



C A L I F O R N I A D E P A R T M E N T O F

Mental Health

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October 21, 2004

DMH LETTER NO.: 04-11

TO: LOCAL MENTAL HEALTH DIRECTORS
LOCAL MENTAL HEALTH PROGRAM CHIEFS
LOCAL MENTAL HEALTH ADMINISTRATORS
COUNTY ADMINISTRATIVE OFFICERS
CHAIRPERSONS, LOCAL MENTAL HEALTH BOARDS

SUBJECT: CLARIFICATION OF THE AVAILABILITY OF THERAPEUTIC
BEHAVIORAL SERVICES TO CLASS MEMBERS

REFERENCE DMH Letter No.: 99-03

The purpose of this letter is to clarify that Therapeutic Behavioral Services (TBS) are available to Medi-Cal beneficiaries who meet the requirements for class membership under Emily Q. v. Bontá (C.D.Cal., 2001, CV 98-4181 AHM (AIJx)) if the beneficiary is at risk of admission to a hospital for acute psychiatric inpatient hospital services or to psychiatric health facility for acute care as a result of behaviors that may benefit from TBS interventions. The Department of Mental Health (DMH) became aware that there was a lack of clarity on this issue at a meeting with stakeholders that was held April 12, 2004 to obtain input on plans to increase the utilization of TBS. Section C of the Order Regarding the Plan to Increase TBS Utilization and Joint Stipulation In Support Thereof filed July 29, 2004 in Emily Q. v. Bontá memorializes the agreement of the State and the Plaintiffs that clarification on this issue would be provided to mental health plans through a DMH Letter.

Class membership under Emily Q. as specified in the Judgment and Permanent Injunction includes: "All current and future beneficiaries of the Medicaid program below the age of 21 in California who: (a) are placed in a Rate Classification Level facility of 12 or above and/or a locked treatment facility for the treatment of mental health needs; (b) are being considered for placement in these facilities; or (c) have undergone at least one emergency psychiatric hospitalization related to their current presenting disability within the preceding 24 months." The Judgment and Permanent Injunction goes on to incorporate DMH Letter No. 99-03, "Therapeutic Behavioral Services", by reference.

DMH Letter No.: 99-03, Section III.C (page 4) provides that, once the beneficiary has been determined to meet the requirements for class membership, the Mental Health Plan (MHP) must then determine the need for TBS in accordance with the following:

1. The child/youth is receiving other specialty mental health services.
2. It is highly likely in the clinical judgment of the mental health provider that without the additional short-term support of therapeutic behavioral services that:
 - a) The child/youth will need to be placed in a higher level of residential care, **including acute care** (*emphasis added*) because of a change in the child/youth's behaviors or symptoms which jeopardize continued placement in current facility; or
 - b) The child/youth needs this additional support to transition to a lower level of residential placement. Although the child/youth may be stable in the current placement, a change in behavior or symptoms are expected and therapeutic behavioral services are needed to stabilize the child in the new environment. (The MHP or its provider must document the basis for the expectation that the behavior or symptoms will change.)

Although the reference to the risk of acute care as highlighted above appears to be a subset of residential treatment, that is not the intent of the criterion. The reference to "acute care" includes acute psychiatric hospital inpatient services and psychiatric health facility services, in addition to crisis residential treatment services. MHPs may rely on the documentation of the risk of admission for acute psychiatric inpatient hospital services, psychiatric health facility services or crisis residential treatment services from a qualified TBS provider consistent with the requirements of the DMH/MHP contract, Exhibit A, Attachment 1, Section Y (Section DD in the San Mateo contract) regarding MHP Payment Authorization of TBS.

If you have questions or need additional information, please contact your Medi-Cal contract manager in the County Operations Section. See enclosure for contacts.

Sincerely,

STEPHEN W. MAYBERG, Ph.D.
Director

Enclosure

cc: California Mental Health Planning Council
Chief, County Operations Section