

From: DMHC Licensing eFiling

Subject: APL 21-004 – Transfers of unstable or destabilized enrollees

Date: Wednesday January 6, 2021 10:46 AM

Attachments: APL 21-004 – Transfers of unstable or destabilized enrollees (1.6.2021).pdf

Dear Health Plan Representative,

Please see attached All Plan Letter (APL) 21-004 regarding health plans obligations under Health and Safety Code section 1371.4, to cover emergency services and care provided to plan enrollees.

Thank you.



Gavin Newsom, Governor
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ALL PLAN LETTER

DATE: January 6, 2021
TO: All Full-Service Commercial Plans¹
FROM: Sarah Ream
Chief Counsel
SUBJECT: APL 21-004 – Transfers of unstable or destabilized enrollees

This All Plan Letter reminds plans of their continuing obligations under Health and Safety Code section 1371.4 to cover emergency services and care provided to plan enrollees. Such coverage includes reimbursement for appropriate transfers of unstable enrollees between hospitals in conformance with the requirements of the federal Emergency Medical Treatment and Labor Act (EMTALA).²

During the COVID-19 State of Emergency some hospital emergency departments (EDs) are reaching capacity and are no longer able to accept new patients. In some instances, ambulances have had to wait hours before the hospital's ED could accept new patients. In some counties, public health officers are allowing hospitals with little or no capacity to accept new patients to divert all ambulances to other hospitals that have capacity.

If an ambulance is diverted from one hospital's ED to another hospital's ED, the requirements of section 1371.4 apply and the plan must continue to cover the costs of emergency care provided to the enrollee, even if provided by out-of-network providers, until such time as the enrollee is stabilized. Per subdivision (b) of section 1371.4, a plan may not impose prior authorization requirements on the provision of such care. Accordingly, an ambulance diverted from one ED to another ED does not need to obtain prior authorization from the plan before transporting the enrollee to the available ED.

Additionally, an enrollee may begin treatment at an ED but may not yet be stable, or (if initially stabilized) may later destabilize. If such an enrollee is transferred to another ED per a state or local health order, or as allowed by EMTALA, the enrollee should not be

¹ This APL does not apply to Medicare Advantage plans, specialized health care service plans, or Medi-Cal plans. Medi-Cal managed care plans continue to be subject to the requirements of the Medi-Cal program, including [DHCS All Plan Letter 20-004](#), issued August 18, 2020. Medi-Cal managed care plans should refer to that guidance and other information issued by DHCS.

² 42 USC 1395dd.

considered “stabilized” for purposes of section 1371.4. In such instances, the health plan must continue to cover the emergency care provided to the enrollee, including transportation from one ED to another, without prior authorization.

If emergency services are provided by non-contracted providers, health plans must reimburse the providers for the “reasonable and customary value” for such services as required by section 1300.71 of Title 28 of the California Code of Regulations. With respect to cost-sharing, an enrollee should not incur additional cost sharing because the enrollee was transported to a second ED. For example, if an enrollee receives treatment and incurs a co-payment at one ED, but is then, prior to stabilization, transferred to a second ED, the enrollee should not be required to pay a second co-payment.

If you have questions regarding this APL, please contact your plan’s assigned reviewer in the DMHC’s Office of Plan Licensing.