

From: DMHC Licensing eFiling

Subject: APL 23-005 Network Service Area Confirmation Process

Date: Monday, February 13, 2023 2:50 PM

Attachments: APL 23-005 Network Service Area Confirmation Process (2.13.23)

Dear Health Plan Representative:

The Department of Managed Health Care (Department) issues this All Plan Letter (APL) 23-005 regarding the Network Service Area Confirmation Process, related to recent changes to the law resulting from Senate Bill 221 and updates to Rule 1300.67.2.2.

Thank you.

ALL PLAN LETTER

DATE: February 13, 2023
TO: All Health Care Service Plans
FROM: Nathan Nau, Deputy Director, Office of Plan Monitoring
SUBJECT: APL 23-005 Network Service Area Confirmation Process

The following All Plan Letter (APL) requires specified health plans to participate in a Network Service Area Confirmation Process (NSACP) to establish compliance with Rule 1300.67.2.2 and Section 1367.03, pursuant to the exemption from the Administrative Procedures Act set forth in Section 1367.03(f)(3).¹

I. Background

Effective April 1, 2022, the Department of Managed Health Care (Department) amended the Timely Access to Non-Emergency Health Care Services and Annual Timely Access and Network Reporting Requirement Regulation, codified in section 1300.67.2.2 of Title 28 of the California Code of Regulations.² On March 16, 2022, the Department clarified the effective dates for the new requirements by further amending Rule 1300.67.2.2 and added Rule 1300.67.2.3.³

Additionally, in October 2021, the Governor signed Senate Bill (SB) 221 (Wiener, Chapter 724, Statutes of 2021) into law, which made changes to the timely access requirements set forth in Sections 1367.03 and 1367.031 (hereinafter “SB 221”). SB 221 also provided the Department with an exemption from the Administrative Procedure Act (APA) to develop and adopt reporting methodologies until July 1, 2025. Rule 1300.67.2.2 and Rule 1300.67.2.3, including amendments made under the APA

¹ References herein to “Section” are to sections of the Knox-Keene Act. References to “Rule” refer to the California Code of Regulations, title 28.

² The amendments were made pursuant to the authority set forth in California Health and Safety Code sections 1340 et seq. (Act), including California Health and Safety Code sections 1367.03 and 1367.035.

³ The amendments and additions were made pursuant to Section 1367.03, sub. (f)(3) and Government Code section 11343.8. (California Register 2022, No. 11).

exemption, are herein referred to as the “Timely Access and Network Reporting Statutes and Regulation.”

On November 4, 2022, the Department issued APL 22-026: Implementation of Amendments to Timely Access and Network Reporting Statutes and Regulation (hereinafter “APL 22-026”). Among other topics, APL 22-026 described the implementation of the Timely Access and Network Reporting Statutes and Regulation, and associated filing requirements for health care service plans. APL 22-026 also previewed the Department’s forthcoming implementation of the NSACP.

II. Application

As noted in APL 22-026, the Timely Access and Network Reporting Statutes and Regulation establishes a variety of new monitoring and reporting requirements for health plans. The NSACP, as described in this APL, applies **only to Reporting Plans** as defined in Rule 1300.67.2.2, sub. (b)(17). An NSACP for Profile Only plans will be implemented at a later date via a separate APL.^{4,5}

All Reporting Plans are required to participate in the NSACP in order to demonstrate compliance with the implementation of the Timely Access and Network Reporting Statutes and Regulations.⁶ Health plans that submit information for Timely Access Compliance and Annual Network Reporting that varies from the information on file in the eFiling web portal may be subject to enforcement action, pursuant to Rule 1300.67.2.2, subs. (i) and (j).

III. Purpose

The purpose of this APL is to confirm the network service area for each health plan’s approved networks and ensure that all health plan licensure documents are revised to

⁴ Profile Only plans are health plans that do not meet the definition of reporting plan and are only subject to the annual network access profile reporting requirements, as set forth in Rule 1300.67.2.2, sub. (h)(1)(B). This includes subcontracted full-service plans, subcontracted specialized mental health plans, and all other specialized dental, vision, chiropractic, and acupuncture plans. (Rule 1300.67.2.2, subs. (a)(1)-(2) and (h)(1)(B).) This APL also does not apply to plans licensed only to offer Medicare Advantage product lines or EAP products.

⁵ While the NSACP as described in this APL only applies to Reporting Plans, nothing in this APL abrogates the duty of all health plans to meet the requirements of the Timely Access and Network Reporting Statutes and Regulations.

⁶ See Rule 1300.67.2.2, sub. (h)(5), requiring health plans to revise and submit documents necessary for compliance with Rule 1300.67.2.2.

be consistent with the definition of Network Service Area and conform to the ZIP Code and County list published by the Department, pursuant to Rule 1300.67.2.2.⁷

The Timely Access and Network Reporting Statutes and Regulation require health plans to report network information, including network service area, consistent with the information reviewed and approved by the Department for licensure of that network.⁸ Due to regular changes in ZIP Code boundaries established by the United States Postal Service (USPS), network service areas on file in the eFiling web portal may not align with the service area submitted for the purposes of Timely Access Compliance and Annual Network Reporting. Some health plans have also not reported their network service area in annual network reporting consistent with their eFile licensure documents. The Department has established the NSACP to ensure that all network service areas on file as part of the Plan's license are consistent with network service areas submitted for Timely Access Compliance and Annual Network Reporting.⁹

The Department will use the process described in Section IV below to confirm existing licensed networks and issue updated Orders of Approval pursuant to Section 1352, sub. (b). The Orders of Approval will enumerate each approved network service area in accordance with the definitions and the standardized County and ZIP Code list set forth in the Timely Access and Network Reporting Statutes and Regulation.

IV. Network Service Area Confirmation Process

A. Establishing County/ZIP Code Combination Consistency

As described above, a health plan is required to accurately report its approved network service areas consistent with Department-approved licensure filings (i.e., initial application and Notices of Material Modification submitted through the eFiling web portal). Historically, health plans have reported difficulties maintaining consistency and accuracy in their network service area submissions to the Department, in part due to changes to USPS ZIP Codes.

The amendments to the Timely Access and Network Reporting Statutes and Regulation decrease the opportunity for inconsistent reporting by adopting a definition for "network service area" and requiring the Department to annually publish a list of County/ZIP Code combinations which shall be used by health plans when reporting network service area data.¹⁰

⁷ "Network Service Area" is defined in Rule 1300.67.2.2, sub. (b)(11). The ZIP Code and County list is published pursuant to Rule 1300.67.2.2, sub. (h)(8)(D)(vii) and was made available to health plans on or about January 6, 2023.

⁸ Rule 1300.67.2.2, including, but not limited to, subdivisions (h)(5) and (h)(8)(B).

⁹ *Ibid.* The requirements established via this APL are promulgated pursuant to the exemption from the Administrative Procedures Act set forth in Section 1367.03, sub. (f)(3).

¹⁰ Rule 1300.67.2.2, subs. (b)(11) and (h)(8)(D)(vii).

As of the date the Department publishes the County/ZIP Code list,¹¹ the Department will only recognize those County/ZIP Code combinations reported by health plans that match the list of USPS ZIP Codes posted on the Department's web portal at the time of the relevant review.

Plans shall use the NSACP to ensure that each network service area is wholly described using only counties and ZIP Codes published by the Department for Reporting Year 2023.

As USPS adds, subtracts, or modifies ZIP Codes in future years the Department will annually publish a revised list of permissible County/ZIP Code combinations and population points, allowing the Department and health plans to maintain alignment with approved network service areas. This will better ensure that health plans and the Department are using the same geographic location identifiers across all areas of network adequacy review. Annual updates to that list will include relevant updated County/ZIP Code changes.

B. NSACP Administration

To administer the NSACP, the Department will rely upon the network service area as reported by County and ZIP Code within each health plan's Network Service Area and Enrollment Report Form (Form 40-265) for each network submitted in the RY 2023 ANR submission. Based on that data, the Department and health plans shall take the following steps:

- 1. Compilation of Service Area Data.** The Department will compile, for each health plan, all networks reported in the ANR Profile tab into an "NSACP Workbook," which will include a summary page and an individualized page restating the network service area reported in the ANR submission for each network. The Department will transmit the NSACP Workbook to each health plan via the Messages tab of the Timely Access Portal.
- 2. Health Plan Review.** Each health plan will review its unique NSACP Workbook. Using the sections designated within the NSACP Workbook, the health plan will provide, as applicable, the following information for each network:

¹¹ The Department published this list on January 6, 2023, for Reporting Year 2023 pursuant to Rule 1300.67.2.2, sub. (h)(8)(D)(viii).

- a) Review of the network service area information for accuracy and minor alterations (see Sections 4.C.1, and 4.C.2, below),
 - b) Whether each network is approved for statewide status,
 - c) Which counties (if any) the health plan is approved to include in its network service area on a “full county” basis or will be after minor alterations, as discussed below, and
 - d) Information related to the most recent review of the network in the eFiling web portal, including approval date(s) and Order Number(s), for each portion of the service area by County/ZIP Code.
- 3. eFiling Submission.** Once the health plan has reviewed the information and completed the NSACP Workbook accordingly, each health plan will submit its completed NSACP Workbook to the Department labeled as an Exhibit H-1 via the eFiling web portal as a Notice of Material Modification pursuant to Rule 1300.52.4, sub. (d). Each health plan will also submit an Exhibit E-1 providing narrative explanations or clarifications for any unique situations encountered in completing the NSACP Workbook.

The Department will review each submission for consistency with that health plan’s history of network submissions. Once that review is completed, the Department will issue an Order of Approval with an attached “Statement of Network Service Area” for each network with clear network service areas defined in terms consistent with Rule 1300.67.2.2 and the Department’s published County/ZIP Code list. If, in the course of reviewing a health plan’s NSACP Workbook, the Department determines that the health plan is seeking approval of changes to its network service area that exceed minor adjustments necessary for consistency with Rule 1300.67.2.2 and incorporated documents, the Department will require the health plan to request those changes to the network service area via a Notice of Material Modification.

Once completed, the updated network service area statements will form the basis for the Department’s future network adequacy reviews, including, but not limited to, those conducted pursuant to Sections 1367.03 and 1367.035 and Rules 1300.51, 1300.52, 1300.52.4, and 1300.67.2.1. With the exception of annual adjustments to ensure consistency with updated County/ZIP Code lists pursuant to Rule 1300.67.2.2, sub. (h)(8)(D)(vii), any deviation from the defined network service areas will require requesting a service area expansion and/or withdrawal by filing a Notice of Material Modification pursuant to Section 1352, sub. (b) and Rule 1300.52.4.¹²

¹² The procedure by which health plans will update their approved network service area to account for changes to the published acceptable County/ZIP Code list will be provided along with publication of the updated County/ZIP Code list in future years.

C. Additional Guidelines for NSACP Completion

1. Data Accuracy in the RY 2023 ANR Submission

As noted above, the baseline for each health plan's confirmed network service area will be the service area for that network as reported in each health plan's RY 2023 ANR submission. Therefore, each network service area reported in that submission must accurately reflect those locations where the Plan was previously approved to operate. Accuracy in service area reporting is also a requirement of Rule 1300.67.2.2 and the Department may take enforcement action against the health plan if inaccuracies are identified in the health plan's reporting of service area data to the Department.¹³

After the Department has provided each health plan its NSACP Workbook, the health plan will have an opportunity to review that submission and indicate the Order Number under which each County/ZIP Code was approved by the Department.¹⁴

Where the original Order of Approval of the network service area does not clearly describe the approved Counties and ZIP Codes in a manner consistent with Rule 1300.67.2.2, the health plan will have the opportunity to provide more details on the Plan's history of filings in the Exhibit E-1. Further direction on how to approach this scenario will be detailed in the instructions accompanying the NSACP Workbook, when transmitted to the health plans.

2. Identify Networks As "Full Counties" Where Appropriate

Due to ongoing changes in the boundaries of ZIP Codes by the US Postal Service, network service areas should be identified in terms of an entire county (i.e., all ZIP Codes within a county, also known as a "full county") where such a description is consistent with a health plan's previously approved network service area. Thus, health plans should evaluate whether the listing of a particular set of ZIP Codes in its NSACP Workbook, in coordination with its existing service area approvals on file in the eFiling web portal, can be properly characterized as a "full county."

Other circumstances might warrant reporting a service area as a "full county" in the NSACP Workbook. For example, if a previous Order of Approval described the service

¹³ Rule 1300.67.2.2, subs. (a)(5), (h)(8) & (9), (i)(5)(A), & (j).

¹⁴ In some instances, the health plan will have previously been approved for County/ZIP Code combinations that do not appear on the ZIP Code and County list published by the Department on January 6, 2023. In those instances, the health plan should omit those County/ZIP Code combinations, as the Timely Access and Network Reporting Statutes and Regulation notes: "Each ZIP Code and county combination reported by the plan within California shall match the USPS list of ZIP Codes posted on the Department's web portal." (Rule 1300.67.2.2, sub. (h)(8)(D)(vii).) For more information related to the submission of network service area information in the annual network submission for Reporting Year 2023, please see the *RY 2023 Frequently Asked Questions – ANR*, available in the Resources section of the timely access web portal.

area as including all ZIP Codes that existed in a particular county at the time the Order was issued, the Plan may be able to assert that it intended to obtain approval for the full county at the time of the review. Plans are encouraged to provide justification for the conversion of previous service area descriptions based on individual ZIP Codes into “full county” designations in the Exhibit E-1, where appropriate.

3. Restate Already-Approved Network Service Areas Only

The NSACP is intended to offer an expedited process by which the Department and health plans can work in tandem to redefine already-approved network service areas in the relevant terms under the Timely Access and Network Reporting Statutes and Regulation by bringing prior approvals in line with the recently published County/ZIP Code list. It is not a vehicle for health plans to seek expansion into previously unevaluated regions.

D. NSACP Timeline

The NSACP shall be completed according to the following timeline:¹⁵

<u>May 1, 2023</u>	All Reporting Plans are required to submit their RY 2023 Timely Access and ANR Filings
<u>June 2023</u>	The Department transmits NSACP Workbook to all Reporting Plans, including a summary of all reported network service areas in the RY 2023 ANR submission. The transmittal will include a specific due date for the health plan’s response.
<u>August 2023</u>	All Reporting Plans submit completed NSACP Workbook to the Department via the eFiling web portal.

If you have any questions about this APL, please contact the Office of Plan Monitoring, Division of Provider Networks eFiling Team at dpnefiling@dmhc.ca.gov.

¹⁵ While it is expected that administration of this review process will proceed as follows, the Department reserves the right to adjust this timeline in the future and will work to keep health plans abreast of any major changes to NSACP administration.