Health Care Agency **Behavioral Health Services** **Policies and Procedures**	Section Name: Sub Section: Section Number: Policy Status:	Client's Rights Problem Resolution 02.02.06 ☐New ☒Revised

	SIGNATURE	DATE APPROVED
Director of Operations Behavioral Health Services	Signature on File	11/6/19

SUBJECT: Continuation of Benefits Pending Appeal Resolution (AKA "Aid Paid Pending")

PURPOSE:

To ensure that the benefits of Medi-Cal Mental Health Plan (hereby referred to as Orange MHP) and/or Drug Medi-Cal Organized Delivery System (DMC-ODS) beneficiaries receiving services through Orange County's Behavioral Health Services (BHS) County operated and County contracted clinics continue while an appeal of an Orange MHP and/or DMC-ODS adverse benefit determination decision (including a State Hearing) is in process, if all of the regulatory requirements are met.

POLICY:

The Orange MHP and or DMC-ODS shall continue a Medi-Cal MHP and/or DMC-ODS beneficiary's benefits and services pending the final outcome of an appeal of an adverse benefit determination, when the regulatory requirements (see specifics below) are met. This includes during the time of the State Hearing, should the beneficiary file for a State Hearing.

SCOPE:

All County operated and County contracted clinics providing Specialty Mental Health Services (SMHS) through BHS Orange MHP and/or providing substance use treatment services through BHS DMC-ODS.

REFERENCES:

Orange County Mental Health Plan Contract with the Department of Health Care Services (DHCS)

Drug Medi-Cal Organized Delivery System Intergovernmental Agreement (IA) with the Department of Health Care Services (DHCS)

Code of Federal Regulations (CFR), Title 42, § 438.420

FORMS:

Grievance or Appeal Form F346-706 DTP318

DEFINITIONS:

Adverse Benefit Determination - Consistent with Title 42, CFR, § 438.400(b) the Final Rule replaced the term "Action" with "Adverse Benefit Determination". The definition of an "Adverse Benefit Determination" encompasses all previous elements of "Action" under federal regulations with the addition of language that clarifies the inclusion of determinations involving medical necessity, appropriateness and setting of covered benefits, and financial liability. An Adverse Benefit Determination is defined to mean any of the following actions taken by a Plan:

- The denial or limited authorization of a requested service, including determinations based on the type or level of service, medical necessity, appropriateness, setting, or effectiveness of a covered benefit;
- The reduction, suspension, or termination of a previously authorized service;
- The denial, in whole or in part, of payment for a service;
- The failure to provide services in a timely manner;
- The failure to act within the required timeframes for standard resolution of grievances and appeals; or
- The denial of a beneficiary's request to dispute financial liability.

Appeals - Appeals are explicitly defined as a request for a review of an "Adverse Benefit Determination" (see above for definition).

Notice of Adverse Benefit Determination (NOABD) - Written notification to the requesting provider and the enrollee of any decision by the Plan to deny or delay a service authorization request, or to authorize a service in an amount, duration, or scope that is less than requested.

PROCEDURE:

I. Orange MHP and/or DMC-ODS shall notify the requesting provider and give the beneficiary (and parent/guardian/conservator) written notice of any decision to deny a service authorization request, or to authorize a service in an amount, duration, or scope that is less than requested. This is a Notice of Adverse Benefit Determination (NOABD).

II. Orange MHP and DMC-ODS must continue the beneficiary's benefits if all of the following occur:

   A. The beneficiary (parent/guardian/conservator) files the request for an appeal timely (within 60 calendar days) following the date on the adverse benefit determination notice;

   B. The appeal involves the termination, suspension, or reduction of a previously authorized service;

C. The beneficiary’s services were ordered by an authorized provider;

D. The period covered by the original authorization has not expired; and,

E. The beneficiary timely files for continuation of benefits. on or before the later of the following:

1. Within 10 calendar days of the Orange MHP and/or DMC-ODS sending the Notice of Adverse Benefit Determination (NOABD); or

2. The intended effective date of the Adverse Benefit Determination.

III. If, at the beneficiary’s (parent/guardian/conservator) request, the Orange MHP and/or DMC-ODS continues the beneficiary’s benefits/services while the appeal or State Hearing is pending, the benefits must be continued until:

A. The beneficiary (parent/guardian/conservator) withdraws the appeal or request for State Hearing;

B. The beneficiary (parent/guardian/conservator) fails to request a State Hearing and continuation of benefits within 10 calendar days after the Orange MHP and/or DMC-ODS sends the Notice of an Adverse Resolution (NAR), to the beneficiary’s appeal.

C. A State Hearing office issues a hearing decision adverse to the beneficiary.

IV. The Orange MHP and/or DMC-ODS may recover the cost of continued services furnished to the beneficiary while the appeal or State Hearing was pending if the final resolution of the appeal or State Hearing upholds the Orange MHP’s and/or DMC-ODS’ Adverse Benefit Determination. The beneficiary shall be informed of this in the Notice of Appeal Resolution (NAR) letter that includes the State Hearing information.

V. The Orange MHP and/or DMC-ODS shall authorize or provide the disputed services promptly, and as expeditiously as the beneficiary’s health condition requires, but no later than 72 hours from the date the Orange MHP and/or DMC-ODS receives notice reversing the determination if the services were not furnished while the appeal was pending and if the Orange MHP and/or DMC-ODS appeal or the State Hearing officer reverses a decision to deny, limit, or delay services.

VI. If the decision of an appeal reverses a decision to deny the authorization of services, and the beneficiary received the disputed services while the appeal was pending, the Orange MHP and/or DMC-ODS shall cover the cost of such services.