



COUNTY OF MONTEREY HEALTH DEPARTMENT

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Administration Clinic Services Public Health
 Behavioral Health Emergency Medical Services Public Administrator/Public Guardian
 Environmental Health/Animal Services

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| Policy Number | 108 |
| Policy Title | Medicaid Managed Care Plan |
| References | <p>California Code of Regulations (CCR), title 9, § 1810.100 et. seq. – Medi-Cal Specialty Mental Health Services; §§1820.205, 1830.205, and 1830.210, §§ 1810.345, and 1810.405</p> <p>Welfare and Institutions (W&I) Code §§ 14680-14685.1; §§ 14700-14726 Chapter 7, Part 3, Division 9, W&I Code, to the extent that these requirements are applicable to the services and functions set forth in the Contract</p> <p>CCR, title 22, §§ 50951 and 50953; §§ 51014.1 and 51014.2</p> <p>45 C.F.R. § 160 and § 164</p> <p>Title 42 United States Code, to the extent that these requirements are applicable;</p> <p>42 C.F.R. to the extent that these requirements are applicable;</p> <p>42 C.F.R. Part 438, Medicaid Managed Care, limited to those provisions that apply to Prepaid Inpatient Health Plans (PIHPs), except for the provisions listed in paragraph B of the Contract</p> <p>42 C.F.R. § 455 to the extent that these requirements are applicable;</p> <p>Title VI of the Civil Rights Act of 1964</p> <p>Title IX of the Education Amendments of 1972</p> <p>Age Discrimination Act of 1975</p> <p>Rehabilitation Act of 1973</p> <p>Americans with Disabilities Act</p> <p>Section 1557 of the Patient Protection and Affordable Care Act</p> <p>Deficit Reduction Act of 2005;</p> <p>Balanced Budget Act of 1997;</p> <p>Medicaid Managed Care Final Rule Network Adequacy Standards (July 19, 2017), Department of Health Care Services (DHCS)</p> <p>Monterey County Behavioral Health Polices</p> |
| Form | N/A |
| Effective | October 10, 2017 |

1 **Policy**
 2 Monterey County Behavioral Health (MCBH) shall abide by these and all regulations set forth in
 3 this and all policies related to the delivery of specialty mental health services under contract with
 4 the Department of Health Care Services (DHCS). DHCS and MCBH have established a contract
 5 for service delivery of SMHS. MCBH is the county Mental Health Plan (MHP) for MediCal eligible
 6 residents. MCBH and its subcontractors shall abide by the agreements set forth for the delivery of
 7 SMHS.

8
 9 **Procedure**

10 Monterey County Behavioral Health (MCBH) shall provide, or arrange and pay for, all medically
11 necessary covered Specialty Mental Health Services (SMHS) to beneficiaries, as defined for the
12 purposes of the contract with the Department of Health Care Services (DHCS). MCBH shall ensure
13 that all medically necessary covered SMHS are sufficient in amount, duration, or scope to
14 reasonably be expected to achieve the purpose for which the services are furnished. MCBH shall
15 not arbitrarily deny or reduce the amount, duration, or scope of a medically necessary covered
16 SMHS solely because of diagnosis, type of illness, or condition of the beneficiary except as
17 specifically provided in the medical necessity criteria applicable to the situation as provided in
18 California Code of Regulations, title 9, §§1820.205, 1830.205, and 1830.210.

19
20 MCBH shall make all medically necessary covered SMHS available in accordance with applicable
21 regulations and shall ensure

- 22
23 • The availability of services to address beneficiaries' emergency psychiatric conditions 24
24 hours a day, 7 days a week (24/7). MCBH shall ensure "24/7 Access Line" is available.
- 25 • The availability of services to address beneficiaries' urgent conditions as defined in CCR,
26 title 9, §1810.253, 24 hours a day, and 7 days a week.
- 27 • Timely access to routine services determined by the Contractor to be required to meet
28 beneficiaries' needs.

29
30 MCBH shall provide second opinions in accordance with application regulations. (CCR, title 9 §
31 1810.405(e)). MCBH shall provide out-of-plan services in accordance with (CCR, title. 9,
32 §§1830.220 and 1810.365) and apply timeliness standards (CCR, title. 9, 1810.405) to out-of-plan
33 services, as well as in-plan services. MCBH shall provide a beneficiary's choice of the person
34 providing services to the extent feasible in accordance with applicable regulations (CCR, title 9,
35 §1830.225 and 42 CFR § 438.6(m)).

36
37 MCBH and its subcontractors shall ensure the availability and accessibility of adequate numbers
38 and types of providers of medically necessary services (42 C.F.R. § 438.206(a) and (b)). Maintain
39 and monitor a network of appropriate providers that are sufficient to provide adequate access to all
40 services covered under the agreement with DHCS.

41
42 MCBH and its subcontractors shall provide timely access to services (42 C.F.R. § 438.206(c)(1)
43 and CCR, title 9, §1810.405) shall 1) Take into account the urgency of need for service and 2)
44 have hours of operation during which services are provided to Medi-Cal beneficiaries that are no
45 less than the hours of operation during which the services are offered to non-Medi-Cal
46 beneficiaries.

47
48 MCBH shall make available adequate capacity and services (42 C.F.R. § 438.207(b)) and shall
49 offer an appropriate range of SMHS and maintain a network of providers that is adequate for the
50 anticipated number of beneficiaries for its service area.

51

52 MCBH and its contractors shall abide by any federal and state privacy laws as well as all MCBH
53 policies to ensure that each beneficiaries privacy and confidentiality is protected

54
55 MCBH shall have a mechanism to assure authorization decision standards are met (42 C.F.R. §
56 438.210(b)). MCBH will have process to authorize initial and continuing authorization of services;
57 have a mechanism in place to assure decisions to deny or authorize a service request to be made
58 by a health care professional who has appropriate clinical expertise in treating the condition or
59 disease; ensure a mechanism and timeframes (42 C.F.R. § 438.210(d)) and Notice of Adverse
60 Benefit Determination decisions are made (42 C.F.R. § 438.404(c)).

61 62 **Network Adequacy (438.68)**

63
64 MCBH shall maintain and monitor a network of appropriate providers that is supported by written
65 agreements for subcontractors and that is sufficient to provide adequate access to all services
66 covered under this contract. In establishing and monitoring the network in accordance with
67 regulatory requirements. MCBH shall adhere to, in all geographic areas within the county, the time
68 and distance standards for adult and pediatric mental health providers developed by the
69 Department. (42 C.F.R. § 438.68(a), (b)(1)(iii), (3), 438.206(a).) MCBH shall comply with
70 documentation standards of Network Adequacy requirements in accordance with regulatory
71 requirements (438.207)

72 73 **Time and Distance:**

- 74 • Mental Health, Outpatient services (non-psychiatry)
 - 75 ○ 45 miles or 75 minutes from beneficiary's residence
 - 76 ○ within 10 days to appointment from request (non-urgent, as defined in standards)
- 77 • Substance Use Disorder (SUD), Outpatient services
 - 78 ○ 60 miles or 90 minutes from beneficiary's residence
 - 79 ○ within 10 days to appointment from request (non-urgent, as defined in standards)
- 80 • Substance Use Disorder, Opioid Treatment Programs
 - 81 ○ 45 miles or 75 minutes from beneficiary's residence
 - 82 ○ within 3 business days to appointment from request

83
84 MCBH shall submit, in a manner and format determined by DHCS, documentation to demonstrate
85 compliance with the DHCS's requirements for availability and accessibility of services, including the
86 adequacy of the provider network. (42 C.F.R. § 438.604(a)(5).)

87 88 **Availability of Services (438.206)**

89
90 MCBH shall ensure that all services covered under the State plan are available and accessible to
91 MHP enrollees in a timely manner and in accordance with network adequacy standards. MBH shall

92 comply with timely access in accordance with 42 C.F.R. § 438.206(c)(1) and with the requirements
93 set forth in CCR, title 9, §1810.405. MCBH shall ensure that if the provider network is unable to
94 provide necessary services, covered under this Contract, to a particular beneficiary, the Contractor
95 shall adequately and timely cover the services out of network, for as long as the Contractor's
96 provider network is unable to provide them. MCBH shall comply with the requirements of California.
97 CCR, title 9, section 1830.220 regarding providing beneficiaries access to out-of-network providers
98 when a provider is available in Contractor's network. MCHB shall provide second opinions from a
99 network provider, or arrange for the beneficiary to obtain a second opinion outside the network, at
100 no cost to the beneficiary.

101
102 MCBH shall participate in the State's efforts to promote the delivery of services in a culturally
103 competent manner to all enrollees, including those with limited English proficiency and diverse
104 cultural and ethnic backgrounds, disabilities, and regardless of gender, sexual orientation or
105 gender identity. MCBH shall comply with the provisions of the Contractor's Cultural Competence
106 Plan submitted and approved by DHCS. MCBH shall update the Cultural Competence Plan and
107 submit these updates to DHCS for review and approval annually.

108 109 **Beneficiary Protection**

110
111 MCBH shall ensure written materials are produced in a format that is easily understood and
112 available in alternative formats and in an appropriate manner that takes into consideration the
113 special needs of those who, for example, are visually limited or have limited reading proficiency as
114 required by 42 C.F.R. § 438.10(d)(1). MCBH shall inform beneficiaries that information is available
115 in alternate formats and how to access those formats.

116 117 **Information Requirements (438.10)**

118
119 MCBH shall provide beneficiary protection information to all beneficiaries when first receiving
120 specialty mental health services (SMHS) and upon request. MCBH shall provide information in a
121 manner and format that is easily understood and readily accessible to beneficiaries. MCBH shall
122 provide all written materials for beneficiaries in easily understood language, format, and alternative
123 formats that take into consideration the special needs of beneficiaries. MCBH shall inform
124 beneficiaries that information is available in alternate formats, how to access those formats, and
125 that the information is available without charge. This information shall be made available in all clinic
126 locations and shall be published on the MCBH website. Provide all written material for potential
127 beneficiary and beneficiaries in a at least 12-font.

128
129 MCBH shall offer beneficiaries a copy of the Guide to Medi-Cal Services handbook and provider
130 directory when the beneficiary first accesses services and thereafter upon request. The handbook
131 shall contain, but is not limited to, the following information: toll-free and TTY/TDY telephone
132 numbers, benefits provided by mental health plan, how and where to access benefits, share of

133 cost, information on transportation, how to obtain information from the DHCS, scope of benefits,
134 how to access services, authorization and referral process, beneficiary rights and responsibilities,
135 provider list, information on out-of-network providers and how to access services, selecting and
136 changing providers, grievance, appeal, and hearing processes and timelines, information on
137 Patient Rights Advocate, advance directive information, and how to report abuse/fraud/waste.
138 MCBH may utilize other member handbooks in conjunction with the Guide to Medi-Cal Services
139 handbook.

141 **Grievance and Appeals (438.228) and Resolution and Notification (438.408)**

142
143 MCBH and its contracted providers shall follow policies, procedures, regulations related to the
144 grievance and appeals system. MCBH shall adhere to recordkeeping requirements (42 C.F.R.
145 438.416). MCBH shall adhere to Effectuation of Reversals (42 C.F.R. 438.424). The Problem
146 Resolution/ grievance and appeals process is outlined in MCBH Policy 128.

148 **Coordination of Care (438.62)**

149
150 MCBH shall deliver care to and coordinate services for all of its beneficiaries. In accordance with
151 contractual agreements with the Department of Health Care Services (DHCS). MCBH shall:

- 152 1) Ensure that each beneficiary has an ongoing source of care appropriate to his or her
153 needs and a person or entity formally designated as primarily responsible for coordinating
154 the services accessed by the beneficiary. The beneficiary shall be provided information on
155 how to contact their designated person or entity.
- 156 2) Coordinate the services furnished to the beneficiary between settings of care, including
157 appropriate discharge planning for short term and long-term hospital and institutional
158 stays. Coordinate the services furnished to the beneficiary with the services the
159 beneficiary receives from any other managed care organization, in FFS Medicaid, from
160 community and social support providers, and contracted providers.
- 161 3) Share with the DHCS or other managed care entities serving the beneficiary the results of
162 any identification and assessment of that beneficiary's needs to prevent duplication of
163 those activities.
- 164 4) Ensure that each provider furnishing services to beneficiaries maintains and shares, as
165 appropriate, a beneficiary health record in accordance with professional standards
- 166 5) Ensure that, in the course of coordinating care, each beneficiary's privacy is protected in
167 accordance with all federal and state privacy laws, including but not limited to 45 C.F.R. §
168 160 and § 164, subparts A and E, to the extent that such provisions are applicable.

170 **Coverage and Authorization (438.210)**

171
172 MCBH shall provide, or arrange and pay for, all medically necessary covered Specialty Mental
173 Health Services to beneficiaries, as defined by contractual agreement with DHCS. MCBH shall

174 ensure that all medically necessary covered Specialty Mental Health Services are sufficient in
175 amount, duration, or scope to reasonably achieve the purpose for which the services are furnished.
176 The Contractor shall not arbitrarily deny or reduce the amount, duration, or scope of a medically
177 necessary covered Specialty Mental Health Service solely because of diagnosis, type of illness, or
178 condition of the beneficiary except as specifically provided in the medical necessity criteria
179 applicable to the situation as provided in the CCR, title 9, sections 1820.205, 1830.205, and
180 1830.210. MCBH shall provide second opinions from a network provider, or arrange for the
181 beneficiary to obtain a second opinion outside the network, at no cost to the beneficiary. (42 C.F.R.
182 § 438.206(b).) At the request of a beneficiary when the Contractor or its network provider has
183 determined that the beneficiary is not entitled to specialty mental health services due to not
184 meeting the medical necessity criteria, the contractor shall provide for a second opinion by a
185 licensed mental health professional (other than a psychiatric technician or a licensed vocational
186 nurse). (CCR, title 9, § 1810.405(e).)

187

188 MCBH shall follow mechanisms to assure authorization decision standards are met. MCBH shall
189 follow all written policies and procedures for processing request for initial and continuing
190 authorizations of services (42 C.F.R. § 438.210(b)(1).); shall follow established mechanisms to
191 ensure consistent application of review criteria for authorization decisions, and shall consult with
192 the requesting provider when appropriate (42 C.F.R. § 438.210(b)(2)(i-ii).); have in place any
193 decision to deny a service authorization request or to authorize a service in an amount, duration, or
194 scope that is less than requested be made by a health care professional who has appropriate
195 clinical expertise in addressing the beneficiary's behavioral health needs (42 C.F.R. §
196 438.210(b)(3).); follow mechanism to notify the requesting provider, and give the beneficiary written
197 notice of any decision to deny a service authorization request, or to authorize a service in an
198 amount, duration, or scope that is less than requested (42 C.F.R. § 438.210(c)). The beneficiary's
199 notice shall meet the requirements in accordance with contractual agreements.

200

201 For standard authorization decisions: MCBH shall provide notice as expeditiously as the
202 beneficiary's condition requires not exceed 14 calendar days following receipt of the request for
203 service, with a possible extension of up to 14 additional calendar days when:

- 204 • The beneficiary, or the provider, requests extension; or
- 205 • MCBH justifies (to the Department upon request) a need for additional information and
206 how the extension is in the beneficiary's interest. (42 C.F.R. § 438.210(d)(1))

207 For cases in which a provider indicates, or MCBH determines, that following the standard
208 timeframe could seriously jeopardize the beneficiary's life or health or ability to attain, maintain, or
209 regain maximum function, MCBH shall make an expedited authorization decision and provide
210 notice as expeditiously as the beneficiary's health condition requires and no later than 72 hours
211 after receipt of the request for service. The Contractor may extend the 72-hour time period by up to
212 14 calendar days if the beneficiary requests an extension, or if MCBH justifies (to the Department

213 upon request) a need for additional information and how the extension is in the beneficiary's
214 interest. (42 C.F.R. § 438.210(d)(2))

215

216 MCBH shall act on an authorization request for treatment for urgent conditions within one hour of
217 the request (CCR, title 9, §§ 1810.253 1810.405, subd. (c)). MCBH shall not require prior
218 authorization for an emergency admission for psychiatric inpatient hospital services, whether the
219 admission is voluntary or involuntary. (CCR, title 9, §§ 1820.200(d) and 1820.225). MCBH (when it
220 is the MHP of the beneficiary being admitted on an emergency basis) shall approve a request for
221 payment authorization if the beneficiary meets the criteria for medical necessity and the
222 beneficiary, due to a mental disorder, is a current danger to self or others, or immediately unable to
223 provide for, or utilize, food, shelter or clothing. (CCR, title 9 §§ 1820.205 and 1820.225). MCBH
224 shall not require prior authorization for an emergency admission to a psychiatric health facility
225 when the beneficiary has an emergency psychiatric condition (CCR, title 9, §§ 1810.216
226 and 1830.245).

227

228 MCBH shall authorize out of network services when a beneficiary with an emergency psychiatric
229 condition is admitted on an emergency basis for psychiatric inpatient hospital services or
230 psychiatric health facility services (CCR, title 9 §§ 1830.220, 1810.216, 1820.225, and 1830.245).
231 MCBH shall define service authorization request in a manner that at least includes a beneficiary's
232 request for the provision of a service. (42 C.F.R. § 431.201), Additional information on Notice of
233 Adverse Benefit Determination (NOABD) may be found in MCBH Policy 120.

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235

236 **Conflict of Interest Safeguards (438.58)**

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238 MCBH shall comply with the conflict of interest safeguards described in 42 C.F.R. 438.58 and the
239 prohibitions described in section 1902(a)(4)(C) of the Act. (42 C.F.R. § 438.3(f)(2).) The MHP
240 officers and employees shall not have a financial interest in the contract with DHCS or a
241 subcontract of the DHCS contract made by them in their official capacity, or by anybody or board of
242 which they are members unless the interest is remote. (Gov. Code §§ 1090, 1091; 42 C.F.R. §
243 438.3(f)(2). No public officials at any level of local government shall make, participate in making, or
244 attempt to use their official positions to influence a decision made within the scope of the contract
245 with DHCS in which they know or have reason to know that they have a financial interest. (Gov.
246 Code §§ 87100, 87103; CCR, title 2, § 18704; 42 C.F.R. §§ 438.3(f)(2).).

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251

- If a public official determines not to act on a matter due to a conflict of interest within the scope of this Contract, the Contractor shall notify the Department by oral or written disclosure. (CCR, title 2, § 18707; 42 C.F.R. § 438.3(f)(2).)
- Public officials, as defined in Government Code section 87200, shall follow the applicable requirements for disclosure of a conflict of interest or potential conflict of interest, once it is

252 identified, and recuse themselves from discussing or otherwise acting upon the matter.
253 (Gov. Code § 87105, CCR, title 2, § 18707(a); 42 C.F.R. § 438.3(f)(2).)

254 MCBH shall not utilize in the performance of the contract with DCHS any State officer or employee
255 in the State civil service or other appointed State official unless the employment, activity, or
256 enterprise is required as a condition of the officer's or employee's regular State employment. (Pub.
257 Con. Code § 10410; 42 C.F.R. § 438.3(f)(2).)

- 258 • MCBH shall submit documentation to DHCS of employees (current and former State
259 employees) who may present a conflict of interest.
- 260 • MCBH employees who meet the Monterey County requirement for Political Reform Act
261 disclosures shall comply with Monterey County Political Reform Act. The Political Reform
262 Act (Gov. Code sections 81000 et seq.) requires most state and local government officials
263 and employees to publicly disclose their personal assets and income within certain limits.
264 They also must disqualify themselves from participating in decisions which may affect their
265 personal economic interest. The officials and employees which must disclose, and the
266 level of required disclosure is governed by the Conflict of Interest Code adopted for that
267 entity (or County department). [http://www.co.monterey.ca.us/government/departments-a-](http://www.co.monterey.ca.us/government/departments-a-h/clerk-of-the-board/statement-of-economic-interest-form-700)
268 [h/clerk-of-the-board/statement-of-economic-interest-form-700](http://www.co.monterey.ca.us/government/departments-a-h/clerk-of-the-board/statement-of-economic-interest-form-700)

269

270 Disclosure of 5% or More Ownership Interest:

- 271 • Pursuant to 42 C.F.R. § 455.104, Medicaid managed care entities must disclose certain
272 information related to persons who have an ownership or control interest in the managed
273 care entity, as defined in 42 C.F.R. § 455.101. The parties hereby acknowledge that
274 because the MHP is a political subdivision of the State of California, there are no persons
275 who meet such definition and therefore there is no information to disclose.
- 276 • In the event that, in the future, any person obtains an interest of 5% or more of any
277 mortgage, deed of trust, note or other obligation secured by MCHB, and that interest
278 equals at least 5% of MCBH property or assets, then MCBH will make the disclosures.
 - 279 ○ Will disclose the name, address, date of birth, and Social Security Number of any
280 managing employee, as that term is defined in 42 C.F.R. § 455.101. For purposes
281 of this disclosure, Contractor may use the business address for any member of its
282 Board of Supervisors.
 - 283 ○ Shall provide any such disclosure upon execution of the contract with DHCS, upon
284 its extension or renewal, and within 35 days after any change in MCBH ownership
285 or upon request of the DHCS.
- 286 • MCBH shall ensure that its subcontractors and network providers submit the disclosures
287 below to MCBH regarding the network providers' (disclosing entities') ownership and
288 control. MCBH's network providers shall be required to submit updated disclosures to
289 MCBH upon submitting the provider application, before entering into or renewing the
290 network providers' contracts, within 35 days after any change in the subcontractor/network

- 291 provider's ownership, annually and upon request during the re-validation of enrollment
292 process under 42 Code of Federal Regulations part 455.104.
- 293 ● Disclosures to be Provided:
 - 294 ○ The name and address of any person (individual or corporation) with an ownership
295 or control interest in the network provider. The address for corporate entities shall
296 include, as applicable, a primary business address, every business location, and a
297 P.O. Box address;
 - 298 ○ Date of birth and Social Security Number (in the case of an individual);
 - 299 ○ Other tax identification number (in the case of a corporation with an ownership or
300 control interest in the managed care entity or in any subcontractor in which the
301 managed care entity has a 5 percent or more interest);
 - 302 ○ Whether the person (individual or corporation) with an ownership or control
303 interest in Mental Health Plan's network provider is related to another person with
304 ownership or control interest in the same or any other network provider of the
305 Mental Health Plan as a spouse, parent, child, or sibling; or whether the person
306 (individual or corporation) with an ownership or control interest in any
307 subcontractor in which the managed care entity has a 5 percent or more interest is
308 related to another person with ownership or control interest in the managed care
309 entity as a spouse, parent, child, or sibling;
 - 310 ○ The name of any other disclosing entity in which MCBH or subcontracting network
311 provider has an ownership or control interest; and
 - 312 ○ The name, address, date of birth, and Social Security Number of any managing
313 employee of the managed care entity.

 - 314 ● For each provider in the MCBH provider network, MCBH shall provide DHCS with all
315 disclosures before entering into a network provider contract with the provider and annually
316 thereafter and upon request from DHCS during the re-validation of enrollment process
317 under 42 Code of Federal Regulations part 455.104.
 - 318 ● Disclosures Related to Business Transactions. MCBH must submit disclosures and
319 updated disclosures to the DHCS or Health and Human Services (HHS) including
320 information regarding certain business transactions within 35 days, upon request.
 - 321 ○ The ownership of any subcontractor with whom the Mental Health Plan has had
322 business transactions totaling more than \$25,000 during the 12-month period
323 ending on the date of the request; and
 - 324 ○ Any significant business transactions between the Mental Health Plan and any
325 wholly owned supplier, or between the Mental Health Plan and any subcontractor,
326 during the 5-year period ending on the date of the request.
 - 327 ○ The Mental Health Plan must obligate Network Providers to submit the same
328 disclosures regarding network providers as noted under subsection 1(a) and (b)
329 within 35 days upon request.

- 330 • Disclosures Related to Persons Convicted of Crimes. MCBH shall submit the following
331 disclosures to the Department regarding the Mental Health Plan's (MHP) management
 - 332 ○ The identity of any person who is a managing employee of the MHP who has been
333 convicted of a crime related to federal health care programs. (42 C.F.R. §
334 455.106(a)(1), (2).)
 - 335 ○ The identity of any person who is an agent of the MHP who has been convicted of
336 a crime related to federal health care programs. (42 C.F.R. § 455.106(a)(1), (2).)
337 For this purpose, the word "agent" has the meaning described in 42 Code of
338 Federal Regulations part 455.101.
- 339 • The MHP shall supply the disclosures before entering into the contract and at any time
340 upon the DHCS's request.
- 341 • Network providers should submit the same disclosures to the MHP regarding the network
342 providers' owners, persons with controlling interest, agents, and managing employees'
343 criminal convictions. Network providers shall supply the disclosures before entering into
344 the contract and at any time upon the DHCS's request.

345
346 **Provider Selection (438.208, 438.214, 438.602, 438.610, 438.808)**

347
348 MCBH shall not have a prohibited type of relationship by employing or contracting with providers or
349 other individuals and entities excluded from participation in federal health care programs (as
350 defined in section 1128B(f) of the Social Security Act) under either Section 1128, 1128A, 1156, or
351 1842(j)(2) of the Social Security Act. (42 C.F.R. §§ 438.214(d)(1), 438.610(b); 42 U.S.C. § 1320c-
352 5.) MCBH shall not have types of relationships prohibited by this section with an excluded,
353 debarred, or suspended individual, provider, or entity as follows:

- 354 • A director, officer, agent, managing employee, or partner of the Contractor. (42 U.S.C. §
355 1320a-7(b)(8)(A)(ii); 42 C.F.R. § 438.610(c)(1).)
- 356 • A subcontractor of the Contractor, as governed by 42 C.F.R. § 438.230. (42 C.F.R. §
357 438.610(c)(2).)
- 358 • A person with beneficial ownership of 5 percent or more of the Contractor's equity. (42
359 C.F.R. § 438.610(c)(3).)
- 360 • An individual convicted of crimes described in section 1128(b)(8)(B) of the Act. (42 C.F.R.
361 § 438.808(b)(2).)
- 362 • A network provider or person with an employment, consulting, or other arrangement with
363 MCBH for the provision of items and services that are significant and material to MCBH's
364 obligations under contract with DHCS. (42 C.F.R. § 438.610(c)(4).)
- 365 • MCBH shall not employ or contract with, directly or indirectly, such individuals or entities
366 for the furnishing of health care, utilization review, medical social work, administrative
367 services, management, or provision of medical services (or the establishment of policies or
368 provision of operational support for such services). (42 C.F.R. § 438.808(b)(3).)

370 MCBH policies addressing these provisions can be found at MCHP Policy 132 and Policy 142.
371 MCBH shall ensure that all network providers are enrolled with the state as Medi-Cal providers
372 consistent with the provider disclosure, screening, and enrollment requirements of 42 Code of
373 Federal Regulations part 455, subparts B and E (42 C.F.R. 438.608(b)). MCBH may execute
374 network provider agreements, pending the outcome of screening, enrollment, and revalidation, of
375 up to 120 days but must terminate a network provider immediately upon determination that the
376 network provider cannot be enrolled, or the expiration of one 120-day period without enrollment of
377 the provider, and notify affected beneficiaries (42 C.F.R. § 438.602(b)(2)). Consistent with the
378 requirements of 42 Code of Federal Regulations, part 455.436, MCBH must confirm the identity
379 and determine the exclusion status of all providers (employees and network providers) and any
380 subcontractor, as well as any person with an ownership or control interest, or who is an agent or
381 managing employee of the of the Mental Health Plan through routine checks of Federal and State
382 databases. This includes the Social Security Administration's Death Master File, the National Plan
383 and Provider Enumeration System (NPPES), the Office of Inspector General's List of Excluded
384 Individuals/Entities (LEIE), the System for Award Management (SAM), as well as the Department's
385 Medi Cal Suspended and Ineligible Provider List (S & I List) (42 C.F.R. §438.602(d)).

386

387 If the Contractor find a party that is excluded, it must promptly notify the Department (42 C.F.R.
388 §438.608(a)(2),(4)) and the Department will take action consistent with 42 C.F.R. §438.610((d)).
389 The Contractor shall not certify or pay any excluded provider with Medi-Cal funds, and any such
390 inappropriate payments or overpayments may be subject to recovery and/or be the basis for other
391 sanctions by the appropriate authority.

392

393 **Program Integrity (438.600)**

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395 As a condition for receiving payment under a Medi-Cal managed care program, MCBH shall
396 comply with the provisions of 42 C.F.R. §§ 438.604, 438.606 and 438.608, and 438.610. (42
397 C.F.R. § 438.600(b).), as applicable.

398

399 **Recovery of Overpayment**

400 MCBH and any subcontractor or any network providers, shall report to DHCS within 60 calendar
401 days when it has identified payments in excess of amounts specified for reimbursement of
402 Medicaid services (42 C.F.R. § 438.608(c)(3).)

403

404 MCBH or its subcontractors, to the extent that the subcontractor is delegated responsibility for
405 coverage of services and payment of claims under the contract between DHCS and the MCBH,
406 shall implement and maintain arrangements or procedures that include provision for the
407 suspension of payments to a network provider for which the State, MCBH, determines there is a
408 credible allegation of fraud (42 C.F.R. §§ 438.608(a)(8) and 455.23.).

409

410 MCBH shall specify the retention policies for the treatment of recoveries of all overpayments from
411 the Contractor to a provider, including specifically the retention policies for the treatment of
412 recoveries of overpayments due to fraud, waste, or abuse. The policy shall specify the process,
413 timeframes, and documentation required for reporting the recovery of all overpayments. MCBH
414 shall also specify the process, timeframes, and documentation required for payment of recoveries
415 of overpayments to DHCS in situations where the MHP is not permitted to retain some or all of the
416 recoveries of overpayments (42 C.F.R. § 438.608(d)). MCHB and its contractors shall follow
417 retention policies.

418 419 **Compliance Program (438.608)**

420
421 MCBH shall report fraud and abuse information to the Department. MCBH or any subcontractor, to
422 the extent that the subcontractor is delegated responsibility by the Contractor for coverage of
423 services and payment of claims under this Contract, shall implement and maintain a compliance
424 program designed to detect and prevent fraud, waste and abuse.

- 425 • MCBH shall adhere to written policies, procedures, and standards of conduct that
426 articulate the organization's commitment to comply with all applicable requirements and
427 standards under the contract, and all applicable Federal and state requirements. MCBH
428 Compliance Plan.
- 429 • The Compliance Officer (CO) and/or designee is responsible for developing and
430 implementing policies, procedures, and practices designed to ensure compliance with the
431 requirements of the contract and who reports directly to the CEO and the Board of
432 Directors (BoD).
- 433 • MCBH recognizes the Quality Improvement Committee (QIC) as its regulatory compliance
434 committee (RCC). The Compliance Officer has been named and the Compliance
435 Committee is meeting and functioning, in accordance with MCBH Policy 104.
- 436 • Ongoing training and education for the CO, the organization's senior management, and the
437 organization's employees for the federal and state standards and requirements are
438 afforded to staff.
- 439 • MCBH has established effective lines of communication between the CO and the
440 organization's employees.
- 441 • MCBH has established the enforcement of standards through well-publicized disciplinary
442 guidelines.
- 443 • MCBH has established and implemented procedures and a system with dedicated staff for
444 routine internal monitoring and auditing of compliance risks, prompt response to
445 compliance issues as they are raised, investigation of potential compliance problems as
446 identified in the course of self-evaluation and audits, correction of such problems promptly
447 and thoroughly (or coordination of suspected criminal acts with law enforcement agencies)
448 to reduce the potential for recurrence, and ongoing compliance with the requirements
449 under the contract (42 C.F.R. §438.608(a), (a)(1)).

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- MCBH or any subcontractor, to the extent that the subcontractor is delegated responsibility by MCBH for coverage of services and payment of claims under the contract with DHCS, shall implement and maintain arrangements or procedures designed to detect and prevent fraud, waste and abuse that include prompt reporting to the Department about the following:
 - Any potential fraud, waste, or abuse. (42 C.F.R. §438.608(a), (a)(7).)
 - All overpayments identified or recovered, specifying the overpayments due to potential fraud. (42 C.F.R. §438.608(a), (a)(2).)
 - Information about changes in a beneficiary's circumstances that may affect the beneficiary's eligibility including changes in the beneficiary's residence or the death of the beneficiary. (42 C.F.R. §438.608(a), (a)(3).)
 - Information about a change in a network provider's circumstances that may affect the network provider's eligibility to participate in the managed care program, including the termination of the provider agreement with the Contractor. (42 C.F.R. §438.608(a), (a)(4).)
 - In the event MCBH identifies an issue or receives notification of a complaint concerning an incident of potential fraud, waste or abuse, in addition to notifying DHCS, MCBH shall conduct an internal investigation to determine the validity of the issue/complaint, and develop and implement corrective action, if needed.
 - MCBH shall implement and maintain written policies for all employees of the Mental Health Plan, and of any contractor or agent, that provide detailed information about the False Claims Act and other Federal and state laws, including information about rights of employees to be protected as whistleblowers. (42 C.F.R. §438.608(a), (a)(6).)
 - MCBH shall implement and maintain arrangements or procedures that include provision for the MCBH's suspension of payments to a network provider for which there is a credible allegation of fraud. (42 C.F.R. §438.608(a), (a)(8).)

477 **Data, Information, and Documentation (438.242, 438.604, 438.606, 438.616 438.818)**

478

479 MCBH shall submit encounter data to the Department at a frequency and level specified by the
480 Department and CMS (42 C.F.R. § 438.242(c)(2)). MCBH shall ensure collection and maintenance
481 of sufficient beneficiary encounter data to identify the provider who delivers service(s) to the
482 beneficiary. (42 C.F.R. § 438.242(c)(1).) MCBH shall submit all beneficiary encounter data that the
483 Department is required to report to CMS under § 438.818 (42 C.F.R. § 438.242(c)(3)). MCBH shall
484 submit encounter data to the state in standardized Accredited Standards Committee (ASC) X12N
485 837 and National Council for Prescription Drug Programs (NCPDP) formats, and the ASC X12N
486 835 format as appropriate. (42 C.F.R. § 438.242(c)(4).)

487

488 MCBH shall submit any data, documentation, or information relating to the performance of the
489 entity's obligations as required by the State or the United States Secretary of Health and Human

490 Services (42 C.F.R. § 438.604(b).) The individual who submits this data to the state shall
491 concurrently provide a certification, which attests, based on best information, knowledge and belief
492 that the data, documentation and information is accurate, complete and truthful (42 C.F.R. §
493 438.606(b) and (c).) The data, documentation, or information submitted to the state by MCBH shall
494 be certified by one of the following:

- 495 • The Contractor's Chief Executive Officer (CEO).
- 496 • The Contractor's Chief Financial Officer (CFO).
- 497 • An individual who reports directly to the CEO or CFO with delegated authority to sign for
498 the CEO or CFO so that the CEO or CFO is ultimately responsible for the certification. (42
499 C.F. R. § 438.606(a).)

500
501 MCBH shall submit data to demonstrate it has made adequate provision against the risk of
502 insolvency to ensure that beneficiaries will not be liable for the MHP's debt if the MHP becomes
503 insolvent (42 C.F.R. § 438.604(a)(4); 42 C.F.R. § 438.116.). The MHP shall meet the State's
504 solvency standards for private health maintenance organizations or be licensed by the State as a
505 risk-bearing entity, unless one of the following exceptions apply (42 C.F.R. § 438.116 (b).):

- 506 • The MHP does not provide both inpatient hospital services and physician services.
- 507 • The MHP is a public entity.
- 508 • The MHP is (or is controlled by) one of more federally qualified health centers and meets
509 the solvency standards established by the State for those centers.
- 510 • The MHP has its solvency guaranteed by the State.

511
512 MCBH shall submit, in a manner and format determined by the DHCS, documentation to
513 demonstrate compliance with the DHCS's requirements for availability and accessibility of services,
514 including the adequacy of the provider network. (42 C.F.R. § 438.604(a)(5).)

515
516 MCHB shall submit information on its and its subcontractors' ownership and control described in 42
517 C.F.R. §455.104 and Attachment 13 of this Contract. (42 C.F.R § 438.604(a)(6).)

518
519 MCBH shall submit an annual report of overpayment recoveries in a manner and format
520 determined by the Department. (42 C.F.R § 438.604(a)(7).)

521
522 In an effort to improve the performance of the State's managed care program, in accordance with
523 42 Code of Federal Regulations part 438.66(c), MCBH will submit the following to the Department
524 (42 C.F.R. §438.604(b).):

- 525 • Enrollment and disenrollment data;
- 526 • Member grievance and appeal logs;
- 527 • Provider complaint and appeal logs;
- 528 • The results of any beneficiary satisfaction survey;
- 529 • The results of any provider satisfaction survey;

- 530 • Performance on required quality measures;
- 531 • Medical management committee reports and minutes;
- 532 • MHP's annual quality improvement plan;
- 533 • Audited financial and encounter data; and
- 534 • Customer service performance data.

535

536 **Inspection Rights/Records Keeping Requirements**

537

538 Audit and Record Retention- (DHCS contract, Exhibit D(F)). The MHP, and subcontractors, shall
539 allow the DHCS, CMS, the Office of the Inspector General, the Comptroller General of the United
540 States, and other authorized federal and state agencies, or their duly authorized designees, to
541 evaluate Contractor's, and subcontractors', performance under this contract, including the quality,
542 appropriateness, and timeliness of services provided, and to inspect, evaluate, and audit any and
543 all records, documents, and the premises, equipment and facilities maintained by the MHP and its
544 subcontractors pertaining to such services at any time. The MHP shall allow such inspection,
545 evaluation and audit of its records, documents and facilities, and those of its subcontractors, for 10
546 years from the term end date of this Contract or in the event the MHP has been notified that an
547 audit or investigation of this Contract has been commenced, until such time as the matter under
548 audit or investigation has been resolved, including the exhaustion of all legal remedies, whichever
549 is later. (See 42 C.F.R. §§ 438.3(h), 438.230(c)(3)(i-iii).) Records and documents include, but are
550 not limited to all physical and electronic records and documents originated or prepared pursuant to
551 Contractor's or subcontractor's performance under this Contract including working papers, reports,
552 financial records and documents of account, beneficiary records, prescription files, subcontracts,
553 and any other documentation pertaining to covered services and other related services for
554 beneficiaries.

555

556 The MHP, and subcontractors, shall retain, all records and documents originated or prepared
557 pursuant to MHP or subcontractor's performance under this Contract, including beneficiary
558 grievance and appeal records identified in Attachment 12, Section 2 and the data, information and
559 documentation specified in 42 Code of Federal Regulations parts 438.604, 438.606, 438.608, and
560 438.610 for a period of no less than 10 years from the term end date of this Contract or in the event
561 the MHP has been notified that an audit or investigation of this Contract has been commenced,
562 until such time as the matter under audit or investigation has been resolved, including the
563 exhaustion of all legal remedies, whichever is later. (42 C.F.R. § 438.3(u); See also § 438.3(h).)
564 Records and documents include, but are not limited to all physical and electronic records and
565 documents originated or prepared pursuant to MHP's or subcontractor's performance under this
566 Contract including working papers, reports, financial records and documents of account,
567 beneficiary records, prescription files, subcontracts, and any other documentation pertaining to
568 covered services and other related services for beneficiaries.

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External Quality Review (438.320, 438.330, 438.350)

MCBH shall undergo annual, external independent reviews of the quality, timeliness, and access to the services covered under this Contract, which are conducted pursuant to Subpart E of Part 438 of the Code of Federal Regulations (42 C.F.R. §§ 438.350(a) and 438.320).

Performance Improvement Projects (438.330)

MCBH shall maintain conduct a minimum of two active Performance Improvement Projects (PIPs) that meet the criteria in 42 C.F.R. § 438.330(b)(1) and (d). Performance improvement projects shall per year, including any PIPs required by DHCS or CMS. DHCS may require additional PIPs. One PIP shall focus on a clinical area, as well as and one on a non-clinical area. (42 C.F.R. § 438.330(b)(1) and (d)(1).) Each PIP shall:

- Be designed to achieve significant improvement, sustained over time, in health outcomes and beneficiary satisfaction;
- Include measurement of performance using objective quality indicators;
- Include implementation of interventions to achieve improvement in the access to and quality of care;
- Include an evaluation of the effectiveness of the interventions based on the performance measures collected as part of the PIP; and,
- Include planning and initiation of activities for increasing or sustaining improvement. (42 C.F.R. § 438.330(d)(2).)

MCBH shall report the status and results of each performance improvement project to the Department as requested, but not less than once per year. (42 C.F.R. § 438.330(d)(3).)

Utilization Management (438.210)

MCBH shall operate a utilization management program that is responsible for assuring that beneficiaries have appropriate access to specialty mental health services as required in California CCR, title 9, section 1810.440(b)(1)-(3). The Utilization Management Program shall evaluate medical necessity, appropriateness and efficiency of services provided to Medi-Cal beneficiaries prospectively or retrospectively. Compensation to individuals or entities that conduct utilization management activities must not be structured so as to provide incentives for the individual or entity to deny, limit, or discontinue medically necessary services to any beneficiary (42 C.F.R. § 438.210(e)). MCBH may place appropriate limits on a service based on criteria applied under the State Plan, such as medical necessity and for the purpose of utilization control, provided that the services furnished are sufficient in amount, duration or scope to reasonably achieve the purpose for which the services are furnished (42 C.F.R. § 438.210(a)(4)(i), (ii)(A)).

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613 Service Authorization

614 MCBH has in place, and follows, written policies and procedures for processing requests for initial
615 and continuing authorizations of services (42 C.F.R. § 438.210(b)(1).); has mechanism to ensure
616 consistent application of review criteria for authorization decisions, and shall consult with the
617 requesting provider when appropriate. (42 C.F.R. § 438.210(b)(2)(i-ii).); have any decision to deny
618 a service authorization request or to authorize a service in an amount, duration, or scope that is
619 less than requested be made by a health care professional who has appropriate clinical expertise
620 in addressing the beneficiary's behavioral health need. (42 C.F.R. § 438.210(b)(3).). Notifies the
621 requesting provider, and gives the beneficiary written notice of any decision by the MHP to deny a
622 service authorization request, or to authorize a service in an amount, duration, or scope that is less
623 than requested (42 C.F.R. § 438.210(c)). The beneficiary's notice shall meet the requirements and
624 be provided within the timeframes set forth in the contract with DHCS. Additional information may
625 be found in MCBH Policy 120 and Policy 128.

626

627 Practice Guidelines (438.236(b))

628 MCBH shall comply with 42 C.F.R. § 438.236(b) and CCR, title 9, § 1810.326 which requires the
629 adoption of practice guidelines.

630 A. Such guideline shall meet the following requirements:

631

- 632 1. They are based on valid and reliable clinical evidence or a consensus of health care
633 professionals in the applicable field
- 634 2. They consider the needs of the beneficiaries
- 635 3. They are adopted in consultation with contracting health care professionals; and
- 636 4. They are reviewed and updated periodically as appropriate.

637 B. MCBH shall disseminate the guidelines to all affected providers and, upon request, to
638 beneficiaries and potential beneficiaries.

639 C. MCBH shall take steps to assure that decisions for utilization management, beneficiary
640 education, coverage of services, and any other areas to which the guidelines apply shall
641 be consistent with the guidelines.

642

643 Accreditation Status (438.332)

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645 MCBH shall inform DHCS whether it has been accredited by a private independent accrediting
646 entity. (42 C.F.R. 438.332(a).); If the Contractor has received accreditation by a private
647 independent accrediting entity, the Contractor shall authorize the private independent accrediting
648 entity to provide the Department a copy of its most recent accreditation review, including:

- 649 • Its accreditation status, survey type, and level (as applicable);

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- Accreditation results, including recommended actions or improvements, corrective action plans, and summaries of findings; and
- The expiration date of the accreditation (42 C.F.R. § 438.332(b)).