



October 24, 2011

**TO:** CMHDA Members

**FROM:** Kirsten Barlow  
Associate Director, Legislation and Public Policy

**SUBJECT: CMHDA-Sponsored Bill, AB 1297 (Chesbro) Medi-Cal: Mental Health,  
Signed into State Law by Governor Brown**

I am writing to provide CMHDA members with information about CMHDA's sponsored bill, AB 1297 (Chesbro), which was signed into law this legislative session by Governor Jerry Brown. Included in this memorandum is descriptive information about the bill, and its potential positive impacts on counties. Please do not hesitate to contact me with any questions you may have about this legislation. I can be reached at (916) 556-3477, ext. 112, or [kbarlow@cmhda.org](mailto:kbarlow@cmhda.org).

### **Summary**

AB 1297 will ensure California accesses all available federal Medicaid resources for this program by bringing the state's Medi-Cal Specialty Mental Health requirements into alignment with federal requirements in order to maximize federal reimbursement. AB 1297 will not result in costs for the state General Fund. However, it is likely that the bill will result in the generation of significant additional federal Medicaid funds for the Medi-Cal Specialty Mental Health program operated by county Mental Health Plans in California.

### **What does the new law do?**

AB 1297 clarifies that the state's standards and guidelines for the Medi-Cal Specialty Mental Health program must be consistent with federal Medicaid requirements and California's approved Medicaid state plan and waivers. The bill accomplishes this in the following key areas:

#### (1) Federal Reimbursement Amounts

For purposes of federal reimbursement, AB 1297 requires federal reimbursement amounts to be consistent with federal Medicaid requirements and California's approved Medicaid state plan and waivers. By utilizing existing federal Medicaid Upper Payment Limits (UPLs), counties will be able to fully recover federal reimbursement for the costs they incur in serving eligible populations. The goal of this provision of AB 1297 is to eliminate California's use of administratively-established Statewide Maximum Allowances (SMAs) for federal reimbursement.

Since the federal government recognizes that in the Medi-Cal Specialty Mental Health program, it is counties (not the state) that are the government entities certifying the public expenditure, Federal Financial Participation (FFP) is available to counties for their *actual expenditures* that need not be limited by state-established SMAs.

The bill requires local funds (and excludes state funds) to be used as the certified public expenditures (CPEs) to claim the costs of services up to the federal upper payment limits. Additionally, as a condition of receiving reimbursement up to the federal upper payment limits, a county must enter into and maintain an agreement with the Department of Health Care Services (DHCS).

## 2) Federal Timeframes for Submitting Claims

AB 1297 requires counties to submit claims for federal reimbursement within the timeframes specified in federal Medicaid requirements and California's approved Medicaid state plan and waivers. The goal of this provision is to eliminate California's use of an administratively-established submission deadline of six months for Specialty Medi-Cal Mental Health Managed Care claims. At present, the federal timeframe for Medicaid claims submission is twelve months.

## (3) Administrative Claiming Process

AB 1297 clarifies that counties' administrative costs, which are currently limited to 15% of the total cost of direct client services, shall instead be limited to 15% of the total actual cost of direct client services. Currently, it is our understanding that DMH has been calculating counties' administrative cost reimbursement amounts based upon the cost of direct client services *after they have been adjusted by existing SMAs*. CMHDA staff will be working with DHCS to determine whether counties may be able to recover additional reimbursement for administrative costs, based on counties' actual expenditures, without SMA adjustments to these amounts.

### **When and how will this be implemented?**

The effective date of the legislation is July 1, 2012 (the start of FY 2012-13). Mike Geiss, CMHDA's fiscal consultant, has done some initial work on the proposed process for the calculation of a federally compliant federal Upper Payment Limit; this was presented to DMH and DHCS during our work on the CPE Protocol. CMHDA will continue to work on this and keep members apprised so that they may be able to develop estimates of the additional federal funds counties may be able to receive, beginning in FY 2012-13.

### **Is federal approval needed?**

CMHDA has confirmed with the Chief of the Department of Health Care Services (DHCS) Waiver Unit that the passage of AB 1297 will necessitate the state seeking modifications to the draft Certified Public Expenditure (CPE) Protocol that California recently submitted to federal Centers for Medicare and Medicaid Services (CMS).

### **How does this interact with the supplemental payment structure?**

As you know, the state Budget Act of 2009 established a new "Mental Health Services Supplemental Payment Program" to authorize the use of county CPE's for the costs of Medi-Cal

Specialty Mental Health services that exceed the state's current payment levels. Participation in the program by counties is voluntary. A county's supplemental payment would be calculated by determining the difference between the *interim rate* (which is currently subject to the SMA) the county is paid for the services, and the county's federally eligible *actual cost* of providing the services. To-date, no federal funds have been received since the claiming protocol needed for implementation is part of the overall waiver and CPE Protocol being negotiated with the federal CMS. Once approved by CMS, the federal supplemental payment provisions will be retroactive to January of 2009.

Under this structure, the supplemental payment claim would be made after the close of the fiscal year and the submission and certification of the county's Medi-Cal cost report. Therefore, the supplemental FFP will most likely be provided 18 or more months after the county's actual certified expenditure has occurred. However, AB 1297 is complimentary to the supplemental payment structure in that it will permit counties to recover FFP up to federal upper payment limits on an immediate and ongoing process, as their claims are reimbursed by the federal government.