

From: DMHC Licensing eFiling

Subject: APL 23-026 – Compliance with Health and Safety Code Section 1374.722 and the Children and Youth Behavioral Health Initiative

Date: Wednesday, December 20, 2023 3:50 PM

Attachments: APL 23-026 – Compliance with Health and Safety Code Section 1374.722 and CYBHI (12.20.23).pdf

Dear Health Representative,

The Department of Managed Health Care (Department) issues this All Plan Letter (APL) 23-026, to provide the initial guidance for compliance as the CYBHI Fee Schedule is implemented through a phase-in process beginning January 1, 2024. This APL is applicable to both full-service commercial, and behavioral health care service plans that provide coverage for mental health and substance use disorder services pursuant to Section 1374.72.

Thank you.



Gavin Newsom, Governor
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ALL PLAN LETTER

DATE: December 20, 2023

TO: All Commercial Full-Service Health Care Service Plans and Behavioral Health Care Service Plans

FROM: Sarah Ream
Chief Counsel, DMHC

SUBJECT: APL 23-026 – Compliance with Health and Safety Code Section 1374.722 and the Children and Youth Behavioral Health Initiative

I. The Children and Youth Behavioral Health Initiative

Health and Safety Code section 1374.722,¹ enacted by Assembly Bill 133 (Committee on Budget, Chapter 143, Statutes of 2021) as a component of the Children and Youth Behavioral Health Initiative (CYBHI), requires all commercial full-service health plans and behavioral health plans providing mental health and substance use coverage pursuant to Section 1374.72 to provide coverage, as specified, for mental health and substance use disorder treatment services provided at a school site when the services are provided or arranged by a local educational agency (LEA) or public institution of higher education (IHE), all as identified in the fee-for-service reimbursement schedule (CYBHI Fee Schedule) published by the Department of Health Care Services (DHCS) for this purpose.² Section 1374.722 authorizes and directs the Department of Managed Health Care (DMHC or Department) to issue guidance regarding compliance with its requirements no later than December 31, 2023.

This All-Plan Letter (APL), issued by the DMHC pursuant to Section 1374.722, provides the initial guidance for compliance as the CYBHI Fee Schedule is implemented through a phase-in process beginning January 1, 2024. This APL is applicable to both full-

¹ Referenced hereinafter for simplicity as Section 1374.722. References to “Section” shall refer to the Health and Safety Code unless otherwise indicated.

² The terms “school site,” “local educational agency,” and “institution of higher education,” among others, are defined in Section 1374.722. The CYBHI Fee Schedule is a statewide, multi-payer school-linked fee-for-service reimbursement schedule published by DHCS under the authority of Welfare and Institutions Code Section 5961.4.

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service and behavioral health care service plans that provide coverage for mental health and substance use disorder services pursuant to Section 1374.72. This APL also serves as a supplement for commercial health plans to existing and forthcoming guidance from DHCS, which will issue more detailed and ongoing guidance regarding the CYBHI Fee Schedule, participating local educational agencies, public institutions of higher education, and their designated mental health providers and practitioners, and implementation. Health care service plans are directed to follow DHCS guidance on the CYBHI Fee Schedule where such guidance is applicable to both Medi-Cal managed care plans and commercial health plans obligated to reimburse for services pursuant to Section 1374.722.³ This APL summarizes the essential components of the CYBHI Fee Schedule framework, but incorporates all DHCS guidance and instructions regarding implementation of the CYBHI Fee Schedule by reference and defers to those more detailed instructions where they apply to commercial health care service plans.

II. DHCS Fee Schedule

Pursuant to Section 1374.722, health care service plans must cover the provision of services identified in the CYBHI Fee Schedule published by DHCS. Services in the CYBHI Fee Schedule are within the scope of services required to be covered by Section 1374.722 and have been determined by DHCS to be appropriate as school-linked services arranged for pupils of public schools. Health care service plans are directed to comply with all guidance and procedures promulgated by DHCS regarding the use of the CYBHI Fee Schedule. All services provided to an enrollee and billed from the CYBHI Fee Schedule through the Third-Party Administrator (TPA) (See Below), must be reimbursed, without a prior authorization or cost-sharing requirement, except as authorized by the DMHC or DHCS as implementation of the CYBHI Fee Schedule moves forward.

III. CYBHI Provider Network

Pursuant to Welfare and Institutions Code section 5961.4, DHCS is required to develop a statewide school site provider network, to provide the CYBHI Fee Schedule behavioral health services to pupils who are eligible under the CYBHI. DHCS has determined that, for implementation of the CYBHI Fee Schedule, LEAs and IHEs are providers. Health care service plans shall consider LEAs and IHEs as health care providers with respect to billing and reimbursement under the CYBHI Fee Schedule and Section 1374.722. Each LEA or IHE provider shall be responsible for maintaining its own list of “designated providers and practitioners” employed by or contracted with the LEA or IHE provider, and only those designated providers and practitioners eligible for each service listed in the CYBHI Fee Schedule may deliver medically necessary mental health or substance use disorder services to an eligible pupil. Additional guidance regarding the statewide school site provider network will be issued by DHCS. The CYBHI statewide school site provider network is distinct and separate from an individual health care service plan’s network.

³ A list of DHCS CYBHI Fee Schedule resources and guidance is appended to this APL.

IV. Third-Party Administrator

DHCS has determined that a TPA shall act as a clearinghouse for all CYBHI Fee Schedule claims for reimbursement, billing of payers (including but not limited to health care service plans subject to this APL), disbursements, and maintenance of the statewide provider network, including the credentialing of LEA- and IHE-designated providers and practitioners and the maintenance of an updated CYBHI provider and practitioner list. Health care service plans should reimburse only those CYBHI Fee Schedule claims that are provided by the TPA and shall remit payment to the TPA for disbursement to the LEA or IHE, or directly to its designated provider or practitioner if the LEA or IHE has such an arrangement with the designated provider or practitioner. Once the TPA has been identified and established, health care service plans must enter into the agreement, memorandum of understanding, or other arrangement(s) as directed by DHCS that will establish a relationship between the plan and the TPA by which claims for services will be processed. Such agreements include any necessary data-sharing agreements between the plan and the TPA necessary for claims processing and enrollee information exchange.

V. Timeline of Fee Schedule Implementation

DHCS is taking a phased approach to implementation of the Fee Schedule and provider network. As such, providers will have the opportunity to join the network in one of three cohorts:

- January 1, 2024 – Cohort 1. This will be a cohort of early adopters. The LEAs and health plans participating in this first cohort will be a learning cohort. During this first phase, DHCS will test implementation strategies with participating LEAs and health plan partners.
- July 1, 2024 – Cohort 2. This cohort will expand the number of participating LEAs and health plans. DHCS will also include campuses from the California Community Colleges in this cohort. This cohort will also be a learning cohort of early adopters.
- January 1, 2025 – Cohort 3. All remaining LEAs, California Community Colleges, and University of California and California State University campuses will be eligible to participate. Participation following this date will be on a rolling basis as these providers choose to enter the network and are authorized by DHCS to participate.

DHCS is responsible for determining the criteria for eligibility of participating LEA and IHE providers and for accepting them as eligible for participation. Although only those health care service plans with enrollees in the geographic areas where LEA/IHE providers are participating in the DHCS CYBHI Fee Schedule must reimburse eligible claims, all health care service plans are encouraged to establish their relationship with

the TPA (See Section IV. above) as soon as possible once the TPA has been identified and a contract executed with DHCS.

VI. Information for Enrollees

The DMHC shall issue instructions at a future time regarding inclusion of information about CYBHI-covered behavioral health services that may be available for future enrollees. At this time there are no required changes for Evidence of Coverage or other enrollee-facing documents; however, the DMHC does anticipate issuing instructions regarding enrollee information about CYBHI services once implementation and participation by LEAs and IHEs has been established.

VII. Additional Guidance

A. Network Adequacy

The CYBHI statewide school site provider network is distinct and separate from an individual health care service plan's network. The CYBHI Fee Schedule school site provider network is not to be used, by itself, by health care service plans to satisfy any network adequacy requirements otherwise applicable pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act). However, if an individual health care provider or practitioner is already included in the health care service plan's network, or is included in the future, that individual provider or practitioner's participation in the CYBHI Fee Schedule school site provider network does not disqualify them from also being in a health care service plan's network.

B. Disputes

Enrollee or provider disputes or complaints regarding services provided under the CYBHI Fee Schedule system shall be directed first to the TPA for resolution. If the TPA requires information or intervention by the health care service plan, it shall contact the plan. Health care service plans shall refer to additional instructions regarding disputes and grievances issued by DHCS.

C. Transition to in-network providers

If a practitioner providing services to an enrollee through a LEA or IHE provider contacts the health care service plan to request the enrollee be seen by an in-network provider or for services not available through the CYBHI Fee Schedule, the health care service plan shall contact the enrollee to arrange an appointment with an in-network provider or, if none are available, an out-of-network provider, pursuant to Sections 1374.72 and 1374.721 and any applicable laws regarding patient privacy, confidentiality, and sensitive services. Use of CYBHI Fee Schedule services, however, does not create an obligation by the enrollee to transition to in-network care, and shall not prevent an enrollee from using both CYBHI Fee Schedule services and in-network behavioral health services concurrently.

D. High Deductible Health Plans

Section 1374.722 provides that services provided pursuant to its provisions shall not be subject to copayment, coinsurance, deductible, or any other form of cost sharing. However, high deductible health plans (HDHPs) that qualify for Health Savings Accounts (HSAs) under section 223 of the Internal Revenue Code (IRC) may not provide benefits for non-preventive-care services until the applicable deductible(s) are met. It is the Department's guidance that application of Section 1374.722 shall not disqualify or otherwise disrupt an HDHP from meeting the requirements of the Internal Revenue Code or its implementing rules as they relate to HSA eligibility. Therefore, in order to harmonize Section 1374.722 with federal rules regarding HDHPs and HSAs, the DMHC clarifies that, for enrollees of HDHPs otherwise qualifying under section 223 of the Internal Revenue Code, health care service plans shall not reimburse for services covered under Section 1374.722 unless (a) the applicable IRC deductible has been met, or (b) the service is for preventive care, as that term is used by the federal government for purposes of implementing section 223 of the Internal Revenue Code.

E. Claim Payment Deadlines

Notwithstanding DHCS guidance applicable to Medi-Cal managed care plans providing coverage to Medi-Cal beneficiaries, commercial health care service plans shall follow the applicable claim payment deadlines specified in Section 1371 and any regulations promulgated thereunder.

F. Reporting

The DMHC recognizes that the nature of CYBHI-related services provided outside the health care service plan's existing network and without prior authorization means that the plan will not have control of various aspects of these covered services. Therefore, inclusion of CYBHI-related services for health care service plan reporting purposes shall be determined, going forward, in the context of the individual type of reporting metric. Where appropriate and when available to the health care service plan, the DMHC shall indicate whether a filing should include data related to services reimbursed through the CYBHI Fee Schedule system.

CYBHI RESOURCES

California Health and Human Services Agency CYBHI website:

<https://cybhi.chhs.ca.gov/>

California Department of Health Care Services CYBHI website:

<https://www.dhcs.ca.gov/cybhi>

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