



November 6, 2015

*Via electronic mail*

Bambi Cisneros  
Department of Health Care Services  
Medi-Cal Managed Care Quality & Monitoring Division  
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Dear Ms. Cisneros:

We are writing on behalf of the National Health Law Program, Neighborhood Legal Services of Los Angeles County (NLSLA), the Western Center on Law and Poverty, and Disability Rights California. We begin by reiterating and affirming the comments and concerns raised in Abbi Coursole and Linda Nguy's June 2015 letter, which gave input on behalf of the Health Consumer Alliance and other partners to the Department of Health Care Services (DHCS) on its May 2015 Transition Plan.<sup>1</sup>

We appreciate the opportunity to comment on the Draft Los Angeles County Regional Center Transition Plan. We commend DHCS for acting so quickly to implement behavioral health therapy (BHT) services, including Applied Behavior Analysis, as a benefit in Medi-Cal. These services are urgently needed by many children in Medi-Cal, and their provision will help to correct and ameliorate the symptoms and behaviors associated with ASD for thousands. Current Regional Center consumers must continue to receive BHT services in a manner that meets their needs, regardless of whether the service is received through their Regional Center or Medi-Cal managed care plan.

We are concerned, however, about several aspects of the proposed transition for Los Angeles County. First and foremost, we are very disappointed that DHCS has indefinitely suspended stakeholder meetings on the Medi-Cal BHT benefit and the Regional Center transition. While we appreciate that DHCS has occasionally updated stakeholders by email, many consumers and family members prefer to receive updates in-person or by phone or video, and to have the opportunity to ask questions of DHCS staff. The transition will impact thousands of Regional Center consumers in Los Angeles County alone, but these consumers and their families and advocates do not have a real way to engage with DHCS staff about concerns. Nor are we aware that DHCS has developed any other process of reaching out to Regional Center consumers beyond the draft notices released for comment this summer. We are nervous that many Regional Center consumers do not fully understand the implications of the transition, and will not have a chance to bring concerns to DHCS in advance. Therefore, we strongly recommend DHCS resume stakeholder meetings to ensure consumers, advocates, providers, and other stakeholders a meaningful opportunity to engage with DHCS.

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<sup>1</sup> Letter from Abbi Coursole, Nat'l Health Law Prog. & Linda Nguy, Western Ctr. On Law & Poverty, on behalf of the Health Consumer Alliance & Autism Deserves Equal Coverage, Children Now, Disability Rights California, Disability Rights Education and Defense Fund, and Public Law Center, to Behavioral Health Treatment Implementation Team, Cal. Dep't of Health Care Servs. (Jun. 5, 2015) (attached).

Second, we are apprehensive about the aggressive timeline for this transition. DHCS has not yet released a final transition plan document, final transition notices, or final guidance on continuity of care. Nor has CMS approved DHCS's proposed state plan amendment to officially implement the BHT benefit in Medi-Cal. We are skeptical that DHCS will be ready to start moving services from the Regional Centers to Medi-Cal plans in February, even if only for a few hundred children. Our past experience with transitions, including the 2011 SPD move to managed care, the 2013 Healthy Families to Medi-Cal transition, and the 2013 transition of rural counties into managed care have taught us that these transitions must be undertaken with due diligence and adequate time for consumer engagement in order to be successful. This transition will impact a particularly fragile population—children with ASD. Particularly given that DHCS has stopped holding public meetings about the transition, which would serve as a forum to work through problems and concerns, we urge DHCS to move slowly. DHCS should push back the start date as needed to ensure that children do not experience any disruptions to their services during the transition, and that they are able to fully prepare for any changes that the transition may require of their families.

Third, we are worried about the adequacy of provider networks of the managed care plans and their delegated entities. Since the Medi-Cal plans began offering BHT services to child enrollees last September, we have assisted dozens of families in Los Angeles County to request services, appeal denials of care, and attempt to find suitable BHT providers. Our clients include families who voluntarily moved their BHT services into their Medi-Cal managed care plans from the Regional Centers before the mandatory transition. Our clients' experience suggests that the BHT networks in LA's Medi-Cal plans are not sufficient to meet existing demand; much less an influx of thousands of Regional Center clients. We have assisted several clients who are experiencing long delays to receive an ASD diagnosis or to be assessed for services. When the Medi-Cal plans authorize services, sometimes they do not contract with providers who are trained in the specific kind of BHT our clients need. For example, NLSLA recently assisted two clients who transitioned early from the Regional Center to managed care. The plan contracted with a single BHT provider who offers the Early Start Denver Model of BHT, not the UCLA Lovaas Model prescribed by the children's pediatrician and under which they had previously thrived. The children continued to see their prior BHT provider through Continuity of Care, but the plan authorized fewer hours than prescribed, and it refused to authorize a new assessment except through the in-network BHT provider. DHCS must ensure that its contracted plans and their delegates have provider networks adequate to provide **all** medically necessary BHT, not just one model of intervention. We recommend DHCS require the Medi-Cal managed care plans to list BHT providers in their provider directories by delegated entities, and also include this information with DHCS' notice to families about the transition.

Fourth, we are distressed that DHCS has yet to release final guidance to the plans on medical necessity criteria and authorization process for BHT. In the absence of guidance, we are aware of plans and their delegates employing illegal criteria, inappropriately limiting services, and placing additional burdens on children and families who desperately need BHT. For example, we are aware of one Los Angeles Medi-Cal

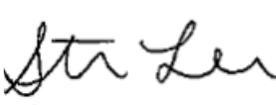
plan that requires, as a criterion for patients to receive ABA services, that the parents are able to run a therapy session in the absence of the therapist—an impossibility for many overburdened low-income families. Further, NLSLA recently assisted a client whose plan would only authorize service hours on a weekly basis, rather than for the entire month or authorization period. As a result, the family lost hours of service during weeks when their child was not able to use the hours authorized for that week—either due to the child’s or the therapist’s absence. Although the child would have benefitted from services the following week to make up for services lost during the previous week, the plan would not allow the family to carry over hours from one week to the next.

Thank you again for the opportunity to comment. We look forward to continuing to work with you through the stakeholder process on the above issues. If you have any questions or need any further information, please contact Abbi Coursolle at 310-736-1652 or [coursolle@healthlaw.org](mailto:coursolle@healthlaw.org).

Sincerely,

  
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CC: Sarah Brooks, DHCS  
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