

September 24, 2014

Mr. Toby Douglas, Director
Department of Health Care Services
1501 Capitol Avenue
Sacramento, California 95899

**SUBJECT: Clarifying MHP-MCP-DHCS Roles & Responsibilities in Assuring
Beneficiary Access to FQHC Behavioral Health Services**

Dear Mr. Douglas:

On behalf of the County Behavioral Health Directors Association of California (CBHDA), which represents the public mental health and substance use disorder programs in counties throughout California, I offer its perspective on assuring beneficiary access to behavioral health services at federally qualified health centers (FQHCs).

Federally qualified health centers (FQHCs) provide critical access to behavioral health services for California's Medi-Cal population. Significant investments have been made by the federal government over the last several years to increase the capacity of FQHCs to better meet the behavioral health needs of the safety net. Prior to January 1, 2014, FQHCs were able to seek reimbursement for face-to-face encounters between Medi-Cal managed care plan members and psychiatrists, psychologists, and licensed clinical social workers (LCSWs) directly from the Department of Health Care Services (DHCS) through a specific set of Prospective Payment System (PPS) service codes designated for activities that were "carved out" of the managed care plans' responsibility (See Medi-Cal Provider Manual – RHC and FQHC Billing Codes). No distinction was required for claiming purposes related to beneficiary level of functional impairment – rather, the medically necessary services needed to be rendered via a face-to-face encounter with an eligible provider.

As part of California's implementation of the Affordable Care Act (ACA), beginning January 1, 2014, mental health services (other than those provided by the county specialty system) are now a Medi-Cal managed care plan benefit. While this new benefit provides a tremendous opportunity to increase beneficiary access to a broader continuum of mental health care, inclusion of these services in the managed care plans' responsibility has significant implications for FQHCs. Foremost, since the designated service codes were originally designed to allow PPS reimbursement directly from DHCS for services "carved out" of the managed care plans' responsibility, claiming considerations must be addressed within the new landscape. While official guidance has not been released to date, draft guidance developed and shared informally by DHCS directs FQHCs to seek reimbursement for all managed care plan-covered services first through the plan, seeking only the differential payment from DHCS to make sure the FQHC is reimbursed at their established PPS rate. To the extent that FQHCs are providing mental health services to beneficiaries who do not meet the specialty mental health eligibility criteria, FQHCs are working with the managed care plans in their region to participate as part of the plans' mental health network, transitioning claiming processes accordingly.

Per our discussions with the California Primary Care Association, it is our understanding that the majority of mental health services provided by most FQHCs would likely qualify for reimbursement through the managed care plans. However, to the extent that some FQHCs may be providing mental health services to individuals who would otherwise meet the eligibility requirements for services through the county specialty mental health plan (MHP), important beneficiary access and reimbursement considerations need to be addressed.

California's 1915(b) Medi-Cal Specialty Mental Health Services (SMHS) Consolidation waiver program assures enrollees "the right to obtain FQHC access outside this waiver program through the regular Medicaid Program." The waiver also clarifies that FQHC services are not covered by the MHPs under the waiver program. Furthermore, existing regulatory guidance includes FQHCs on the list of "excluded services," for which "MHPs shall not be responsible to provide or arrange and pay for..." making FQHC participation in MHP networks to deliver rehabilitative mental health services complicated. Finally, rehabilitative mental health services often necessitate services to be provided anywhere in the community, by qualified providers including peers and other rehabilitation specialists and 24 / 7 access to crisis services. While some FQHCs may have structures in place to effectively deliver rehabilitative mental health services as defined in the State Plan Amendment 10-061 ("Rehabilitative Mental Health Services"), others may not.

CBHDA Proposal

CBHDA urges the Department to work with counties, managed care plans, and FQHC representatives to assure the following:

- 1) MHPs can elect to contract with FQHCs as "group or individual providers" for the delivery of certain rehabilitative mental health services. DHCS should work with counties to take the necessary steps to clarify regulatory and other guidance to facilitate these contractual arrangements, including identifying and developing strategies to address any potential fiscal risks to counties and the state related to duplicative federal payment. MHPs contract with FQHCs at a negotiated rate for specified activities and DHCS provides the FQHC with a supplemental payment up to the full PPS rate for services meeting the definition of an FQHC encounter for reimbursement purposes. CBHDA would recommend that the focus of initial contract arrangements be in the area of medication support, with the possibility of some "mental health services" (as defined in the Rehabilitative Mental Health Services State Plan Amendment 10-061), to the extent that identified challenges related to the rehabilitative service delivery model can be addressed.
- 2) In order to assure beneficiary access to FQHCs, as required by federal law (see Section 2088.6 of State Medicaid Manual), DHCS continues to reimburse FQHCs for medically necessary mental health services rendered to Medi-Cal managed care plan members who otherwise would meet the eligibility criteria for specialty mental health plan services, however elect to continue to receive services through the FQHC outside of the MHP waiver program. DHCS should work with counties and managed care plans to develop a mechanism to appropriately distinguish these services from those that are the responsibility of the managed care plans (i.e. specific ICD codes that distinguish level of impairment) or provided through contract with the MHP.

Relevant Regulatory Citations

- Title 9 § 1810.355 Excluded Services (FQHC specialty MH reimbursement exclusion)
- Title 9 § 1810.225 Medication Support (definition)
- Title 9 § 1810.218.2 Group Provider (definition)
- Title 9 § 1810.222 Individual Provider (definition)
- Title 9 § 1810.435 MHP Individual, Group and Organizational Provider Selection Criteria
- 1915(b) Medi-Cal Specialty Mental Health Consolidation Waiver. The Department will need to determine whether or not it will be necessary to seek an amendment to the waiver to clarify how access to FQHC services will be assured in the new landscape.

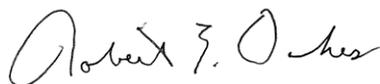
Questions for Consideration Related to Elective MHP Contracting with FQHCs for Delivery of Medi-Cal Specialty Mental Health Services

- 1) Will the state guarantee a differential payment (“wrap”) to augment the rate paid by the MHP to assure that the FQHC is reimbursed at their established PPS rate?
- 2) Will FQHCs be able to contract with MHPs to deliver rehabilitative mental health services that are otherwise not eligible for PPS reimbursement (i.e. do not meet the face-to-face encounter definition as specified in WIC § 14132.100) services and be reimbursed by the county at a negotiated rate (non-PPS), forgoing the state’s differential payment?
- 3) What are the cost reporting implications for both systems?
- 4) What, if any, are the duplicative federal payment risks and how can we assure against them?

While DHCS continues to work with counties, managed care plans, and FQHCs to address the outstanding questions and considerations outlined in this letter, **CBHDA requests that the Department immediately provide formal guidance to FQHCs clarifying the process for seeking reimbursement for behavioral health services that are beyond the scope of the managed care plans’ contractual responsibility.**

CBHDA appreciates DHCS’ continued commitment to California’s community behavioral health care system and welcomes the opportunity to work with DHCS to strengthen the health care delivery system for Medi-Cal beneficiaries with behavioral health conditions and their families. Please do not hesitate to contact me (roakes@cbhda.org) or Molly Brassil (mbrassil@cbhda.org) with any questions.

Sincerely,



Robert E. Oakes
Executive Director
County Behavioral Health Directors Association of California

CBHDA Comments to DHCS on Beneficiary Access to FQHC Behavioral Health Services –
September 24, 2014

Cc. Mari Cantwell, Chief Deputy Director, DHCS
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