



Behavioral Health Compliance Office Compliance Corner

June 2020

SPECIAL EDITION

BHS Compliance Guidance Summary Part II

The Compliance Office has compiled this newsletter to highlight relevant updates from [DHCS Information Notice 20-009 updated May 20, 2020](#). This newsletter will highlight the updates and COVID-19 changes since the May 1st version of IN 20-009. For the Compliance Guide effective May 1st, please refer to the [prior newsletter here](#).

1. Behavioral health services via telephone and telehealth (Ref Policy 1 from IN 20-009)

- The physical exam for **Narcotic Treatment Programs** must be conducted in person.
- A physical exam for the other SUD programs **excluding** NTP can be conducted via telehealth.
- When a physical exam cannot be secured within 30 days, it is acceptable to list the physical exam as a goal on the treatment plan of care.

2. Audits and On-site Reviews (Ref Policy 10 from IN 20-009)

Given the physical distancing guidelines and ongoing stay-at-home orders, DHCS will **NOT** conduct any county or behavioral health provider onsite audits until further notice. Additional detail is as follows:

- The **Specialty Mental Health Services** Triennial review has been rescheduled by DHCS on **October 20-22, 2020**. The selected client charts and audit period remains unchanged.
 - The onsite portion will be done virtually via WebEx.
- **EQRO** reviews and **Fiscal** reviews will continue to be performed virtually until further notice.

3. Can a licensed **mental health** professional provide direction to a Therapeutic Foster Care (TFC) parent through telehealth rather than in person? (Ref FAQ No. 3)

- **Yes**. Telehealth and telephone services may be used by licensed mental health professionals to provide direction to TFC parents during the emergency.

4. During the emergency, are **DMC-ODS providers** still required to discharge beneficiaries if there is a lapse in treatment for more than 30 days? (Ref FAQ No. 4)

- **Yes**, SUD providers are required to discharge clients when there is a lapse in treatment beyond 30 days. Clients should be reassessed to resume treatment when ready.
- Note: the two non-continuous residential stay limits still apply in DMC-ODS (1115 Waiver, Standard Terms and Condition (STC) 138-Residential Treatment).



5. Will counties be allowed to use telehealth and telephone to provide services **AFTER the emergency? (Ref FAQ No. 5)**

After the emergency, will BHS providers be allowed to continue	Substance Use Disorder (SUD)	Mental Health (MH)
<i>Telehealth services (with video capacity)?</i>	No	Yes
<i>Telephonic services?</i>	<p>Yes for services identified in the DMC-ODS Standard Terms and Condition (STC) such as:</p> <ul style="list-style-type: none"> • Free Standing Psychiatric treatment centers • Chemical Dependency Recovery Hospitals • DHCS licensed residential facilities for residential treatment • Withdrawal Management Services 	Yes

- DHCS is proposing a State Plan Amendment (SPA) to add telehealth for **individual counseling** in Drug Medi-Cal, as per Cal. Welf. & Inst. Code § 14132.731. It is anticipated that this SPA will be effective on July 1, 2020.

6. What flexibilities are in place for medications? (Ref FAQ No. 8)

- Medi-Cal allows patients to fill up to 100 days of non-controlled medications. **Narcotic treatment programs** can receive exemptions to provide take-home medications for patients who are sick or quarantined. See COVID-19 FAQ: Narcotic Treatment Programs for more detail. Patients receiving buprenorphine products can currently receive 30-day supplies on Medi-Cal.
- NTPs for SUD can receive exemptions to provide take-home medications for sick or quarantined patients. Patients can receive a 30-day supply of Buprenorphine.
- DHCS encourage the prescription of Naloxone (Narcan) to patients receiving take-home Methadone or Buprenorphine to prevent the risk of an overdose.

7. Will DHCS waive provider ratios for network adequacy during the emergency? (Ref FAQ No. 12)

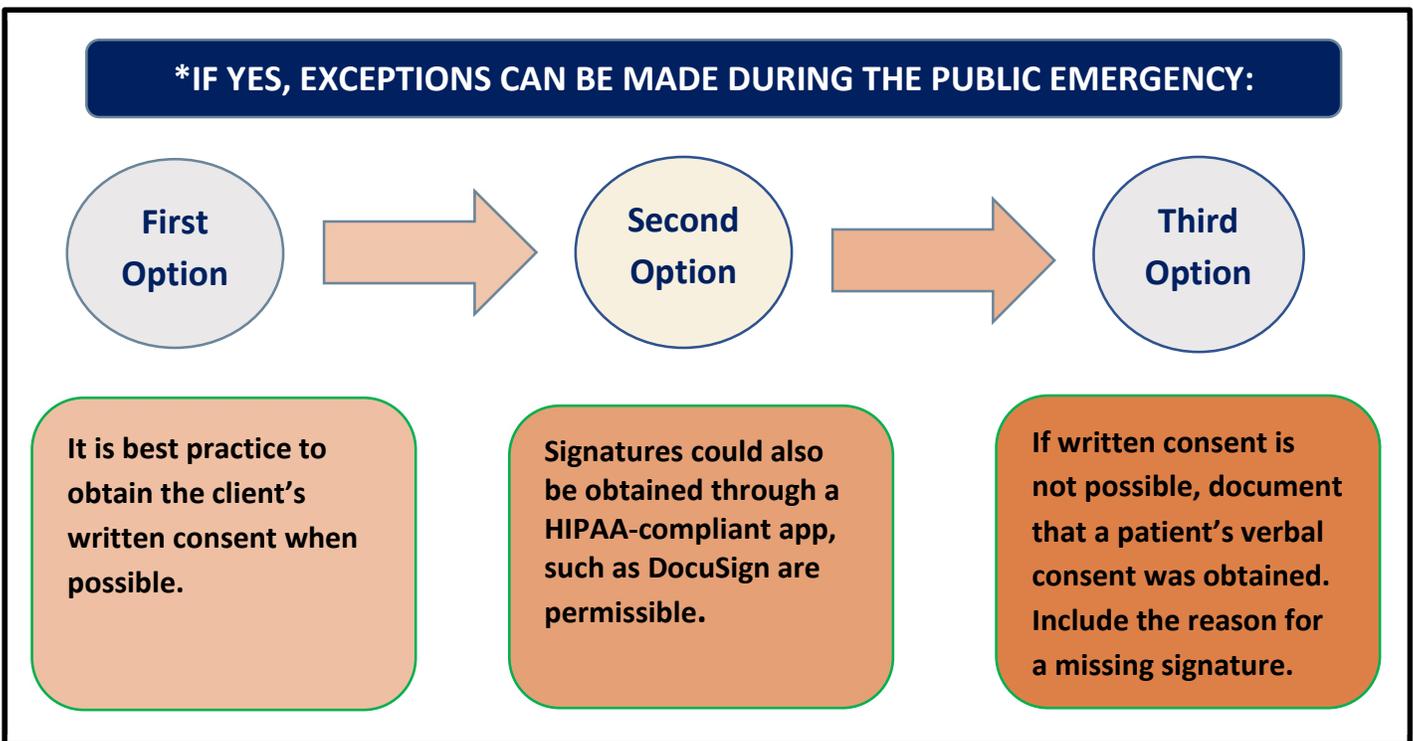
- **No.** At this time, DHCS is not waiving network adequacy provider ratio requirements for the **Mental Health Plan (MHP) Provider Networks**.
- In light of the emergency, DHCS allowed an extension for Network Adequacy Certification submissions to April 20, 2020. Refer to [BHIN 20-012](#), this guidance also clarifies that DHCS has moved to annual reporting for counties not on corrective action plans.

8. Can counties send documents to beneficiaries via email, such as grievance acknowledgment letters and responses, NOABDs, etc., as long as the beneficiary consents to the use of email? (Ref FAQ No. 15)

- Providers could send notices via email to beneficiaries such as grievance acknowledgement letters and responses & NOABDs as long as there is a consent obtained and documented. Providers must follow all state and federal privacy and security requirements transmitting protected health information (PHI).

9. How should counties and providers manage signature requirements during the emergency? (Ref FAQ No. 18 & FAQ 6)

Can exceptions be made during the public health emergency (PHE)? *		
Updated 5/20/2020	Substance Use Disorder (SUD)	Mental Health (MH)
ROIs <i>(Release of Information)</i>	No A written consent must be obtained without exceptions. (see FAQ 18, ref BHS policy 3.06-01, 42 CFR and SAMSHA)	Yes (see FAQ 18, reference BHS policy 3.06-01)
Consent for Treatment	Yes (see FAQ 18)	Yes (see FAQ 18)
Sign-In Sheets for Group Counseling	Yes (see FAQ 6, FAQ 18, 42 CFR and SAMSHA)	Yes (see FAQ 18)
Notices for Privacy	Yes (see FAQ 18)	Yes (see FAQ 18)
Admission Agreements	Yes (see FAQ 18)	Yes (see FAQ 18)



10. Is DHCS waiving the 23-hour maximum length of stay in a Crisis Stabilization Unit (CSU) during the emergency? (Ref FAQ No. 29)

- **No.** DHCS is not waiving the 23-hour maximum length of stay during the PHE in a Crisis Stabilization Unit (CSU).
- However, in cases where a beneficiary remains in a CSU for more than 23 hours, the provider must be able to present evidence upon request by DHCS of good faith efforts.



11. During the emergency, may Alcohol or Other Drug (AOD) counselors to provide services after their certification expires, while waiting for the renewal? (Ref FAQ No. 33)

- As outlined in MHSUDS IN 18-056, if an AOD counselor fails to submit a renewal application prior to the expiration of their certification, the counselor may not provide counseling services until their certification is renewed. But, if an AOD counselor submits a renewal application prior to the expiration of their license, the counselor may continue to provide counseling services unless the certifying organization denies the renewal application.
- If an AOD counselor submits an application for certification renewal before the expiration of their certification and if the renewal is approved, the expiration date for the renewed certification shall be two years from the expiration date of the prior certification. If the counselor's certification is denied, any service provided after the expiration date of the counselor's certification shall not be reimbursed with State or federal funds.

12. The March 23, 2020, 1135 waiver approval temporarily suspends prior authorization requirements for benefits delivered through the fee-for-service delivery system. Will the Mental Health Plan (MHP) authorization activities be waived during this time (Crisis Residential, etc.)? (Ref FAQ No. 36)

- No. At this time authorization requirements are not waived.

13. How should behavioral health providers manage patients presenting with upper respiratory symptoms? (Ref FAQ No. 47)

- DHCS **strongly encourages** use of telehealth or telephone services to minimize infection spread.
- When telehealth is not available, providers should develop procedures to minimize the risk that symptomatic patients will infect staff or other patients. Patients with cough should wear a mask if available.
- Programs should follow infection prevention and control recommendations in health care settings published by [the CDC](#).

Key Takeaways:

- DHCS has rescheduled our SMHS Triennial Audit to October 20-22. This will be for the same clients and audit period as previously announced.
- ROI signatures are required for MH & SUD providers. If MH providers are not able to obtain a written signature, do document the reason for missing signature in the client's record. The ROI signature is still required for SUD providers, there are no exceptions.
- The physical exam/intake for NTP must be conducted in person. When a physical exam cannot be secured within 30 days, you can list this as a goal on the TPOC.



Important links/resources for COVID-19

- IN 20-003 requires counties to include the CIN number with CANS and PSC-35 submissions to the FAST system, due to COVID-19, DHCS will extend the implementation of the mandatory CIN requirement to July 1, 2020.
<https://www.dhcs.ca.gov/Documents/BH-Information-Notice-20-003-CANS-CIN-UPDATE.pdf>
- California Department of Public Health-COVID-19 Updates
<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Guidance.aspx>
- Medi-Cal Payment for Telehealth and Virtual/Telephonic Communications Relative to the 2019-Novel Coronavirus (COVID-19) March 24, 2020 (Supersedes March 19, 2020 Guidance)
[https://www.dhcs.ca.gov/Documents/COVID19/Telehealth the r Virtual Telephonic Communications V3.0.pdf](https://www.dhcs.ca.gov/Documents/COVID19/Telehealth%20Virtual%20Telephonic%20Communications%20V3.0.pdf)
- Pediatric Symptom Checklist (PSC-35) and the Child and Adolescent Needs and Strengths (CAN-50) Functional Assessment Tool Data Collection Technical Update
<https://www.dhcs.ca.gov/Documents/BH-Information-Notice-20-003-CANS-CIN-UPDATE.pdf>
- San Francisco Department of Public Health – Coronavirus Disease
<https://www.sfdph.org/dph/alerts/coronavirus.asp>
- Guidance for Employers
<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>
- Medicaid.gov COVID-19 resource page
<https://www.medicaid.gov/resources-for-states/disaster-response-toolkit/coronavirus-disease-2019-covid-19/index.html>
- Governor Newsome’s Executive Order N-43-20
<https://www.gov.ca.gov/wp-content/uploads/2020/04/4.3.20-EO-N-43-20-text.pdf>
- Governor Newsom’s order 3/12/20
<https://www.gov.ca.gov/2020/03/12/governor-newsom-issues-new-executive-order-further-enhancing-state-and-local-governments-ability-to-respond-to-covid-19-pandemic/>
- California Telehealth Policy Coalition
<https://www.cchpca.org/about/projects/california-telehealth-policy-coalition>
- Telehealth – DHCS – CA.gov (October 28, 2019) * This info notice is from 2019 before the COVID-19 pandemic
<https://www.dhcs.ca.gov/provgovpart/Pages/TelehealthFAQ.aspx>
- Behavioral Health Service – Communications May 2020
https://www.sfdph.org/dph/files/CBHSdocs/May_2020_Compliance_Newsletter_Issue_10.pdf
- COVID-19 Public Health Emergency Response and 42 CFR Part 2 Guidance
<https://www.samhsa.gov/sites/default/files/covid-19-42-cfr-part-2-guidance-03192020.pdf>