

From: DMHC Licensing eFiling

Subject: APL 21-022 – Continued Applicability of COVID-19 Requirements

Date: Tuesday, October 26, 2021, 3:45 PM

Attachments: APL 21-022 – Continued Applicability of COVID-19 Requirements (10.26.2021).pdf;
Summary of COVD All Plan Letters (10.26.2021).pdf

Dear Health Plan Representative:

Please find attached All Plan Letter (APL) 21-022 regarding Continued Applicability of COVID-19 Requirements and Guidance, along with Summary of past COVID APLs.

Thank you.



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ALL PLAN LETTER

DATE: October 26, 2021
TO: All Health Care Service Plans and Risk Bearing Organizations
FROM: Sarah Ream
Chief Counsel
SUBJECT: APL 21-022 – Hospital Surges; Continued Applicability of DMHC COVID-19 Requirements and Guidance

Health plans' responses to hospital surges

California hospitals in some regions of the state continue to face surges of patients due to COVID-19. When hospitals are close to or at capacity, the hospitals' ability to provide care to patients is threatened. As a result, hospitals must be able to admit, discharge and transfer enrollees quickly and efficiently, when medically appropriate, to allow the hospital to operate at maximum capacity. However, health plan administrative requirements, such as prior authorization, may impede hospitals' ability to move patients quickly and efficiently if the plan fails to respond promptly to the hospitals' requests.

The accessibility standards in the Knox-Keene Health Care Service Plan Act (Knox-Keene Act) require plans to have adequate staff to ensure services are provided to enrollees in a timely manner. Additionally, plans must ensure their "plan and provider processes necessary to obtain covered health care services, including but not limited to prior authorization processes, are completed in a manner that assures the provision of covered health care services to enrollees in a timely manner..."¹

If a health plan's administrative processes unnecessarily impede a hospital's ability to efficiently admit, discharge or transfer patients, which results in the hospital being unable to provide appropriate care to its patients, the health plan may be found to have violated the Knox-Keene Act's accessibility standards. Accordingly, during these unprecedented times, health plans should examine their administrative staffing levels, the wait times for hospital staff to speak with plan representatives when the hospital staff contact the plan, and the amount of time it takes the plan to respond to hospitals' requests for admissions, transfers, and/or discharges. Plans should take appropriate actions if they find their administrative requirements are unnecessarily impeding hospitals' ability to efficiently care for patients.

¹ California Code of Regulations, title 28, section 1300.67.2.2.

DMHC APLs regarding COVID-19

Over the last year and a half, the DMHC issued numerous All Plan Letters (APLs) to articulate coverage requirements regarding COVID-19 and to provide guidance to health plans and Risk Bearing Organizations (RBOs). Attached is a chart listing all the COVID-19 APLs the DMHC issued to date and whether each APL is still in effect.²

Among other things, the APLs:

- direct plans to reduce administrative barriers that may delay or hamper a provider's ability to provide timely care to enrollees;
- require plans to reimburse providers for services delivered via telehealth; and,
- remind plans of their obligations to cover COVID-19 testing, vaccinations, and care as required by state and federal law.

The duration of many of the APLs is tied to the duration of the California State of Emergency due to the pandemic. The State of Emergency is still in effect; accordingly, the APLs tied to the State of Emergency are also still in effect.

DMHC regulations regarding COVID-19

In addition to issuing APLs, the DMHC promulgated two emergency regulations regarding COVID-19. The first emergency regulation concerned health plan coverage for COVID-19 testing. That regulation took effect July 17, 2020, and expired on May 15, 2021. The DMHC did not renew the regulation because the federal government provided further guidance clarifying health plans' obligations to cover COVID-19 testing. The DMHC determined that the new federal guidance removed the need for the DMHC's emergency regulation regarding COVID-19 testing.

The DMHC's second COVID-19-related emergency regulation concerned transfer of hospitalized enrollees when a hospital or region hits certain capacity thresholds and the California Department of Public Health orders hospitals to transfer more stable enrollees to make room for less stable enrollees. The DMHC adopted this regulation in January 2021. This emergency regulation remains in effect as the DMHC works to adopt the regulation as a permanent regulation. The emergency regulation can be found on the DMHC public website at [1300.67.02 Transfer of Enrollees Pursuant to Public Health Order](#).

If you have questions regarding this APL, please contact your health plan's assigned reviewer in the DMHC's Office of Plan Licensing.

² Some of the APLs apply to only certain types of plans (e.g., only to commercial plans; only to full-service plans). Please refer to each APL to determine if the APL applies to your plan or organization.

Summary of DMHC COVID-19 All Plan Letters Issued Between March 2020 and September 2021

Item	APL # (Date)	Title	Summary	Termination Date
1.	20-006 (3/5/20)	COVID-19 Screening and Testing	<ul style="list-style-type: none"> • Plans must waive cost-sharing for COVID-19 testing • Reminds plans of obligation to provide timely care, no balance billing, adequate networks, have 24-hour access person available to authorize services 	Superseded and replaced by APL 20-034; also superseded in part by emergency regulation per APL 20-028, while regulation was in effect
2.	20-007 (3/12/20)	“Social Distancing” Measures in Response to COVID-19	<ul style="list-style-type: none"> • Encourage plans to take actions to facilitate delivery of services in a way that decreases the need for in-person visits, such as expediting any telehealth authorization procedures for providers, waiving telehealth cost-sharing, and decreasing the need for in-person pharmacy visits 	Not specified in APL
3.	20-008 (3/18/20)	Provision of Health Care Services During Self Isolation Orders	<ul style="list-style-type: none"> • Notes that health care personnel may continue to travel to/from work under specified self-isolation orders • Allows plans to delay services due to such orders if the provider has determined it will not have a detrimental impact on enrollees’ health 	Not specified in APL
4.	20-009 (3/18/20)	Reimbursement for Telehealth Services	<ul style="list-style-type: none"> • Requires plans to reimburse for telehealth at the same rate as in-person services • Cost-sharing for services delivered via telehealth must be no greater than that for same, in-person service • Plans must reimburse for telephone services the same as for video services 	Earlier of end of California State of Emergency or declaration by DMHC
5.	20-010 (3/21/20)	Special Enrollment Period; Coverage Effective Dates	<ul style="list-style-type: none"> • Established a special enrollment period for individual market products to run through June 30, 2020, mirroring action taken by Covered California 	June 30, 2020 (end of SEP); extended by APL 20-023

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6.	20-012 (3/27/20)	Health Plan Actions to Reach Vulnerable Populations	<ul style="list-style-type: none"> Required plans to file with DMHC by March 31, 2020, a description of the steps the plan is taking to contact enrollees (1) age 65+, (2) with chronic conditions, and (3) with disabilities, to ensure these vulnerable populations continue to receive needed health care services 	March 31, 2020 filing deadline
7.	20-013 (4/7/20)	Billing for Telehealth Services; Telehealth for Delivery of Services	<ul style="list-style-type: none"> Tells plans how to code services delivered via telehealth Prohibits plans from excluding coverage for services delivered via telehealth Plans cannot limit the providers who may deliver services via telehealth Includes FAQs for providers re: telehealth during the state of emergency 	Earlier of end of California State of Emergency or declaration by DMHC
8.	20-014 (4/7/20)	Mitigating Negative Health Outcomes due to COVID-19	<ul style="list-style-type: none"> Joint APL from DMHC and CA Surgeon General Offers plans reminders and resources for mitigating negative health outcomes to enrollees due to the state of emergency 	N/A
9.	20-015 (4/13/20)	COVID-19 Temporary Extension of Plan Deadlines	<ul style="list-style-type: none"> Extends deadlines for various requirements and submissions; allows plans to communicate via email to valid addresses unless otherwise specifically required 	Earlier of end of California State of Emergency or declaration by DMHC
10.	20-016 (4/15/20)	Assistance to Seniors	<ul style="list-style-type: none"> Joint APL from DMHC and Dept. of Aging Provides reminders and resources to help plans serve enrollees during the COVID-19 emergency who are aged 60+ or have high-risk health conditions 	N/A

Summary of DMHC COVID-19 All Plan Letters Issued Between March 2020 and September 2021

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11.	20-017 (4/16/20)	General Licensure Regulation: Extension of Phase-In Period For Expedited Exemption Requests	<ul style="list-style-type: none"> Extended phase-in period for DMHC general licensure regulation (expedited exemption process) from June 30, 2020 to December 31, 2020 due to uncertainty caused by the COVID-19 pandemic Updated guidance provided by APL 19-014 	Dec. 31, 2020 (date of phase-in extension), but extended further by APL 20-038
12.	20-018 (4/29/20)	Modification of Timely Access Provider Appointment Availability Surveys (PAAS) Timeframes	<ul style="list-style-type: none"> Directs plans to begin provider appointment availability surveys for the 2020 measurement year no earlier than August 1, 2020, in light of the COVID-19 emergency 	Dec. 31, 2020 (end of MY 2020 for PAAS)
13.	20-019 (5/5/20)	Association Health Plans: Extension of "Phase-Out" Period	<ul style="list-style-type: none"> Extended phase-out of various types of association health plans' purchase of group coverage (described in APL 19-024) from June 30, 2020 to October 31, 2020 due to COVID-19 emergency 	Oct. 31, 2020 (end of phase-out period); extended by APL 20-031
14.	20-020 (5/20/20)	Ensuring Continued Network Adequacy and Removing Unnecessary Burdens on Providers	<ul style="list-style-type: none"> Requires plans to file with the DMHC, by June 5, 2020, details of steps taken or to-be-taken to ensure continued network stability and/or provide direct assistance to its provider network Encourages plans to take various specified steps (e.g. expedite claims, remove administrative barriers) to relieve financial burdens on providers struggling because of the pandemic 	June 5, 2020 (filing deadline); otherwise not stated in APL
15.	20-023 (6/23/20)	Extension of Special Enrollment Period in APL 20-010	<ul style="list-style-type: none"> Extends the special enrollment period for individual market products to July 31, 2020, mirroring action taken by Covered California 	July 31, 2020 (end of SEP); extended by APL 20-029

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Item	APL # (Date)	Title	Summary	Termination Date
16.	20-028 (7/23/20)	Emergency Regulation Regarding COVID-19 Diagnostic Testing	<ul style="list-style-type: none"> • Announces emergency regulation regarding health plan responsibility for coverage of COVID-19 diagnostic testing, which took effect July 17, 2020 • Provides overview of requirements of the emergency regulation 	Emergency regulation described in APL expired on May 15, 2021
17.	20-029 (7/31/20)	Extension of Special Enrollment Period to August 31, 2020	<ul style="list-style-type: none"> • Extends the special enrollment period for individual market products described in APLs 20-010 and 20-023 from July 31, 2020 to August 31, 2020, mirroring action taken by Covered California 	August 31, 2020 (end of SEP);
18.	20-031 (8/21/20)	Association Health Plans: Extension of "Phase-Out" Period Through February 28, 2021	<ul style="list-style-type: none"> • Extends the phase-out for association health plan purchase of group coverage described in APL 20-019 from October 31, 2020 to February 28, 2021 	February 28, 2021 (end of phase-out period)
19.	20-032 (9/4/20)	Continuation of DMHC's All Plan Letters Regarding Telehealth During the California Declared State of Emergency Due to COVID-19	<ul style="list-style-type: none"> • Clarifies duration of APLs 20-009 and 20-013 as through the earlier of the end of California's COVID-19 state of emergency or notice from DMHC • Prohibits plans from listing provider's home address as a practice address for telehealth without authorization • Applies APLs 20-009 and 20-013 to delegated entities 	Earlier of end of California State of Emergency or declaration by DMHC
20.	20-033 (9/18/20)	Implementation of Emergency Regulation Regarding COVID-19 Diagnostic Testing	<ul style="list-style-type: none"> • Addresses questions DMHC received from stakeholders regarding implementation of the emergency regulation on COVID-19 testing announced in APL 20-028 	Emergency regulation described in APL expired on May 15, 2021

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21.	20-034 (9/23/20)	All Plan Letter Superseding and Replacing APL 20-006	<ul style="list-style-type: none"> • Clarifies that emergency regulation (APL 20-028) supersedes cost-sharing provisions of APL 20-006; restates provisions of APL 20-006 still in effect, regarding requirements for timely access to care and proactive steps for plans to take to ensure screening and testing availability 	Not specified in APL; Emergency regulation expired May 15, 2021
22.	20-037 (10/14/20)	Vaccinations; Coverage and Flexibility	<ul style="list-style-type: none"> • Reminds health plans of existing requirements regarding coverage and reimbursement for vaccines and encourages plans and their delegated entities to exercise maximum flexibility given COVID-19 emergency and upcoming flu season 	N/A
23.	20-038 (12/3/20)	General Licensure Regulation: Third Extension of Phase-In Period for Expedited Exemption Requests	<ul style="list-style-type: none"> • Due to continuing uncertainty of COVID-19 and intent to amend regulation, extends expedited exemption process of DMHC's general licensure regulation to the effective date of future amendments to the regulation; supersedes APL 20-017's extension to Dec. 31, 2020 	Effective date of future amendments to licensure regulation (TBD)
24.	20-039 (12/11/20)	Health Plan Coverage of COVID-19 Vaccines	<ul style="list-style-type: none"> • Outlines requirements under federal law for plans to cover, with no cost-sharing or network requirements, administration of qualifying COVID-19 vaccines for enrollees • Includes FAQs regarding COVID-19 vaccine coverage 	None stated in APL
25.	20-040 (12/14/20, revised 1/28/21)	Health Plan Reporting Regarding Network Stability	<ul style="list-style-type: none"> • Requires full-service plans to file quarterly reports regarding (1) identity of "priority practices" (defined in APL) and assistance provided, and (2) closed or sold practices and resulting impact to networks 	Final quarterly report due Sept. 15, 2021

Summary of DMHC COVID-19 All Plan Letters Issued Between March 2020 and September 2021

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26.	20-042 (12/16/20)	Removal of Administrative Burdens on Hospitals During COVID-19 Surge	<ul style="list-style-type: none"> • Directs plans to take immediate steps to reduce or remove unnecessary barriers to the efficient hospital admission, transfer, and/or discharge of health plan enrollees; includes suggested/example steps • Requires plans to file narrative descriptions of steps taken to reduce burdens on hospitals during COVID-19 surge on Dec. 29, 2020 and Jan. 12, 2021 	Second filing due Jan. 12, 2021; no other termination date specified
27.	20-043 (12/16/20)	Health Plan Reporting Regarding PPE and Related Support to Providers	<ul style="list-style-type: none"> • Requires full-service plans to file reports with the DMHC regarding PPE and other related support supplied to contracted providers • Initial report due Jan. 4, 2021, followed by monthly reports due on the first of each month, Feb. through Aug., 2021 	Final report due to DMHC Aug. 1, 2021
28.	21-003 (1/6/21)	Transfer of Enrollees Per State Public Health Officer Order	<ul style="list-style-type: none"> • Provides direction to plans regarding cost-sharing and utilization management with respect to hospital transfers occurring pursuant to CDPH’s State Public Health Officer Order of Jan. 5, 2021 	Applicable CDPH Order revoked on Feb. 5, 2021
29.	21-004 (1/6/21)	Transfers of unstable or destabilized enrollees	<ul style="list-style-type: none"> • Reminds plans of their continuing obligations under HSC sec. 1371.4 to cover emergency services and care provided to plan enrollees, including reimbursement for appropriate transfers of unstable enrollees between hospitals in conformance with the federal Emergency Medical Treatment and Labor Act 	N/A
30.	21-006 (1/26/21)	Dental Plan Reporting Regarding Network Stability	<ul style="list-style-type: none"> • Requires dental plans to file quarterly reports regarding (1) identity of “priority practices” (defined in APL) and assistance provided, and (2) closed or sold practices and resulting impact to networks • Superseded by APL 21-009 	Superseded by APL 21-009

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31.	21-007 (1/26/21)	Dental Plan Reporting re PPE and Related Supports to Providers	<ul style="list-style-type: none"> • Requires dental plans to file reports with the DMHC regarding PPE and other related support supplied to contracted providers • Initial report due March 1, 2021, followed by monthly reports due on the first of each month, April through Aug., 2021 	Final report due to DMHC Aug. 1, 2021
32.	21-008 (1/28/21)	Special Enrollment Period; Coverage Effective Dates	<ul style="list-style-type: none"> • Establishes a special enrollment period for individual market products to run from Feb. 1, 2021 through May 15, 2021, mirroring action taken by the federally facilitated marketplace and Covered California 	May 15, 2021 (end of SEP)
33.	21-009 (2/16/21)	Dental Plan Reporting Regarding Network Stability - REVISED	<ul style="list-style-type: none"> • Requires dental plans to file quarterly reports regarding (1) identity of “priority practices” (defined in APL) and assistance provided, and (2) closed or sold practices and resulting impact to networks • Supersedes APL 21-006, with revised instructions and filing templates 	Final quarterly report due Jan. 3, 2022
34.	21-011 (3/10/21)	New Federal Guidance Regarding COVID-19 Testing	<ul style="list-style-type: none"> • Provides an overview of federal guidance issued Feb. 26, 2021, regarding requirements for plans to cover COVID-19 diagnostic testing; plans must cover testing for asymptomatic enrollees with no known exposure without cost-sharing or medical management or network requirements; plans not required to cover for “public health surveillance” or “employment” purposes • Explains interaction between federal guidance and DMHC emergency regulation on testing (regulation expired May 15, 2021) 	None stated in APL; Emergency regulation referenced in APL expired on May 15, 2021

Summary of DMHC COVID-19 All Plan Letters Issued Between March 2020 and September 2021

Item	APL # (Date)	Title	Summary	Termination Date
35.	21-012 (3/12/21)	COVID-19 Vaccine Prioritization for Individuals with High-Risk Health Conditions and/or Disabilities	<ul style="list-style-type: none"> • References CDPH provider bulletin (issued Feb. 12, 2021) and public guidance (issued March 11, 2021) regarding distribution of COVID-19 vaccines to certain high-risk individuals • Instructs plans to alert staff that enrollees need not provide documentation for eligibility in high-risk categories to receive vaccination • Follow-up e-mail sent by DMHC to all plans with additional clarification on March 24, 2021 (included with APL on DMHC website) 	None stated in APL
36.	21-014 (5/3/21)	COVID-19 Vaccinations for Homebound Enrollees	<ul style="list-style-type: none"> • Requires that plans arrange for COVID-19 vaccines for individuals receiving “home health services,” and should take steps to identify homebound enrollees and determine if such enrollees desire vaccination • Provides state resources to which plans should refer enrollees lacking transportation to a vaccination site 	None stated in APL
37.	21-016 (6/7/21)	Continued coverage of COVID-19 diagnostic testing	<ul style="list-style-type: none"> • Provides summary of federal law and guidance governing coverage of COVID-19 diagnostic testing, in the context of the expiration of DMHC’s emergency regulation on May 15, 2021 • Summarizes CDC guidelines regarding when a test provides an individualized assessment versus when it is for surveillance purposes. • References state testing guidance issued by CDPH and DSS; cautions that plans must adhere to federal guidance 	None stated in APL
38.	21-020 (7/26/21)	Continued Coverage of COVID-19 Diagnostic Testing	<ul style="list-style-type: none"> • Reminds plans that federal requirements (see APLs 21-011 and 21-016) for COVID-19 diagnostic testing apply, following CDPH issuance of requirements for employee testing at specified health care facilities 	None stated in APL

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Item	APL # (Date)	Title	Summary	Termination Date
39.	21-021 (8/17/21)	Transfer of Hospitalized Enrollees per Regulation Section 1300.67.02	<ul style="list-style-type: none"> • Reminds plans of obligations under 28 CCR sec. 1300.67.02 (enacted as an emergency regulation on Jan. 15, 2021), which specifies how plans must reimburse for the transfer and continued hospitalization of enrollees transferred pursuant to a public health order • References CDPH Public Health Order issued August 16, 2021. regarding hospital and health care system surge 	None stated in APL