



November 17, 2014

Department of Health Care Services

Delivered via email:

Brian Hansen, brian.hansen@dhcs.ca.gov; Sarah Brooks, sarah.brooks@dhcs.ca.gov

Re: All Plan Letter, Requirements for Nursing Facility Services in Coordinated Care Initiative Counties

Greetings,

Thank you for the opportunity to comment on the All Plan Letter (APL) addressing requirements for nursing facility services in Coordinated Care Initiative counties. We have provided general comments below and redlined edits on the attached draft APL.

Medi-Cal Share of Cost

In addition to *Johnson v. Rank*, the APL should also reference *Hunt v. Kiser*, which requires that the resident be permitted to spend his or her share of cost on "old" medical bills.

A link to the current copy of the SOC FAQ should be available in this APL as well as on the DHCS website.

Continuity of Care

We commend DHCS for extending continuity of care protections to allow beneficiaries to continue to reside in a non-contracted facility for the length of the demonstration. We also commend DHCS for requiring MCPs to honor prior treatment authorizations for twelve months. We, however, believe that the APL should more clearly and strongly outline the standards an MCP must abide by when determining a beneficiary's level of care. MCPs have a financial incentive to discharge individuals from higher-cost settings. While we support rebalancing services from institutional settings to home and community based settings, it is imperative that beneficiaries requiring nursing facility placement are not denied this medically necessary benefit because it will be more costly for the MCPs. The APL should cite the statutes, regulations, polices, and case law including (*Valdivia v. Coye*) that the MCPs must adhere to. The APL should make it clear that these decisions cannot be driven by internal guidelines and any and all procedures the MCPs apply must be available to consumers and other stakeholders.

When utilization data is not sufficient to prove an ongoing relationship, the APL should also outline the types of documentation that would be adequate to determine an ongoing relationship with a provider (e.g. letter from provider, previous billing etc.)

Change in Beneficiary's Condition and Discharge

The APL should make it clear that MCPs must comply with federal requirements for the involuntary transfer/discharge of a resident from a nursing facility. The MCP shall adhere to statutes, transfer and discharge laws, and regulations regarding discharge. The APL should also make it clear that MCPs must comply with the appeals procedures available to Medi-Cal beneficiaries including the right to receive proper notice and the right to aid-paid-pending through the appeal process.

Thank you for the opportunity to comment. We look forward to continued collaboration regarding nursing facility services.

Sincerely,

Pat McGinnis, Executive Director
California Advocates for Nursing Home Reform

Amber Cutler, Staff Attorney
National Senior Citizens Law Center