Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
www.mass.gov/masshealth

MassHealth
Transmittal Letter ALL-200
May 2013

TO: All Providers Participating in MassHealth

FROM: Julian J. Harris, M.D., Medicaid Director

RE: *All Provider Manuals* (Emergency Adoption of Mental Health Parity Regulations)

This letter transmits additional changes to the Managed Care Participation regulations at 130 CMR 450.117. These amendments establish that MassHealth-contracted managed care entities and their contracted behavioral health management firms or third-party administrators must comply with applicable federal mental health and substance use parity laws. These regulations require managed care entities to provide information on a member's right to file a grievance, as well as the policies and procedures governing the receipt and timely resolution of such grievances in the event that any managed care entity does not comply with applicable federal rules.

These amendments are effective May 24, 2013.

MassHealth Website

This transmittal letter and attached pages are available on the MassHealth website at www.mass.gov/masshealth.

Questions

If you have any questions about the information in this transmittal letter, please contact MassHealth Customer Service at 1-800-841-2900, e-mail your inquiry to providersupport@mahealth.net, or fax your inquiry to 617-988-8974.

NEW MATERIAL

(The pages listed here contain new or revised language.)

All Provider Manuals

Pages 1-17, 1-17a, 1-17b, and 1-18

OBSOLETE MATERIAL

(The pages listed here are no longer in effect.)

All Provider Manuals

Pages 1-17, 1-17a, 1-17b, and 1-18 — transmitted by Transmittal Letter ALL-198

(C) Incapacitated Persons. If a person is admitted to a facility in an incapacitated state and is unable to receive information or articulate whether he or she has executed an advance directive, the facility must include materials about advance directives in the information to the families or to the legal representatives, surrogates, or other concerned persons of the incapacitated patient to the extent it does so in accordance with state law. This does not relieve the facility of its obligation to provide this information to the patient once the patient is no longer incapacitated.

(D) Previously Executed Advance Directives. When the patient or a relative, surrogate, or other concerned or related person presents the provider with a copy of the person's advance directive, the provider must comply with the advance directive, including recognition of the power of attorney, to the extent allowed under state law. Unless contrary to state law, if no one comes forward with a previously executed advance directive and the patient is incapacitated or otherwise unable to receive information or articulate whether he or she has executed an advance directive, the provider must note in the medical record that the person was not able to receive information and was unable to communicate whether an advance directive existed.

(E) Religious Objections. No private provider will be required to implement an advance directive if such action is contrary to the formally adopted policy of such provider that is expressly based on religious beliefs, provided

(1) the provider has informed the person or, if the person is incapacitated at the time of admission and unable to receive information due to the incapacitated condition or mental disorder, the person’s family or surrogate, of such policy prior to or upon admission, if reasonably possible; and

(2) the person is transferred to another equivalent facility that is reasonably accessible to the person's family and willing to honor the advance directive. If the provider or the health care agent is unable to arrange such a transfer, the provider must seek judicial guidance or honor the advance directive.

(130 CMR 450.113 through 450.116 Reserved)

450.117: Managed Care Participation

(A) MassHealth members under the age of 65 are required to enroll in the Primary Care Clinician (PCC) Plan or a MassHealth-contracted managed care organization (MCO) unless they are excluded from such participation under 130 CMR 450.117(E) through (I) or 508.004. Members excluded from managed care under 130 CMR 508.004 receive those MassHealth services for which they are eligible through any participating MassHealth provider.

(B) MassHealth managed care options provide for the management of medical care, including primary care, behavioral-health services, and other medical services.

(1) Members who enroll with a PCC obtain primary care through the PCC, and behavioral-health services through the MassHealth behavioral-health contractor.

(2) Members who enroll with an MCO obtain all medical services, including behavioral-health services, through the MCO, except those services not covered under the MassHealth contract with the MCO.

(C) Members who participate in managed care are identified on EVS (see 130 CMR 450.107). For members enrolled with a MassHealth managed care provider, this system will give the name and telephone number of the managed care provider (the PCC, the MCO, and the behavioral-health contractor, as applicable). The conditions under which the MassHealth agency pays other providers for services provided to MassHealth members enrolled with a MassHealth managed care provider are limited to those described in 130 CMR 450.105 and 450.118.

(D) MassHealth managed care options include a senior care organization (SCO) for MassHealth Standard members aged 65 and over, who voluntarily enroll in a SCO in accordance with the requirements under 130 CMR 508.008.

(1) Members who participate in a SCO must select a primary care physician.

(2) Members who participate in a SCO obtain all covered services through the SCO.

(3) Members who are enrolled in a SCO are identified on EVS (see 130 CMR 450.107). For a MassHealth member enrolled with a SCO, EVS will identify the name and telephone number of the senior care organization. The MassHealth agency will not pay a provider other than a SCO for any services that are provided to the MassHealth member while the member is enrolled in a SCO.

(E) MassHealth Standard and CommonHealth members who are under the age of 21 and who are excluded from participation in the PCC Plan or a MassHealth-contracted MCO under 130 CMR 508.004(A) or (B) must enroll with the MassHealth behavioral-health contractor.

(F) MassHealth Standard and CommonHealth members who are under the age of 21 and who are excluded from participation in the PCC Plan or a MassHealth-contracted MCO under 130 CMR 508.004(I), (J), or (K) are enrolled with the MassHealth behavioral-health contractor. Such members may choose to receive all services on a fee-for-service basis.

(G) MassHealth members who are receiving services from the Department of Children and Families (DCF) or the Department of Youth Services (DYS) may choose to enroll in the PCC Plan or a MassHealth-contracted MCO. Such members who do not choose to enroll in the PCC Plan or a MassHealth-contracted MCO must enroll with the MassHealth behavioral-health contractor.

(H) MassHealth members who are receiving Title IV-E adoption assistance described in 130 CMR 522.003 may choose to enroll in the PCC Plan or a MassHealth-contracted MCO. Such members who do not choose to enroll in the PCC Plan or a MassHealth-contracted MCO are enrolled with the MassHealth behavioral-health contractor. Such members may choose to receive all services on a fee-for-service basis.

(I) Individuals who are Native Americans (within the meaning of "Indians" as defined at 42 U.S.C. 1396u-2) or Alaska Natives and who participate in managed care under MassHealth may choose to receive covered services from an Indian health-care provider. All participating MCOs must provide payment for such covered services in accordance with the provisions of 42 U.S.C. 1396u-2(h) and comply with all other provisions of 42 U.S.C. 1396u-2(h). For the purposes of 130 CMR 450.117(I), the term Indian health-care provider means an Indian Health Program or an Urban Indian Organization.

(J) MassHealth-contracted MCOs, SCOs, and integrated care organizations (ICO), and their contracted behavioral health management firms or third party administrators, if any, must comply with and implement relevant provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (the Federal Mental Health Parity Law), and its implementing regulations and federal guidance, which requires parity between mental health or substance use disorder benefits and medical/surgical benefits with respect to financial requirements and treatment limitations.

(1) Annual Certification of Compliance with Federal Mental Health Parity Law: The above referenced managed care entities must review their administrative and other practices, including the administrative and other practices of any contracted behavioral health organizations or third party administrators, for the prior calendar year for compliance with the relevant provisions Federal Mental Health Parity Law, regulations and guidance.

(i) Managed care entities must submit a certification signed by the chief executive officer and chief medical officer stating that the managed care entity has completed a comprehensive review of the administrative practices of the managed care entity for the prior calendar year for compliance with the necessary provisions of State Mental Health Parity Laws and Federal Mental Health Parity Law.

(ii) If the managed care entity determines that all administrative and other practices were in compliance with relevant requirements of the Federal Mental Health Parity Law during the calendar year, the certification will describe how its relevant administrative and other practices were in compliance with Federal Mental Health Parity Law.

(iii) If the managed care entity determines that any administrative or other practices were not in compliance with relevant requirements of the Federal Mental Health Parity Law during the prior calendar year, the certification will describe how its relevant administrative and other practices were in compliance with Federal Mental Health Parity Law, will include a list of the practices not in compliance, and the steps the managed care entity has taken to bring these practices into compliance.

(2) These managed care entities and their contracted behavioral health management firms or third party administrators, if any, must provide medical necessity criteria for prior authorization upon the request of a MassHealth member, a MassHealth provider, or the MassHealth agency. This requirement may be fulfilled by publishing the criteria on the entity's website.

(3) A member enrolled in any of these managed care entities may file a grievance with MassHealth if the member believes that services are provided in a way that is not consistent with applicable Federal Mental Health Parity laws, regulations or federal guidance. Member grievances may be communicated for resolution verbally or in writing to MassHealth's customer services contractor. MassHealth will investigate and resolve the grievance with the managed care entity within 30 business days of the receipt of the grievance.

(4) These managed care entities and their contracted behavioral health management firms or third party administrators, if any, must include in member handbooks or other guidance provided to members a description of the Federal Mental Health Parity Law, the member's right to file a grievance with them, and the policies and procedures for the receipt and timely resolution of such grievances.