plans are required by statute[4] to provide for the completion of covered services by a terminated or non-participating health plan provider subject to certain conditions. DHCS will adopt a continuity of care policy for SMHS and SUD services consistent with the existing requirement for MCPs.	MHP, DMC-ODS
Statewide network adequacy standards	The Final Rule required states to develop network adequacy standards, including time and distance and timely access, for certain provider types which includes behavioral health. The DHCS network adequacy proposal and AB 205 (Wood, Chapter 738, Statutes of 2017) outline applicable standards that go into effect on July 1, 2018.	MHP, DMC-ODS

[2] Welfare & Institutions Code Sections 5709 and 5710
[3] 42 CFR Sections 438.214 and 438.602(b)
[4] Health & Safety Code Section 1373.96

Parity Compliance Findings Applicable to County Behavioral Health Systems		
Policy Area	**Description**	**Applicability**
Standardized Notice of Action forms and disclosure requirements	Existing guidance in state statute[5] for Notices of Action sent by MCPs is more prescriptive than federal guidelines. To promote statewide standards, DHCS will align the content of notices among MCPs, MHPs, and DMC-ODS counties. While DMC providers are also required under state statute to provide written notice to beneficiaries,[6] it is unclear at this time whether this finding will require changes in informing practices in state plan DMC counties.	MHP, DMC-ODS

Summary of Key Findings Impacting Medi-Cal Managed Care Plans

- Alcohol misuse screening and counseling (AMSC) benefit: The current Medi-Cal AMSC limit of one screening and three brief interventions per year may be exceeded in cases of medical necessity. Primary care providers who offer AMSC will no longer be required to undergo an AMSC-specific training to render these services, as providers working within their scopes of practice are not required to have specialized training to provide other Medi-Cal preventive services.
- Non-specialty mental health services authorization processes: The parity analysis found that MCPs there is variability in MCPs prior authorization processes for non-SMHS and their authorization review teams. To comply with parity, DHCS will provide policy guidance that clarifies that restrictions to an initial mental health assessment is prohibited. They will also address authorization review processes and standards, including how these practices are applied across medical/surgical and non-SMHS benefits.
- Statewide network adequacy standards: Network adequacy standards for outpatient mental health services will be applied equally to non-SMHS covered by the MCP and SMHS covered by the MHP.
- Transportation benefit for non-MCP covered services: AB 2394 (Garcia, Chapter 615, Statutes of 2016) expanded the non-medical transportation (NMT) benefit to all Medi-Cal beneficiaries for all plan covered services. As of October 1, 2017, as a result of the DHCS parity analysis, MCPs are required to provide NMT for non-MCP-covered services for beneficiaries who are enrolled their plan. This includes NMT for SMHS and SUD services.

California Legislation Requires Parity Compliance: SB 171 (Hernandez, Chapter 768, Statutes of 2017) requires DHCS to ensure compliance with federal parity regulations. It authorizes The Department to implement these regulations through policy guidance and to adopt state regulations, where appropriate, by July 1, 2022.

Funding: Pursuant to Constitutional provisions of Proposition 30[7], the state must pay half of the nonfederal share of increased county costs driven by federal requirements in 2011 Realigned programs. CBHDA will continue to advocate for sufficient county funding under Proposition 30 related to the federal parity regulations.

[5] Health & Safety Code Section 1367.01
[6] 22 CCR Section 51341.1
[7] California Constitution, Article XIII, Section 36.(c)(5)(A)