Implementing the Medicaid Managed Care Final Rule

DHCS and County Perspectives on Putting the Rule into Action

August 7, 2017
Today’s Presenters

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  County Behavioral Health Directors Association

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  Mental Health Services Division

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  Department of Behavioral Health

• Dr. Rebecca Ballinger
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  Mariposa County
  Behavioral Health & Recovery Services

• Christine Doss
  Mariposa County
  Behavioral Health & Recovery Services
Housekeeping

- Webinar participants will be in listen only mode during the presentations. If you would like to ask a question, please submit it using the GoToWebinar Question feature.

- There will be a substantial amount of time for questions and discussion after the presentations conclude, at which point the phones will be unmuted. At that time, we will also respond to the questions submitted throughout the presentations.

- Do not put your phone on hold.

- The webinar will be recorded via GoToWebinar and will be posted to the CBHDA website.

- The PowerPoint slides will also be posted to the CBHDA website.
Presentation Outline

• Medicaid Managed Care (MMC) Final Rule Overview and CMS Goals
• DHCS Priorities for Implementation
• San Bernardino County: Developing and Executing a Final Rule Work Plan
• Butte County Perspectives
• Mariposa County Perspectives
• County Discussion
• Additional Resources
FINAL RULE OVERVIEW AND GOALS
Medicaid Managed Care
Final Rule Overview

• The Final Rule updates Part 438 of title 42 Code of Federal Regulations
  • Part 438 is cited throughout the MHP Contract
• Final regulations published in the Federal Register July 5, 2016
• Implementation varies by section through 2018 and beyond
  • Includes many provisions applicable to counties effective July 1, 2017
CMS Goals for the Final Rule

1) Delivery system reform and improve quality of care
2) Strengthen beneficiary experience of care and beneficiary protections
3) Strengthen program integrity by improving accountability and transparency
4) Alignment of managed care requirements with other health coverage programs
DHCS PRIORITIES FOR IMPLEMENTATION
Medicaid Managed Care Final Rule
Priorities for Implementation

Autumn Boylan, MPH
Mental Health Services Division
42 C.F.R. Part 438 Overview

- Subpart A – General Provisions
- Subpart B – State Responsibilities
- Subpart C – Enrollee Rights and Protections
- Subpart D – MCO, PIHP and PAHP Standards
- Subpart E – Quality Measurement and Improvement; External Quality Review
- Subpart F – Grievance and Appeal System
- Subpart G – Reserved
- Subpart H – Additional Program Integrity Safeguards
- Subpart I – Sanctions
- Subpart J – Conditions for Federal Financial Participation
- Subpart K – Parity in Mental Health and Substance Use Disorder Benefits
Key Provisions Effective July 5, 2016

- §438.2 Definitions
- §438.3(a) CMS Review and Approval of Contracts
- §438.3(d) Enrollment Discrimination Prohibition
- §438.3(f) Compliance with Applicable Laws and Conflict of Interest Safeguards
- §438.3(j) Advance Directives
- §438.3(k) Subcontracts
- §438.3(l) Choice of Network Provider
- §438.100 Enrollee Rights
- §438.102 Provider-Enrollee Communications
- §440.262 Access and Cultural Considerations
- §438.610 Prohibited Affiliations
Key Provisions Effective July 1, 2017

- §438.3(h) Inspection and Audit of Records and Access to Facilities
- §438.10 Information Requirements
- §438.66 State Monitoring Requirements
- §438.208 Coordination and Continuity of Care
- §438.210 Coverage & Authorization
- §438.230 Subcontractual Relationships and Delegation
- §438.242 Health Information Systems
- §438.330 Quality Assessment and Performance Improvement
- Subpart F - Grievance and Appeal System
- Subpart H – Additional Program Integrity Safeguards
- Subpart K – Parity in Mental Health and Substance Use Disorder Benefits—October 2, 2017
Key Provisions Effective July 1, 2018

• §438.62 Continued Services to Enrollees
• §438.68 Network Adequacy
• §438.206 Availability of Services
• §438.207 Assurances of Adequate Capacity
• §438.71 Beneficiary Support System
• §§ 438.602(b) and 438.608(b) Screening & Enrollment
• §438.340 Quality Strategy
• §§ 438.350-364 EQR Requirements
• §438.818 Encounter Data
Provisions Effective after 2018

• §438.66(e) Annual Program Assessment Reports
• §438.358 Activities Related to External Quality Review
• §438.334 Quality Rating System
## Priorities for Implementation

<table>
<thead>
<tr>
<th>Citation</th>
<th>Rule Description</th>
<th>Suggested MHP Action Steps</th>
</tr>
</thead>
<tbody>
<tr>
<td>§438.3(h)</td>
<td>Inspection and audit of records and access to facilities</td>
<td>Update P&amp;Ps</td>
</tr>
<tr>
<td>§438.3(u)</td>
<td>Recordkeeping requirements</td>
<td>Update P&amp;Ps</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Inventory records/storage capacity</td>
</tr>
<tr>
<td>§438.10</td>
<td>Information Requirements</td>
<td>Update P&amp;Ps</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Update County portion – handbook</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Update written materials – language and format requirements</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Update provider directory</td>
</tr>
<tr>
<td>§438.230</td>
<td>Sub-contractual relationships and delegation</td>
<td>Update P&amp;Ps</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Update provider subcontracts</td>
</tr>
<tr>
<td>§438.332</td>
<td>State review of accreditation status</td>
<td>Report to DHCS if accredited</td>
</tr>
<tr>
<td>Subpart F</td>
<td>Grievance and appeal systems</td>
<td>Update P&amp;Ps</td>
</tr>
<tr>
<td>(§438.400-438.424)</td>
<td></td>
<td>Revise posted notices and signs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Update grievance and appeal forms</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Update Logs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Notify network providers</td>
</tr>
</tbody>
</table>
## Priorities for Implementation

<table>
<thead>
<tr>
<th>Citation</th>
<th>Rule Description</th>
<th>Suggested MHP Action Steps</th>
</tr>
</thead>
<tbody>
<tr>
<td>§438.602(d)</td>
<td>Federal database checks</td>
<td>Update P&amp;Ps</td>
</tr>
<tr>
<td>§438.608(a)</td>
<td>Program integrity requirements</td>
<td>Update P&amp;Ps</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Update compliance plan</td>
</tr>
<tr>
<td>§438.610</td>
<td>Prohibited affiliations</td>
<td>Update P&amp;Ps</td>
</tr>
<tr>
<td>§438.808</td>
<td>Exclusion of entities</td>
<td>Update P&amp;Ps</td>
</tr>
</tbody>
</table>
Priorities Pending Forthcoming DHCS Guidance

- §438.3(m) - Audited Financial Reports
- §438.14 - Requirements that apply to managed care contract involving Indians, IHCPs
- §438.214 - Provider Selection
- Subpart F (§438.400-438.424) - Grievance and Appeal Systems
- §438.602(i) - Entities located outside the U.S.
- §438.604 - Data, information and documentation that must be submitted
- §438.608(d) - Treatment of recoveries of overpayments
- Subpart K – Mental Health and Substance Use Disorder Parity
Additional Updates

• MHP Contract
  – CMS Review
  – CBHDA Review

• TA Contract
  – Harbage Consulting
  – Effective August 15, 2017

• Network Adequacy Standards
DHCS Contact Information

Autumn Boylan, MHP
Chief, Compliance Section
Mental Health Services Division

Autumn.boylan@dhcs.ca.gov
SAN BERNARDINO COUNTY:
DEVELOPING AND EXECUTING
A FINAL RULE WORK PLAN
San Bernardino: Large County Perspective
Developing and Executing a Final Rule Work Plan

Marina Espinosa, Deputy Director, Program Support Services
Dr. Rebecca Ballinger, Interim Chief Quality Management Officer, Quality Management Division
Overview of San Bernardino Approach

- Review available tools/resources
  - CMS Checklist for Final Rule
  - County Architect/Project Manager for MMC Adoption tool
  - Regulations
  - CBHDA Fact Sheets
  - Other counties’ websites
  - Proposed DHCS contract template document
- Determine partners to assist in development and implementation
- Identify what, if any, is already completed
- Prioritize requirements
  - Estimate timeframes to complete
  - Identify requirements with potential new cost(s)
- Get started
<table>
<thead>
<tr>
<th>Implementation/Timeline</th>
<th>Category</th>
<th>Reference</th>
<th>Requirement</th>
<th>Task Manager - Status</th>
<th>Comment for Instructions</th>
<th>Notes on Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-Jul-17</td>
<td>Beneficiary Informing - Website</td>
<td>508 Guidelines, 50a and WACs</td>
<td>Web format is readily accessible by modern accessibility standards. Assign to technology officer regarding website design for separate task list.</td>
<td></td>
<td>Contact IT for compliance in this area</td>
<td></td>
</tr>
<tr>
<td>1-Jul-17</td>
<td>Beneficiary Informing - Materials</td>
<td>438.10</td>
<td>Member informing materials must be printable and given to beneficiaries within 5 business days. (During Enrollment)</td>
<td>X</td>
<td>X</td>
<td>Discuss with Marina if DBH is responsible for this?</td>
</tr>
<tr>
<td>1-Jul-17</td>
<td>Beneficiary Informing - Materials</td>
<td>438.10</td>
<td>Plan must have mechanisms to help enrollees and potential enrollees understand the benefits of the plan.</td>
<td></td>
<td>X</td>
<td>Enrollment</td>
</tr>
<tr>
<td>1-Jul-17</td>
<td>Beneficiary Informing - Translation</td>
<td>438.10</td>
<td>Oral interpretation/translation services in all languages (not just threshold).</td>
<td>X</td>
<td>X</td>
<td>NOAs and grievance forms. Which languages are required?</td>
</tr>
<tr>
<td>1-Jul-17</td>
<td>Beneficiary Informing - Translation</td>
<td>438.10</td>
<td>All written materials must include titles in the prevalent non-English.</td>
<td></td>
<td>X</td>
<td>NOAs and grievance forms. Which languages are required?</td>
</tr>
</tbody>
</table>
### APPEALS AND GRIEVANCES

1. **IN-form update**
   - Available in the prevalent non-English languages [in the county]

2. **Appeal and Grievance notices**
   - General requirements are: Each Plan must have a grievance and appeal system in place for enrollees. 1) Each Plan may have only one level of appeal for enrollees. 2) An enrollee may file a grievance and request an appeal. 3) An enrollee may request a State fair hearing after receiving notice under §438.408 that the adverse benefit determination is upheld. In the case of a Plan that fails to adhere to the notice and timing requirements in §438.408, the enrollee is deemed to have exhausted the Plan’s appeals process and the enrollee may initiate a State fair hearing. 4) The State may offer and arrange for an external medical review. 5) With the written consent of the enrollee, a provider or an authorized representative may request an appeal or file a grievance, or request a State fair hearing, on behalf of an enrollee.

3. **Status**
   - Sent out 7/8/17

4. **Appeal and grievance definitions**
   - Appeal means a review by a Plan of an adverse benefit determination. 1) Grievance means an expression of dissatisfaction about any matter other than an adverse benefit determination. Grievances may include, but are not limited to: other quality of care or services provided, aspects of interpersonal relationships such as rudeness of a provider or employee failure to respect the enrollee’s rights regardless of whether remedial action is requested, an enrollee’s right to dispute an extension of time proposed by the MCO, PIHP or PAHP to make an authorization decision. 2) Grievance and appeal system means the processes the MCO, PIHP, or PAHP implements to handle appeals of an adverse benefit determination and grievances, as well as the processes to collect and track information about them. 3) State fair hearing means the process set forth in_subpart E of part 431 of this chapter.

5. **An enrollee may file a grievance with the Plan at any time**
   - 1) The enrollee may file a grievance either orally or in writing, and, as determined by the State, either with the State or with the Plan. 2) Following receipt of a notification of an adverse benefit determination by a Plan, an enrollee has 60 calendar days from the date on the adverse benefit determination notice in which to file a request for an appeal to the managed care plan. 3) The enrollee may request an appeal either orally or in writing. Further, unless the enrollee requests an expedited resolution, an oral appeal must be followed by a written, signed appeal.
Priorities

- **Documents**
  - Grievance and appeals
  - Notice of adverse benefit determination
  - Beneficiary informing materials
- **Contract language**
- **Education with staff and contractors**
- **Recordkeeping requirements**
• Quality Management to facilitate and take lead but not necessarily to complete all the required actions at once

• Benefit of large county: different people manage different programs
  • New contract language → DBH Contracts Division
  • Website requirements → Information Technology
  • Auxiliary Aids/Alt. Formats → Cultural Competency
  • Update forms → Policy Management
  • Program Integrity → Compliance
  • Requirements w/potential costs → Fiscal
### Final Rule Partners

<table>
<thead>
<tr>
<th>Category</th>
<th>Requirement</th>
<th>Partner</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beneficiary Informing</td>
<td>Website</td>
<td>IT</td>
</tr>
<tr>
<td>Beneficiary Informing Materials - Provider Directory</td>
<td>Alternate formats (Braille or Audio) and Auxiliary Aids TTY/TTY and American Sign Language</td>
<td>Office of Cultural Competency and Ethnic Services</td>
</tr>
<tr>
<td>Beneficiary informing Materials</td>
<td>Alternate formats (Braille or Audio) and Auxiliary Aids TTY/TTY and American Sign Language</td>
<td>Contracts</td>
</tr>
<tr>
<td>Data, Information &amp; Documentation</td>
<td>Submit data to the State: Demonstrate that MHP has made adequate provisions against risk of insolvent, MHP Certification data, adequacy of provider network, annual report of overpayment recoveries.</td>
<td>R &amp; E</td>
</tr>
<tr>
<td>Program Integrity - Compliance Program</td>
<td>Procedures to detect and prevent fraud, waste and abuse</td>
<td>Compliance</td>
</tr>
<tr>
<td>Program Integrity - Compliance Program</td>
<td>Written policies, procedures, and standards of conduct. Designation of a Compliance Officer who reports directly to the CEO and the Board of Directors</td>
<td>Compliance</td>
</tr>
<tr>
<td>Program Integrity - Fraud Reporting</td>
<td>Provision for the MHP's suspension of payment to a network provider when the State determines there is a credible allegation of fraud.</td>
<td>Compliance and Contracts</td>
</tr>
</tbody>
</table>
Contact Information:

- **Marina Espinosa**
  - Deputy Director, Program Support Services
  - mespinosa@dbh.sbccounty.gov
  - (909) 388-0806

- **Rebecca Ballinger**
  - Interim Chief Quality Management Officer
  - rballinger@dbh.sbccounty.gov
  - (909) 386-8200
Butte County’s Implementation Approach

Laura Williams, Compliance Officer
Overview of Butte County’s Approach

• 1) TRACK: Adopted San Bernardino’s checklist into a work plan for Butte to track, monitor, and triage tasks and process updates

• 2) COMMUNICATE: Provide regular updates to multiple levels of leadership to alert to changes and elicit feedback on implementation efforts

• 3) TRIAGE: Quality Management Division reviewed tasks and triaged those which can be accomplished with limited guidance
  • Policy and process updated for Grievances and Appeals
  • Policy update for NOABD, prepared plan to update to NOA BD in form and practice
  • Updated Policies related to Program Integrity/Compliance
Long Term Implementation Strategy

• Provide ongoing updates on deadlines and deliverables to ensure all departments required to change in response to regulation are on track with implementation

• Continue discussions on how the impact of this shifts operations and agency culture:
  • Where can we be nimble? Where do we have some barriers or challenges?

• Retain any current processes that are already aligned with the Final Rule (If it’s not broken.... Don’t mess with it!)
Contact Information

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Compliance Officer/Managed Care Plan Manager
Butte County Department of Behavioral Health
lwilliams@buttecounty.net
(530) 891-2850
Mariposa County

Small Rural Perspective

Christine Doss, Deputy Director, Behavioral Health
Lynn Rumfelt, QA Analyst, Behavioral Health
Implementation Work Plan

• Reviewed CBHDA information and DHCS presentation
• Developed a list of actions from San Bernardino’s “Check List for Counties” and reviewed requirements
• Organized the list by priority and grouped with similar tasks
• Provided training to the Management Team of the update in regulations
• Created work groups for more complicated projects
Small County Perspective

**BENEFITS**

- Mariposa County has one site and one contract provider
- Regular BH staff meetings which allow for dissemination of information
- Centralized QA unit able to provide effective feedback to processes
- QA staff have been trained and are able to provide guidance and support on updated regulations
Small County Perspective

CHALLENGES

• Website Update
• Compliance with ADA standards
• Two QA staff regulate all BH programs
• Changing culture of staff to understand how regulations support good client care
• Beneficiary Handbook update
• Train staff to be able to audit implemented updates
• Time and distance requirements
• Locating a satellite site that meets ADA compliance
Contact information

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Lynn Rumfelt  
QA Analyst, Behavioral Health  
lrumfelt@mariposahsc.org
COUNTY DISCUSSION
Additional Resources

• CBHDA Federal Regulations Resources Page:
  http://www.cbhda.org/member-info/committees/medical-policy/federal-regulations-resources/

• Summary of DHCS Priorities for Implementation
  • Includes links to regulatory language
  • Parallel’s Autumn’s presentation (see slides 15-17)
Additional Resources Con’t

• Timelines for Implementation:
  • MHP Sections of Impact (2016 and beyond) sortable by category, regulatory section, and implementation date

• Other Resources Available to Counties*:
  • MHP Contract Crosswalk
  • CMS Contract Checklist
  • San Bernardino County Work Plan

*Email Linnea to obtain: [lkoopmans@cbhda.org](mailto:lkoopmans@cbhda.org)
CBHDA Contact Information

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