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All Project Directors' Letter No. 22-01

Medi-Cal Waiver Program

December 20, 2022

SUBJECT: NEW INTERIM PROCEDURE FOR NURSING FACILITY LEVEL OF CARE DETERMINATION AND CERTIFICATION

Purpose

This All Project Directors' Letter (APDL) provides information regarding the new interim procedure for California Department of Public Health (CDPH), Office of AIDS' (OA) clinical staff to review and approve Medi-Cal Waiver Program (MCWP) agency or waiver agency's Nursing Facility Level of Care (NF-LOC) determinations prior to the enrollment of participants into the MCWP. The long-term plan is for HIV Care Connect, [the system replacing ARIES](#), to automate this process.

Background

CDPH OA received guidance from the Centers for Medicare & Medicaid Services (CMS) regarding the appropriate protocols associated with MCWP participant NF-LOC determination and certification. Specifically, CMS found that CDPH OA is out of compliance because "determination that an individual (participant) requires a [NF-LOC determination] specified in the waiver may only be made directly by the Medicaid agency or another government agency that has been designated by the Medicaid agency" ([42 CFR Section 431.10](#)). Per MCWP Application, the "state assures that it provides an initial evaluation (and periodic reevaluations, at least annually) of the need for the level of care. (Application for § 1915 (c) HCBS Waiver, 5. Assurances, C. Evaluation of Need, Application:9). Further, CDPH must perform MWCP agency program compliance reviews, which includes monitoring and oversight of level of care. (Application for § 1915 (c) HCBS Waiver, Appendix A: Waiver Administration and Operations, Appendix A:2, Appendix A:3). As such, NF-LOC determinations conducted by waiver agency staff must be reviewed and certified by CDPH OA clinical staff prior to the enrollment of MCWP participants.

Currently, all NF-LOC determinations are conducted at the waiver agency level by qualified clinical staff. The waiver agency then keeps the NF-LOC documentation onsite, and makes the determination available to CDPH OA staff during program compliance reviews, and by request. When a participant is deemed qualified for the



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MCWP, the waiver agency clinical staff certifies and documents that the participant meets NF-LOC and then completes and sends the enrollment form (MCWP3) through encrypted email to the [CDPH MCWP inbox](mailto:cdphmcwp@cdph.ca.gov) (cdphmcwp@cdph.ca.gov).

New Policy

To comply with the CMS guidance detailed above, CDPH OA will institute the following procedures to the interim NF-LOC determination review and enrollment processes. These new procedures are effective January 30, 2023.

1. Qualified clinical staff at the waiver agencies will continue to meet with potential participants and comprehensively complete the:
 - a. Initial nursing assessment;
 - b. Initial psychosocial assessment;
 - c. Cognitive Functional Ability (CFA) form; and
 - d. Enrollment form (MCWP3).
2. Waiver agencies will then submit documents listed in 1a through 1d above with the new enrollment coversheet to CDPH OA for NF-LOC certification prior to providing services to participants.
3. Waiver agencies will submit all new enrollment and NF-LOC documentation to CDPH OA through secure RightFax to **(916) 636-6995**.
4. CDPH OA staff will then review all NF-LOC and enrollment documentation to determine if the participant qualifies for enrollment in the MCWP.
5. CDPH OA staff will contact the waiver agency if:
 - a. Responses or documentation are missing, or any clarification is needed.
 - b. The new enrollment is rejected with an explanation and any corrective action(s) to be taken.
 - c. The new enrollment is accepted with the new Waiver ID number.

These new procedures are a temporary measure that will remain in effect until CDPH OA completes the development and implementation of HIV Care Connect. Details on this new system will be shared with MCWP agencies as they become available. This APDL will serve as the official NF-LOC determination and new enrollment policy until further notice.

If you have questions, please contact Drew Young, Health Program Specialist at (916) 449-5881 or email at drew.young@cdph.ca.gov.

Sincerely,

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