

EAP Exemption Criteria

A plan may request an exemption for its Exempt EAP product if all of the following are true:

- Services are provided to improve employee efficiency through identification of issues with health, mental health, and alcohol abuse problems. (Rule 1300.43.14(a)(2)(A))
- Services consist of identification of problems and referral to appropriate health care providers or organizations for treatment, and the plan does *not* provide for counseling, treatment or therapy. (Rule 1300.43.14(a)(2)(B))
- The plan cannot charge any client (directly or indirectly) any premium or copayment for services. (Rule 1300.43.14(a)(3))
- If the plan refers a member for counseling, treatment or therapy to an entity with which it has a financial interest, it must disclose this relationship to the contract holder (group) and the individual being referred. (Rule 1300.43.14(a)(4))
- The number of sessions with any individual/client cannot exceed three within any six-month period. (Rule 1300.43.14(a)(5))
- The plan must maintain a record of client sessions for not less than two years. Records must be available for inspection by the Department as designated in Section 1381 of the Knox-Keene Act. (Rule 1300.43.14(a)(6))
- The plan, plan staff, facilities, and equipment must be licensed when required by applicable law. (Rule 1300.43.14(a)(7))
- Prepaid fees cannot be collected more than 45 days in advance. (Rule 1300.43.14(a)(8))

Definitions

The following definitions apply:

- Client: The employee or a family member of the employee.
- Sessions: Any in-person or telephone consultation with the client in connection with the client's health, mental health, alcohol or substance abuse problems, excluding a consultation that occurs in an acute emergency situation, a consultation after referral for motivation or re-referral or a consultation due to a management, state licensing agency or union request for information or assessment regarding work performance issues.

Exempt EAP plans must comply with all requirements of Rule 1300.43.14 of Title 28 of the California Code of Regulations and Sections 1361, 1360.1, 1368 and 1381 of the Knox-Keene Act.

Submitting an EAP Exemption Form

If the preceding requirements have all been met, the plan or company may submit an Exemption Form (Form) to the Department. Companies currently not licensed under the Knox-Keene Act may mail or scan/email the Form to the Department. If mailing, it is a good idea to send the Form via certified mail for a record of receipt. The Department will not automatically provide notice of receipt to the plan, but will provide this upon request.

For plans already licensed by the Department that want to submit a Form for an exempt product, the Form must be filed through the eFiling system using the exhibit type "Exhibit EAP01 – Form 1300.14.14 Emp Assist Prg Exemption" (near the top of the drop-down menu for selecting exhibits). Licensed plans must also file an Exhibit E-1 (Summary of Information), as this is required for all filings.

Completed Forms for non-licensed plans should be provided to the Department as follows:

Mail:

Department of Managed Health Care
Office of Plan Licensing
Attention: EAP Coordinator
980 9th Street, Suite 500
Sacramento, CA 95814

Fax:

916-324-9046
Attention: EAP Coordinator

Email:

EAPfiling@dmhc.ca.gov

Contact:

For questions regarding EAP Exemption Forms, please contact the EAP Coordinator 916-324-9046

See page 3 for EAP Exemption Form Instructions and Knox-Keene Requirements for exempt EAP plans.

EAP Exemption Form Instructions and Knox-Keene Requirements

There are six questions on the Form:

1. Legal name of person or entity filing this notice
Response: The legal name of the plan.
2. Address of principal office
Response: Physical address of the plan and the mailing address, if different.
3. Fictitious name(s) used in connection with the operation of employee assistance program
Response: The specific name of the EAP product for which the plan is requesting an exemption. This is important, as some plans have both exempt and non-exempt EAP products. The plan should also indicate any fictitious (dba) names. Please indicate whether the name indicated here is a product name or a fictitious name.
4. Identify each location at which the plan maintains records subject to inspection by the Director under Rule 1300.43.14(a)(6). (If space is insufficient, provide additional information on a separate sheet.)
Response: All physical locations at which records are held for the exempt EAP plan.
5. Name, title, address and telephone number of the representative who can be contacted concerning the Form
Response: Primary contact's name, title, address and phone number. Though the Form does not require it, an email address is helpful, as it provides for an effective means of communication between the EAP plan and the Department.
6. The person/entity filing this notice declares hereby that it is in compliance with the provisions of Rule 1300.43.14 and undertakes to amend this notice within 30 days of material change in the information specified in its current notice as filed with the Director of the Department of Managed Health Care.
Response: The plan must complete all information regarding the individual signing on behalf of the plan. The Form must be signed and dated.

The initial Exemption Form and amendments are valid for 24 months, unless there is a material change (See question six above). The plan should check the appropriate box at the top of the Form indicating whether it is an Original Notice or an Amendment to the Original Notice. It is the plan's responsibility to update the Form when required.

Continued Requirements of the Knox-Keene Act:

If the plan meets the criteria established on the first page of this document (i.e., Rule 1300.43.14), it may request an exemption from compliance with the Knox-Keene Act; however, four Sections of the Act must be complied with:

Section 1360 – Untrue or misleading advertisement or solicitations

The plan may not use advertisement that is untrue or misleading

Section 1360.1 – Representations respecting implication of licensing

The plan may not represent that it has been approved or recommended by the Department.

Section 1368 – Grievance system

The plan must maintain a grievance system that is compliant with this Section.

Section 1381 – Record retention

The plan must maintain and make available to the Department records as stated.