

DATE: April 25, 2025

ALL PLAN LETTER 25-007

SUPERSEDES ALL PLAN LETTER 23-012

TO: ALL MEDI-CAL MANAGED CARE PLANS

SUBJECT: ENFORCEMENT ACTIONS: CORRECTIVE ACTION PLANS,
ADMINISTRATIVE AND MONETARY SANCTIONS

PURPOSE:

The purpose of this All Plan Letter (APL) is to provide clarification to Medi-Cal managed care plans (MCPs) of the Department of Health Care Services' (DHCS) policy regarding the imposition of enforcement actions, including corrective action plans, and administrative and monetary sanctions, which are among the enforcement actions DHCS may take to enforce compliance with MCP contractual provisions and applicable state and federal laws. This APL supersedes APL 23-012.

BACKGROUND:

DHCS must enforce compliance with contractual provisions of the DHCS Contracts with MCPs including the requirement to comply with APLs and Policy Letters (PLs) (collectively referred to as "Contractual Obligations")¹ as well as compliance with applicable state and federal laws and regulations, in accordance with its authority and obligations under state and federal law, and its authority under its Contracts with MCPs. DHCS is authorized to take enforcement actions, including imposing corrective action plans (CAPs), and imposing administrative and monetary sanctions on MCPs that violate applicable state and federal laws and regulations or violate their Contractual Obligations. MCPs are responsible for ensuring that they comply with all Contractual Obligations and applicable state and federal laws and regulations. MCPs must also ensure that all Subcontractors comply with all Contract requirements related to the

¹ See the MCP Contract for further details; APLs and PLs can be found at:
<http://www.dhcs.ca.gov/formsandpubs/Pages/MgdCarePlanPolicyLtrs.aspx>

delegated functions undertaken by each Subcontractor.² These requirements must be communicated by each MCP to all Subcontractors.

DHCS may impose administrative and monetary sanctions for non-compliance pursuant to, but not limited to, the following:

California Welfare & Institutions Code (W&I) section 14197.7³

Title 42 of the Code of Federal Regulations (CFR) section 438.700 et seq.⁴

Title 42 of the United States Code (USC) section 1396a.⁵

POLICY:

SANCTION AUTHORITY UNDER WELFARE AND INSTITUTIONS CODE

When an MCP or its Subcontractors fail to meet Contractual Obligations or to comply with applicable state and federal laws and regulations, there is good cause to impose administrative and/or monetary sanctions in accordance with W&I section 14197.7(e).^{6,7} These reasons include, but are not limited to, the following:^{8,9}

1. Failure to meet Contractual Obligations.¹⁰
2. Failure to meet quality metrics or benchmarks.¹¹
3. Failure to meet data quality and reporting requirements.¹²
4. Failure to demonstrate an adequate Network to meet anticipated utilization in its Service Area.¹³
5. Failure to comply with state and federal regulations and laws.¹⁴

² For more information on Networks, Network Providers, and Subcontractors, including the definitions and applicable requirements, see the MCP Contract with DHCS. MCP boilerplate Contracts are available at:

<https://www.dhcs.ca.gov/provgovpart/Pages/MMCDBoilerplateContracts.aspx>

³ State law is searchable at: <https://leginfo.legislature.ca.gov/faces/codes.xhtml>

⁴ The CFR is searchable at: <https://www.ecfr.gov/>

⁵ USC is searchable at: <https://uscode.house.gov/>

⁶ W&I section 14197.7(e)(1), (2).

⁷ Pursuant to 42 CFR section 438.700(a), DHCS may base sanctions on findings from onsite surveys, Member or other complaints, financial status, or any other source; this includes medical audits pursuant to W&I section 14456.

⁸ MCP Contract Exhibit E, Sanctions.

⁹ 42 CFR section 438.702(b) provides DHCS the authority to impose sanctions under state laws or regulations that address areas of non-compliance in addition to those prescribed in federal authority, which DHCS exercises pursuant to W&I section 14197.7.

¹⁰ W&I section 14197.7(e)(2).

¹¹ W&I section 14197.7(e)(4).

¹² W&I section 14197.7(e)(11).

¹³ W&I section 14197.7(e)(5). Also, for more information on Network Adequacy Enforcement see Attachment A.

¹⁴ W&I section 14197.7(e)(1).

6. Failure to meet CAP requirements.¹⁵
7. Failure to comply with the California Medicaid State Plan or approved federal waivers.¹⁶
8. Failure to comply with Network adequacy standards, including, but not limited to, time or distance, timely access, and Provider-to-Member ratio requirements pursuant to standards and formulae that are set forth in federal or state law, regulation, state plan or Contract, and that are posted in advance to DHCS' internet website.^{17, 18, 19}
9. Failure to submit timely and accurate Network Provider data.²⁰
10. Failure to provide adequate delivery of health care services.²¹
11. Failure to meet operational standards, including the timely payment of claims.²²
12. Failure to timely and accurately process Grievances or Appeals.²³

POLICIES TO ENFORCE COMPLIANCE

DHCS may take any one or a combination of the following enforcement actions, including imposing sanctions on an MCP, when the MCP fails to comply with Contractual Obligations or applicable state and federal laws and regulations.²⁴

1) Corrective Action Plans

- a) When an MCP fails to comply with applicable federal and state laws and regulations, or meet Contractual Obligations, there is good cause to require a CAP from the MCP.²⁵ DHCS has the authority to require MCPs to develop and submit to DHCS for review and approval of the CAP to correct cited deficiencies.
- b) MCPs are required to complete CAPs within the timeframe specified in the Notice of Corrective Action from DHCS. MCPs are required to provide a regularly scheduled status update to DHCS and provide supporting documentation until the CAP is closed. CAP updates must demonstrate action steps the MCP will undertake to correct the deficiency(ies).

¹⁵ W&I section 14197.7(e)(7).

¹⁶ W&I section 14197.7(e)(3).

¹⁷For more information on specific enforcement actions related to Network Adequacy and Timely Access, please refer to Attachments A and B, respectively.

¹⁸ W&I section 14197.7(e)(6).

¹⁹ DHCS will consider an MCP's alternative access standards when determining if an MCP failed to comply with Network adequacy standards. For additional information on alternative access standards, see APL 23-001 and any subsequent iterations on this topic.

²⁰ W&I section 14197.7(e)(8).

²¹ W&I section 14197.7(e)(9).

²² W&I section 14197.7(e)(10).

²³ W&I section 14197.7(e)(12).

²⁴ W&I section 14197.7(d); W&I section 14197.7(e); 42 CFR section 438.700; 42 CFR section 438.702(b).

²⁵ W&I Section 14197.7(a).

- c) DHCS may require or impose a CAP on an MCP and/or impose other enforcement actions for the violations set forth in W&I section 14197.7(a) and outlined below. For example, sanctions may be imposed on an MCP together with a CAP, in lieu of a CAP, or if the MCP fails to meet CAP requirements.²⁶ The factor(s) set forth in W&I section 14197.7(g) will be considered by DHCS when determining whether a preceding, concurrent, or subsequent CAP is appropriate when taking enforcement actions, including imposing a sanction.

2) Monetary Sanctions

- a) Monetary sanctions may be imposed on an MCP for violations set forth in W&I section 14197.7(d) and (e), especially for any violation resulting in potential Member harm. The factor(s) set forth in W&I section 14197.7(g) will be considered by DHCS when determining the amount of the monetary sanction.
- b) DHCS may impose monetary sanctions in accordance with W&I section 14197.7(e) and 42 CFR section 438.704 and collect monetary sanctions by withholding the amount from capitation payments owed to the MCP or require a check or wire from the MCP. The mechanism in which the monetary sanction is collected from an MCP will be decided and communicated by DHCS.
 - i) For a deficiency that impacts Members, each Member impacted constitutes a separate sanctionable violation.²⁷
 - ii) Sanction amounts under W&I section 14197.7(e) are to be determined by applying the factors set forth at W&I section 14197.7(g), listed below. DHCS may impose sanctions of up to \$25,000 per violation for the first violation of the conduct set forth at W&I 14197.7(f), up to \$50,000 for the second violation, and up to \$100,000 for each subsequent violation.²⁸
 - iii) Sanction amounts under W&I section 14197.7(f) may be separately and independently assessed for each day the MCP fails to correct an identified deficiency.²⁹
- c) DHCS may also impose monetary sanctions in accordance with W&I section 14197.7(d)(6) and 42 CFR section 438.704, and collect monetary sanctions by withholding the amount from capitation payments owed to the MCP, or require a check or wire from the MCP:
 - i) Up to \$25,000 for each determination of:³⁰

²⁶ W&I section 14197.7(d), (e).

²⁷ W&I section 14197.7(f)(1).

²⁸ W&I section 14197.7(f)(1)(A), (B), (C).

²⁹ W&I section 14197.7(f)(1).

³⁰ W&I section 14197.7(d)(6)(A); 42 CFR section 438.704(b)(1).

- (1) Failing to provide Medically Necessary services that the MCP is required to provide, under law or under its Contract, to a Member covered under the Contract.
- (2) Misrepresenting or falsifying information that is furnished to a Member, Potential Member, or health care Provider.
- (3) Distributing directly, or indirectly through any agent or independent contractor, marketing materials that have not been approved by DHCS, or that contain false or materially misleading information.
- ii) Up to \$100,000 for each determination of:³¹
 - (1) Conducting any act of discrimination against a Member on the basis of the Member's health status or need for health care services. This includes termination of enrollment or refusal to reenroll a Potential Member, except as permitted under the Medicaid program, or any practice that would reasonably be expected to discourage enrollment of a Potential Member whose medical condition or history indicates a probable need for substantial future medical services.
 - (2) Misrepresenting or falsifying information furnished to the Centers for Medicare & Medicaid Services (CMS) or furnished to DHCS.
- iii) Up to \$15,000 for each Potential Member that DHCS determines was not enrolled because of a discriminatory practice under W&I section 14197.7(d)(6)(B)(i). This is subject to the overall limit of \$100,000 under W&I section 14197.7(d)(6)(B).³²
- iv) Up to \$25,000 or double the amount of excess charges, whichever is greater, for premiums or charges in excess of the amounts permitted under the Medicaid program. DHCS will deduct from the penalty the amount of overcharge and return the overcharge to the affected Member(s).³³
- d) DHCS may also recommend that CMS impose a denial of payment sanction as specified in 42 CFR section 438.730(e).³⁴
- e) DHCS may also project the harm or potential Member harm from a selection of Members to a larger population of Members when calculating monetary sanctions pursuant to W&I section 14197.7.³⁵
- 3) **Non-Monetary or Administrative Sanctions**
 - a) **Temporary Suspension Orders**: Temporary suspension orders may include any one or combination of the following:³⁶

³¹ W&I section 14197.7(d)(6)(B); 42 CFR section 438.704(b)(2).

³² W&I section 14197.7(d)(6)(C).

³³ 42 CFR section 438.704(c).

³⁴ 42 CFR section 438.730(a).

³⁵ W&I section 14197.7(g)(1)

³⁶ W&I section 14197.7(d)(3) and (j); MCP Contract Exhibit E, Sanctions.

- i) Suspension of an MCP's new enrollment activities, including default enrollment.³⁷
- ii) Suspension of an MCP's marketing activities.³⁸
- iii) Requiring an MCP to temporarily suspend specified personnel and/or a specified Subcontractor.³⁹
- iv) Requiring MCPs to ensure that Subcontractors cease certain activities, including referrals, assignment of Potential Members, and reporting, until DHCS determines that the MCP is in compliance with Contractual Obligations and applicable state and federal laws and regulations.⁴⁰
- b) MCP Personnel Termination
 - i) The DHCS Director has the authority to require an MCP to terminate specified personnel and/or a specified Subcontractor for findings of noncompliance of Contractual Obligations and applicable state and federal laws and regulations, or for other good cause.⁴¹
- c) Imposition of Temporary Management
 - i) DHCS may impose temporary management consistent with the requirements set forth in 42 CFR section 438.706.⁴² DHCS may impose temporary management upon a finding of any of the following:⁴³
 - (1) Continuous egregious conduct by the MCP, including but not limited to conduct that is described in 42 CFR section 438.700, or that is contrary to any requirements of sections 1903(m) and 1932 of the Social Security Act (42 USC section 1396b(m); 42 USC section 1396u-2).
 - (2) There is serious risk to Members' health.⁴⁴
 - (3) Temporary management is necessary to ensure the health of the MCP's Members (i) while improvements are made to remedy the MCP's sanctionable violations or (ii) until there is an orderly termination or reorganization of the MCP.
 - ii) Additionally, DHCS must impose temporary management if it finds that the MCP has repeatedly failed to meet the substantive requirements in sections 1903(m) and 1932 of the Social Security Act (42 USC section 1396b(m); 42

³⁷ W&I section 14197.7(d)(1); W&I section 14197.7(d)(5); W&I section 14197.7(j)(1)(A); 42 CFR section 438.702(a)(4).

³⁸ W&I section 14197.7(d)(1); W&I section 14197.7(j)(1)(B).

³⁹ W&I section 14197.7(d)(2); W&I section 14197.7(j)(1)(C).

⁴⁰ MCP Contract, Exhibit E, Sanctions.

⁴¹ W&I section 14197.7(d)(2).

⁴² W&I section 14197.7(d)(4).

⁴³ 42 CFR section 438.706(a).

⁴⁴ Serious risk to Members' health includes situations that may involve the risk of unnecessary treatment, prolonged treatment, lack of treatment, incorrect treatment, medical complication, premature discharge, physiological or anatomical impairment, disability, or death. 42 CFR section 1004.1(b).

USC section 1396u-2), the requirements of 42 CFR Part 438, Subpart I, or has repeatedly engaged in sanctionable conduct under W&I section 14197.7(e). Pursuant to this sanction, DHCS must also grant Members the right to terminate enrollment without cause, as described in 42 CFR section 438.702(a)(3), and notify the affected Members of their right to terminate enrollment.⁴⁵ DHCS will not terminate temporary management until it determines that the MCP can ensure that the sanctioned behavior will not recur.⁴⁶

4) **Contract Termination**

- a) DHCS may terminate a Contract with an MCP for violating the standards prescribed in W&I section 14197.7 or for failure to meet applicable requirements in sections 1932, 1903(m), or 1905(t) of the Social Security Act.⁴⁷ In addition, DHCS will terminate a Contract with an MCP that the United States Secretary of Health and Human Services has determined does not meet the requirements for participation in the Medicaid program, as contained in Subchapter 19 (commencing with section 1396) of Chapter 7 of Title 42 of the USC.⁴⁸
- b) Where applicable, DHCS will initiate the Phaseout Requirements prescribed in the DHCS Contract for a Contract termination.⁴⁹ If DHCS determines that there is an immediate threat to the health of Members assigned to the MCP, DHCS is authorized to immediately terminate the MCP Contract.⁵⁰

NETWORK ADEQUACY, TIMELY ACCESS AND QUALITY ENFORCEMENT ACTIONS

MCPs will be subject to enforcement actions if they fail to meet Network Adequacy and Timely Access standards. For more information, please refer to Attachments A and B, respectively.

⁴⁵ 42 CFR section 438.706(b); see 42 CFR sections 438.700, 438.702 (which provides state agencies with authority to impose additional sanctions that address areas of noncompliance specified in section 438.800); W&I section 14197.7(e). Additionally, separate and apart from the requirement in 42 CFR section 438.706(b), DHCS may grant Members the right to terminate enrollment without cause and notify said Members of their right to disenroll as a sanction for violations under 42 CFR section 438.700 and pursuant to authority granted by 42 CFR section 702(b). See 42 CFR section 702(a)(3).

⁴⁶ 42 CFR section 438.706(d).

⁴⁷ W&I section 14197.7(a); 42 CFR section 438.708; Title XIX of the SSA is searchable at: https://www.ssa.gov/OP_Home/ssact/title19/1900.htm

⁴⁸ W&I section 14197.7(i).

⁴⁹ MCP Contract Exhibit E, Phaseout Requirements.

⁵⁰ The Contract termination reasons outlined in this APL are separate and apart from the natural end of a Contract term, which are subject to the terms of the Contract including all Phaseout Requirements.

MCPs will be subject to enforcement actions for quality performance measure rates that fall below designated national benchmarks established by DHCS. DHCS requires MCPs to report annually on this set of quality measures, known as the Managed Care Accountability Set (MCAS). Please refer to Attachment C for a comprehensive overview of the MCAS Monetary Sanction Methodology. Attachment C outlines DHCS' policies, enforcement actions, and the tier-based sanction framework that will guide quality enforcement actions, as well as the factors influencing sanction calculations.

FACTORS DHCS WILL CONSIDER WHEN TAKING ENFORCEMENT ACTION

DHCS reserves the right to enforce provisions and levy administrative or monetary sanctions and will consider whether contractual or legal violations warrant a CAP or other forms of enforcement action including non-monetary and monetary sanctions.

When determining the appropriate enforcement action, including the assessment of monetary sanctions, DHCS will consider the following non-exhaustive factors:⁵¹

- 1) The nature, scope, and gravity of the violation, including potential harm or impact on Members.
- 2) The good or bad faith of the MCP.
- 3) The MCP's history of violations.
- 4) The willfulness of the violation.
- 5) The nature and extent to which the MCP cooperated with DHCS' investigation.
- 6) The nature and extent to which the MCP aggravated or mitigated any injury or damage caused by the violation.
- 7) The nature and extent to which the MCP has taken corrective action to ensure the violation will not recur.
- 8) The financial status of the MCP, including whether the sanction will affect the ability of the MCP to come into compliance.
- 9) The financial cost of the health care service that was denied, delayed, or modified.
- 10) Whether the violation is an isolated incident.
- 11) The amount of the penalty necessary to deter similar violations in the future.
- 12) Any other mitigating factors presented by the MCP.

NOTIFICATION AND APPEAL RIGHTS

In the event of an administrative or monetary sanction, DHCS will provide the affected MCP with reasonable notice of DHCS' intent to impose the sanction. DHCS, at its discretion, may alert other persons and organizations that may be impacted or interested in the MCP's sanction. All sanction notices will be in writing and will include

⁵¹ W&I section 14197.7(g).

the effective date, duration of, and reason for each sanction proposed, as well as any appeal rights that the MCP has.^{52, 53} The MCP may request to meet and confer regarding the proposed sanction(s) if the request is in writing and provided to its DHCS' Managed Care Operations Division (MCOD) contract manager within two business days of receipt of the notice.⁵⁴

- 1) **Temporary Suspension Orders**: For temporary suspension orders, DHCS will notify the affected MCP of DHCS' intent to impose a temporary suspension order a minimum of 30 calendar days before the order goes into effect.⁵⁵
 - a) **Filing an Appeal**. An MCP has the right to appeal a temporary suspension order issued as an immediate sanction by filing a written appeal that includes a copy of the notice of intent to impose a temporary suspension. The appeal must be submitted to the address specified in the notice, and must be filed within 30 calendar days from the date the MCP receives notice of the order. Z
 - b) **Setting the Hearing**. No later than 15 calendar days after receiving the written appeal, DHCS will set the matter for hearing. The hearing must be held as soon as possible, but not later than 30 calendar days after the MCP receives the notice of hearing. The MCP may request a continuance if the MCP needs more time to prepare an adequate defense.
 - c) **Final Determination**. The temporary suspension order will remain in effect until the hearing is completed and DHCS has made a final determination on the merits. However, the temporary suspension order will be deemed vacated if DHCS fails to make a final determination on the merits within 60 calendar days after the original hearing has been completed.⁵⁶
- 2) **Temporary Management**: For temporary management, DHCS will notify the affected MCP of DHCS' intent to impose a temporary management a minimum of 30 calendar days before it goes into effect.
 - a) **Filing an Appeal**. To request a hearing in connection with the imposition of temporary management, an MCP must send its written request with a copy of the notice of intent to impose temporary management. The written request must be submitted to the address specified in the sanction notice within 15 business days from the date the MCP receives the notice of sanction.⁵⁷

⁵² W&I section 14197.7(h).

⁵³ 42 CFR section 438.710.

⁵⁴ W&I section 14197.7(h).

⁵⁵ W&I section 14197.7(j)(2).

⁵⁶ W&I section 14197.7(k).

⁵⁷ W&I section 14197.7(l)(1); see also W&I section 14197.7(d)(4) and 42 CFR section 438.706.

- b) **No Stay of Sanction.** DHCS will not stay or otherwise delay the imposition of temporary management pending a hearing.⁵⁸ DHCS is not permitted to terminate temporary management until DHCS has determined that the MCP can ensure the sanctioned behavior will not recur.⁵⁹
- 3) All Other Sanctions (including monetary sanctions): For monetary sanctions, DHCS will provide the affected MCP a minimum of 30 calendar days' notice. In the event that an MCP requests a hearing in connection with a monetary sanction, the sanction will not go into effect until after DHCS issues a final decision.
 - a) **Filing a Request for Hearing.** To request a hearing in connection with any other sanctions, an MCP must send its written request with a copy of the sanction notice to the address specified in the sanction notice. The request for a hearing must be sent within 15 business days from the date the MCP receives the notice of sanction.⁶⁰
 - b) **Staying Implementation of Monetary Sanctions.** DHCS will stay the collection of monetary sanctions upon receipt of an MCP's timely submitted written request for a hearing. The request for a hearing must be sent within 15 business days from the date the MCP receives the notice of sanction. Implementation of the sanction will remain stayed until the effective date of DHCS' final decision.⁶¹
- 4) Contract Termination: Before terminating an MCP Contract, DHCS is required to provide the affected MCP with a minimum of 60 calendar days' notice.⁶² Notice of Contract termination will also be provided to Members enrolled in the MCP.
 - a) For Contract terminations, except in cases where DHCS determines there is an immediate threat to the health of Members enrolled in the MCP, DHCS will, at the request of an MCP, hold a public hearing, that will commence 30 calendar days after an MCP has received notice of DHCS' intent to terminate the MCP's Contract. For the hearing, DHCS will assign an administrative law judge to provide a written recommendation to DHCS regarding the termination of the Contract within 30 days after the conclusion of the hearing.⁶³
- 5) Conduct of Hearings: Except as otherwise provided in W&I section 14197.7, hearings to review the imposition of sanctions, including temporary suspension orders, follow the procedures set forth in Health and Safety Code (H&S) section 100171 and in the MCP's Contract with DHCS.⁶⁴ Generally, such hearings must be conducted pursuant to the administrative adjudication provisions of the

⁵⁸ 42 CFR section 438.706(c).

⁵⁹ 42 CFR section 438.706(d).

⁶⁰ W&I section 14197.7(l).

⁶¹ W&I section 14197.7(l)(1).

⁶² MCP Contract Exhibit E, Termination Provisions.

⁶³ W&I section 14197.7(c).

⁶⁴ W&I section 14197.7(m); MCP Contract.

Administrative Procedure Act and the MCP's Contract with DHCS, and any other governing law.⁶⁵

If the requirements contained in this APL, including any updates or revisions to this APL, necessitate a change in an MCP's contractually required policies and procedures (P&Ps), the MCP must submit its updated P&Ps to its MCO-MCP Submission Portal⁶⁶ within 90 days of the release of this APL. If an MCP determines that no changes to its P&Ps are necessary, the MCP must submit an attestation to the Portal within 90 days of the release of this APL, stating that the MCP's P&Ps have been reviewed and no changes are necessary. The attestation must include the title of this APL as well as the applicable APL release date in the subject line.

MCPs are further responsible for ensuring that their Subcontractors and Network Providers comply with all applicable state and federal laws and regulations, Contract requirements, and other DHCS guidance, including APLs and PLs. These requirements must be communicated by each MCP to all Subcontractors and Network Providers. DHCS may impose CAP, as well as administrative and/or monetary sanctions for non-compliance. MCPs should review their Network Provider and/or Subcontractor Agreements, including Division of Financial Responsibility as appropriate, to ensure compliance with this APL. For additional information regarding administrative and monetary sanctions, see this APL, and any subsequent iterations on this topic. Any failure to meet the requirements of this APL may result in a CAP and subsequent sanctions.

If you have any questions regarding this APL, please contact your MCO Contract Manager.

Sincerely,

Original Signed by Bambi Cisneros

Bambi Cisneros

Acting Division Chief, Managed Care Quality and Monitoring Division

Assistant Deputy Director, Health Care Delivery Systems

⁶⁵ H&S section 100171(a).

⁶⁶ The MCO-MCP Submission Portal is located at: <https://cadhcs.sharepoint.com/sites/MCO-MCPSubmissionPortal/SitePages/Home.aspx>