Monterey County Behavioral Health
Policies and Procedures

Policy Number	108
Policy Title	**Medicaid Managed Care Plan**
References	California Code of Regulations (CCR), title 9, § 1810.100 et. seq. – Medi-Cal Specialty Mental Health Services; §§1820.205, 1830.205, and 1830.210, §§ 1810.345, and 1810.405 Welfare and Institutions (W&I) Code §§ 14680-14685.1; §§ 14700-14726 Chapter 7, Part 3, Division 9, W&I Code, to the extent that these requirements are applicable to the services and functions set forth in the Contract CCR, title 22, §§ 50951 and 50953; §§ 51014.1 and 51014.2 45 C.F.R. § 160 and § 164 Title 42 United States Code, to the extent that these requirements are applicable; 42 C.F.R. to the extent that these requirements are applicable; 42 C.F.R. Part 438, Medicaid Managed Care, limited to those provisions that apply to Prepaid Inpatient Health Plans (PIHPs), except for the provisions listed in paragraph B of the Contract 42 C.F.R. § 455 to the extent that these requirements are applicable; Title VI of the Civil Rights Act of 1964 Title IX of the Education Amendments of 1972 Age Discrimination Act of 1975 Rehabilitation Act of 1973 Americans with Disabilities Act Section 1557 of the Patient Protection and Affordable Care Act Deficit Reduction Act of 2005; Balanced Budget Act of 1997; Medicaid Managed Care Final Rule Network Adequacy Standards (July 19, 2017), Department of Health Care Services (DHCS) Monterey County Behavioral Health Polices
Effective	**2/07/2022** Revised: May 17, 2022

Policy

Monterey County Behavioral Health (MCBH) shall abide by these and all regulations set forth in this and all policies related to the delivery of specialty mental health services under contract with the Department of Health Care Services (DHCS). DHCS and MCBH have established a contract for service delivery of SMHS. MCBH is the County Mental Health Plan (MHP) for Medi-Cal eligible residents. MCBH and its subcontractors shall abide by the agreements set forth for the delivery of SMHS.

Procedure

Monterey County Behavioral Health (MCBH) shall provide, or arrange and pay for, all medically necessary covered Specialty Mental Health Services (SMHS) to beneficiaries, as defined for the purposes of the contract with the Department of Health Care Services (DHCS). MCBH shall ensure that all medically necessary covered SMHS are sufficient in amount, duration, or scope to reasonably be expected to achieve the purpose for which the services are furnished. MCBH shall not arbitrarily deny or reduce the amount, duration, or scope of a medically necessary covered SMHS solely because of diagnosis, type of illness, or condition of the beneficiary except as specifically provided in the medical necessity criteria applicable to the situation as provided in California Code of Regulations, title 9, §§1820.205, 1830.205, and 1830.210.

MCBH shall make all medically necessary covered SMHS available in accordance with applicable regulations and shall ensure:

1. The availability of services to address beneficiaries' emergency psychiatric conditions 24 hours a day, 7 days a week (27/7). MCBH shall ensure “24/7 Access Line” is available.
2. The availability of services to address beneficiaries' urgent conditions as defined in CCR, title 9, §1810.253, 24 hours a day, and 7 days a week.
3. Timely access to routine services determined by the Contractor to be required to meet beneficiaries' needs.

MCBH shall provide second opinions in accordance with application regulations. (CCR, title 9 §1810. 405(e)). MCBH shall provide out-of-plan services in accordance with (CCR, title. 9, §§1830.220 and 1810.365) and apply timeliness standards (CCR, title. 9, 1810.405) to out-of-plan services, as well as in-plan services. MCBH shall provide a beneficiary’s choice of the person providing services to the extent feasible in accordance with applicable regulations (CCR, title 9,§1830.225 and 42 CFR § 438.6(m)).

MCBH and its subcontractors shall ensure (a) the availability and accessibility of adequate numbers and types of providers of medically necessary services (42 C.F.R. § 438.206(a) and (b)) maintain and monitor a network of appropriate providers that are sufficient to provide adequate access to all services covered under the agreement with DHCS.

MCBH and its subcontractors shall provide timely access to services (42 C.F.R. § 438.206(c)(1) and CCR, title 9, §1810.405) and shall 1) Take into account the urgency of need for service and 2) have hours of operation during which services are provided to Medi-Cal beneficiaries that are no less than the hours of operation during which the services are offered to non-Medi-Cal beneficiaries.

MCBH shall make available adequate capacity and services (42 C.F.R. § 438.207(b)) and shall offer an appropriate range of SMHS and maintain a network of providers that is adequate for the anticipated number of beneficiaries for its service area.

MCBH and its contractors shall abide by any federal and state privacy laws as well as all MCBH policies to ensure that each beneficiaries privacy and confidentiality is protected.

MCBH shall have a mechanism to assure authorization decision standards are met (42 C.F.R. § 438.210(b)). MCBH will have process to authorize initial and continuing authorization of services; have a mechanism in place to assure decisions to deny or authorize a service request to be made by a health care professional who has appropriate clinical expertise in treating the condition or disease; ensure a mechanism and timeframes (42 C.F.R. § 438.210(d)) and Notice of Adverse Benefit Determination decisions are made (42 C.F.R. § 438.404(c)).

Network Adequacy (438.68)

MCBH shall maintain and monitor a network of appropriate providers that is supported by written agreements for subcontractors and that is sufficient to provide adequate access to all services covered under this contract. In establishing and monitoring the network in accordance with regulatory requirements. MCBH shall adhere to, in all geographic areas within the county, the time and distance standards for adult and pediatric mental health providers developed by the Department. (42 C.F.R. § 438.68(a), (b)(1)(iii), (3), 438.206(a).) MCBH shall comply with documentation standards of Network Adequacy requirements in accordance with regulatory requirements (438.207).

Time and Distance:

- Mental Health, Outpatient services (non-psychiatry)
    - 45 miles or 75 minutes from beneficiary's residence
    - within 10 days to appointment from request (non-urgent, as defined in standards)
- Substance Use Disorder (SUD), Outpatient services
    - 60 miles or 90 minutes from beneficiary's residence
    - within 10 days to appointment from request (non-urgent, as defined in standards)
- Substance Use Disorder, Opioid Treatment Programs
    - 45 miles or 75 minutes from beneficiary's residence
    - within 3 business days to appointment from request

MCBH shall submit, in a manner and format determined by DHCS, documentation to demonstrate compliance with the DHCS's requirements for availability and accessibility of services, including the adequacy of the provider network. (42 C.F.R. § 438.604(a)(5)).

Availability of Services (438.206)

MCBH shall ensure that all services covered under the State plan are available and accessible to MHP enrollees in a timely manner and in accordance with network adequacy standards. MCBH shall comply with timely access in accordance with 42 C.F.R. §

438.206(c)(1) and with the requirements set forth in CCR, title 9, §1810.405. MCBH shall ensure that if the provider network is unable to provide necessary services, covered under this Contract, to a particular beneficiary, the Contractor shall adequately and timely cover the services out of network, for as long as the Contractor's provider network is unable to provide them. MCBH shall comply with the requirements of California CCR, title 9, section 1830.220 regarding providing beneficiaries access to out-of-network providers when a provider is available in Contractor's network. MCHB shall provide second opinions from a network provider or arrange for the beneficiary to obtain a second opinion outside the network, at no cost to the beneficiary.

MCBH shall participate in the State's efforts to promote the delivery of services in a culturally competent manner to all enrollees, including those with limited English proficiency and diverse cultural and ethnic backgrounds, disabilities, and regardless of gender, sexual orientation or gender identity. MCBH shall comply with the provisions of the Contractor's Cultural Competence Plan submitted and approved by DHCS. MCBH shall update the Cultural Competence Plan and submit these updates to DHCS for review and approval annually.

Beneficiary Protection

MCBH shall ensure written materials are produced in a format that is easily understood and available in alternative formats and in an appropriate manner that takes into consideration the special needs of those who, for example, are visually limited or have limited reading proficiency as required by 42 C.F.R. § 438.10(d)(1). MCBH shall inform beneficiaries that information is available in alternate formats and how to access those formats.

Information Requirements (438.10)

MCBH shall provide beneficiary protection information to all beneficiaries when first receiving specialty mental health services (SMHS) and upon request. MCBH shall provide information in a manner and format that is easily understood and readily accessible to beneficiaries. MCBH shall provide all written materials for beneficiaries in easily understood language, format, and alternative formats that take into consideration the special needs of beneficiaries. MCBH shall inform beneficiaries that information is available in alternate formats, how to access those formats, and that the information is available without charge. This information shall be made available in all clinic locations and shall be published on the MCBH website. Written material provided to potential beneficiary and beneficiaries will be available in at least 12-font.

MCBH shall offer beneficiaries a copy of the Guide to Medi-Cal Services handbook and provider directory when the beneficiary first accesses services and thereafter upon request. The handbook shall contain, but is not limited to, the following information: toll-free and TTY/TDY telephone numbers, benefits provided by mental health plan, how and where to access benefits, share of cost, information on transportation, how to obtain information from

the DHCS, scope of benefits, how to access services, authorization and referral process, beneficiary rights and responsibilities, provider list, information on out-of-network providers and how to access services, selecting and changing providers, grievance, appeal, and hearing processes and timelines, information on Patient Rights Advocate, advance directive information, and how to report abuse/fraud/waste. MCBH may utilize other member handbooks in conjunction with the Guide to Medi-Cal Services handbook.

Grievance and Appeals (438.228) and Resolution and Notification (438.408)

MCBH and its contracted providers shall follow policies, procedures, regulations related to the grievance and appeals system. MCBH shall adhere to recordkeeping requirements (42 C.F.R.438.416). MCBH shall adhere to Effectuation of Reversals (42 C.F.R. 438.424). The Problem Resolution/ grievance and appeals process is outlined in MCBH Policy 128.

Coordination of Care (438.62)

MCBH shall deliver care to and coordinate services for all of its beneficiaries. In accordance with contractual agreements with the Department of Health Care Services (DHCS), MCBH shall:

1. Ensure that each beneficiary has an ongoing source of care appropriate to his or her needs and a person or entity formally designated as primarily responsible for coordinating the services accessed by the beneficiary. The beneficiary shall be provided information on how to contact their designated person or entity.
2. Coordinate the services furnished to the beneficiary between settings of care, including appropriate discharge planning for short term and long-term hospital and institutional stays. Coordinate the services furnished to the beneficiary with the services the beneficiary receives from any other managed care organization, in FFS Medicaid, from community and social support providers, and contracted providers.
3. Share with the DHCS or other managed care entities serving the beneficiary the results of any identification and assessment of that beneficiary’s needs to prevent duplication of those activities.
4. Ensure that each provider furnishing services to beneficiaries maintains and shares, as appropriate, a beneficiary health record in accordance with professional standards.
5. Ensure that, in the course of coordinating care, each beneficiary's privacy is protected in accordance with all federal and state privacy laws, including but not limited to 45 C.F.R. §160 and § 164, subparts A and E, to the extent that such provisions are applicable.

Coverage and Authorization (438.210)

MCBH shall provide, or arrange and pay for, all medically necessary covered Specialty Mental Health Services to beneficiaries, as defined by contractual agreement with DHCS. MCBH shall ensure that all medically necessary covered Specialty Mental Health Services are sufficient in amount, duration, or scope to reasonably achieve the purpose for which the

services are furnished. The Contractor shall not arbitrarily deny or reduce the amount, duration, or scope of a medically necessary covered Specialty Mental Health Service solely because of diagnosis, type of illness, or condition of the beneficiary except as specifically provided in the medical necessity criteria applicable to the situation as provided in the CCR, title 9, sections 1820.205, 1830.205, and1830.210. MCBH shall provide second opinions from a network provider or arrange for the beneficiary to obtain a second opinion outside the network, at no cost to the beneficiary. (42 C.F.R § 438.206(b).) At the request of a beneficiary when the Contractor or its network provider has determined that the beneficiary is not entitled to specialty mental health services due to not meeting the medical necessity criteria, the contractor shall provide for a second opinion by a licensed mental health professional (other than a psychiatric technician or a licensed vocational nurse). (CCR, title 9, § 1810.405(e).)

MCBH shall follow mechanisms to assure authorization decision standards are met. MCBH shall follow all written policies and procedures for processing request for initial and continuing authorizations of services (42 C.F.R. § 438.210(b)(1).); shall follow established mechanisms to ensure consistent application of review criteria for authorization decisions, and shall consult with the requesting provider when appropriate (42 C.F.R. § 438.210(b)(2)(i-ii).); have in place any decision to deny a service authorization request or to authorize a service in an amount, duration, or scope that is less than requested be made by a health care professional who has appropriate clinical expertise in addressing the beneficiary's behavioral health needs (42 C.F.R. §438.210(b)(3).); follow mechanism to notify the requesting provider, and give the beneficiary written notice of any decision to deny a service authorization request, or to authorize a service in an amount, duration, or scope that is less than requested (42 C.F.R. § 438.210(c)). The beneficiary's notice shall meet the requirements in accordance with contractual agreements.

For standard authorization decisions: MCBH shall provide notice as expeditiously as the beneficiary's condition requires not exceed 14 calendar days following receipt of the request for service, with a possible extension of up to 14 additional calendar days when:

- The beneficiary, or the provider, requests extension; or
- MCBH justifies (to the Department upon request) a need for additional information and how the extension is in the beneficiary's interest. (42 C.F.R. § 438.210(d)(1)).

For cases in which a provider indicates, or MCBH determines, that following the standard timeframe could seriously jeopardize the beneficiary's life or health or ability to attain, maintain, or regain maximum function, MCBH shall make an expedited authorization decision and provide notice as expeditiously as the beneficiary's health condition requires and no later than 72 hours after receipt of the request for service. The Contractor may extend the 72-hour time period by up to 14 calendar days if the beneficiary requests an extension, or if MCBH justifies (to the Department upon request) a need for additional information and how the extension is in the beneficiary's interest. (42 C.F.R. § 438.210(d)(2)).

MCBH shall act on an authorization request for treatment for urgent conditions within one hour of the request (CCR, title 9, §§ 1810.253 1810.405, subd. (c)). MCBH shall not require prior authorization for an emergency admission for psychiatric inpatient hospital services, whether the admission is voluntary or involuntary. (CCR, title 9, §§ 1820.200(d) and 1820.225). MCBH (when it is the MHP of the beneficiary being admitted on an emergency basis) shall approve a request for payment authorization if the beneficiary meets the criteria for medical necessity and the beneficiary, due to a mental disorder, is a current danger to self or others, or immediately unable to provide for, or utilize, food, shelter or clothing. (CCR, title 9 §§ 1820.205 and 1820.225). MCBH shall not require prior authorization for an emergency admission to a psychiatric health facility when the beneficiary has an emergency psychiatric condition (CCR, title 9, §§ 1810.216 and1830.245).

MCBH shall authorize out of network services when a beneficiary with an emergency psychiatric condition is admitted on an emergency basis for psychiatric inpatient hospital services or psychiatric health facility services (CCR, title 9 §§ 1830.220, 1810.216, 1820.225, and 1830.245). MCBH shall define service authorization request in a manner that at least includes a beneficiary's request for the provision of a service. (42 C.F.R. § 431.201), Additional information on Notice of Adverse Benefit Determination (NOABD) may be found in MCBH Policy 120.

Conflict of Interest Safeguards (438.58)

MCBH shall comply with the conflict of interest safeguards described in 42 C.F.R. 438.58 and the prohibitions described in section 1902(a)(4)(C) of the Act. (42 C.F.R. § 438.3(f)(2).) The MHP officers and employees shall not have a financial interest in the contract with DHCS or a subcontract of the DHCS contract made by them in their official capacity, or by anybody or board of which they are members unless the interest is remote. (Gov. Code §§ 1090, 1091; 42 C.F.R. § 438.3(f)(2). No public officials at any level of local government shall make, participate in making, or attempt to use their official positions to influence a decision made within the scope of the contract with DHCS in which they know or have reason to know that they have a financial interest. (Gov. Code §§ 87100, 87103; CCR, title 2, § 18704; 42 C.F.R. §§ 438.3(f)(2).). As such:

- If a public official determines not to act on a matter due to a conflict of interest within the scope of this Contract, the Contractor shall notify the Department by oral or written disclosure. (CCR, title 2, § 18707; 42 C.F.R. § 438.3(f)(2).)
- Public officials, as defined in Government Code section 87200, shall follow the applicable requirements for disclosure of a conflict of interest or potential conflict of interest, once it is identified, and recuse themselves from discussing or otherwise acting upon the matter. (Gov. Code § 87105, CCR, title 2, § 18707(a); 42 C.F.R. § 438.3(f)(2).)

MCBH shall not utilize in the performance of the contract with DCHS any State officer or employee in the State civil service or other appointed State official unless the employment,

activity, or enterprise is required as a condition of the officer's or employee's regular State employment. (Pub. Con. Code § 10410; 42 C.F.R. §438.3(f)(2).)

- MCBH shall submit documentation to DHCS of employees (current and former State employees) who may present a conflict of interest.
- MCBH employees who meet the Monterey County requirement for Political Reform Act disclosures shall comply with Monterey County Political Reform Act. The Political Reform Act (Gov. Code sections 81000 et seq.) requires most state and local government officials and employees to publicly disclose their personal assets and income within certain limits. They also must disqualify themselves from participating in decisions which may affect their personal economic interest. The officials and employees which must disclose, and the level of required disclosure is governed by the Conflict of Interest Code adopted for that entity (or County department).http://www.co.monterey.ca.us/government/departments-a-h/clerk-of-the-board/statement-of-economic-interest-form-700

Disclosure of 5% or More Ownership Interest:

- Pursuant to 42 C.F.R. § 455.104, Medicaid managed care entities must disclose certain information related to persons who have an ownership or control interest in the managed care entity, as defined in 42 C.F.R. § 455.101. The parties hereby acknowledge that because the MHP is a political subdivision of the State of California, there are no persons who meet such definition and therefore there is no information to disclose.
- In the event that, in the future, any person obtains an interest of 5% or more of any mortgage, deed of trust, note or other obligation secured by MCBH, and that interest equals at least 5% of MCBH property or assets, then MCBH will make the disclosures as such:
    - Will disclose the name, address, date of birth, and Social Security Number of any managing employee, as that term is defined in 42 C.F.R. § 455.101. For purposes of this disclosure, Contractor may use the business address for any member of its Board of Supervisors.
    - Shall provide any such disclosure upon execution of the contract with DHCS, upon its extension or renewal, and within 35 days after any change in MCBH ownership or upon request of the DHCS.
- MCBH shall ensure that its subcontractors and network providers submit the disclosures below to MCBH regarding the network providers' (disclosing entities') ownership and control. MCBH's network providers shall be required to submit updated disclosures to MCBH upon submitting the provider application, before entering into or renewing the network providers' contracts, within 35 days after any change in the subcontractor/network provider's ownership, annually and upon request during the re-validation of enrollment process under 42 Code of Federal Regulations part 455.104.
- Disclosures to be Provided:
    - The name and address of any person (individual or corporation) with an ownership or control interest in the network provider. The address for

corporate entities shall location, and a P.O. Box address;
    - Date of birth and Social Security Number (in the case of an individual);
    - Other tax identification number (in the case of a corporation with an ownership or control interest in the managed care entity or in any subcontractor in which the managed care entity has a 5 percent or more interest);
    - Whether the person (individual or corporation) with an ownership or control interest in Mental Health Plan's network provider is related to another person with ownership or control interest in the same or any other network provider of the Mental Health Plan as a spouse, parent, child, or sibling; or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the managed care entity has a 5 percent or more interest is related to another person with ownership or control interest in the managed care entity as a spouse, parent, child, or sibling;
    - The name of any other disclosing entity in which MCBH or subcontracting network provider has an ownership or control interest; and
    - The name, address, date of birth, and Social Security Number of any managing employee of the managed care entity.
- For each provider in the MCBH provider network, MCBH shall provide DHCS with all disclosures before entering into a network provider contract with the provider and annually thereafter and upon request from DHCS during the re-validation of enrollment process under 42 Code of Federal Regulations part 455.104.
- Disclosures Related to Business Transactions. MCBH must submit disclosures and updated disclosures to the DHCS or Health and Human Services (HHS) including information regarding certain business transactions within 35 days, upon request. These include:
    - The ownership of any subcontractor with whom the Mental Health Plan has had business transactions totaling more than $25,000 during the 12-month period ending on the date of the request; and
    - Any significant business transactions between the Mental Health Plan and any wholly owned supplier, or between the Mental Health Plan and any subcontractor, during the 5-year period ending on the date of the request.
    - The Mental Health Plan must obligate Network Providers to submit the same disclosures regarding network providers as noted under subsection 1(a) and (b) within 35 days upon request.
- Disclosures Related to Persons Convicted of Crimes. MCBH shall submit the following disclosures to the Department regarding the Mental Health Plan's (MHP) management:
    - The identity of any person who is a managing employee of the MHP who has been convicted of a crime related to federal health care programs. (42 C.F.R. § 455.106(a)(1), (2).)
    - The identity of any person who is an agent of the MHP who has been convicted of a crime related to federal health care programs. (42 C.F.R. § 455.106(a)(1), (2).) For this purpose, the word "agent" has the meaning described in 42 Code of Federal Regulations part 455.101.

- The MHP shall supply the disclosures before entering into the contract and at any time upon the DHCS's request.
- Network providers should submit the same disclosures to the MHP regarding the network providers' owners, persons with controlling interest, agents, and managing employees' criminal convictions. Network providers shall supply the disclosures before entering into the contract and at any time upon the DHCS's request.

Provider Selection (438.208, 438.214, 438.602, 438.610, 438.808)

MCBH shall not have a prohibited type of relationship by employing or contracting with providers or other individuals and entities excluded from participation in federal health care programs (as defined in section 1128B(f) of the Social Security Act) under either Section 1128, 1128A, 1156, or 1842(j)(2) of the Social Security Act. (42 C.F.R. §§ 438.214(d)(1), 438.610(b); 42 U.S.C. § 1320c-5.) MCBH does not discriminate against particular providers that serve high-risk populations or specialize in conditions that require costly treatment. MCBH does not discriminate in the selection, reimbursement, or indemnification of any provider who is acting within the scope of his or her license or certification under applicable state law, solely on the basis of that license or certification. MCBH shall not have types of relationships prohibited by this section with an excluded, debarred, or suspended individual, provider, or entity as follows:

- A director, officer, agent, managing employee, or partner of the Contractor. (42 U.S.C. §1320a-7(b)(8)(A)(ii); 42 C.F.R. § 438.610(c)(1).)
- A subcontractor of the Contractor, as governed by 42 C.F.R. § 438.230. (42 C.F.R. §438.610(c)(2).)
- A person with beneficial ownership of 5 percent or more of the Contractor's equity. (42C.F.R. § 438.610(c)(3).)
- An individual convicted of crimes described in section 1128(b)(8)(B) of the Act. (42 C.F.R.§ 438.808(b)(2).)
- A network provider or person with an employment, consulting, or other arrangement with
- MCBH for the provision of items and services that are significant and material to MCBH's obligations under contract with DHCS. (42 C.F.R. § 438.610(c)(4).)
- MCBH shall not employ or contract with, directly or indirectly, such individuals or entities for the furnishing of health care, utilization review, medical social work, administrative services, management, or provision of medical services (or the establishment of policies or provision of operational support for such services). (42 C.F.R. § 438.808(b)(3).)

MCBH policies addressing these provisions can be found at MCHP Policy 132 and Policy 142. MCBH shall ensure that all network providers are enrolled with the state as Medi-Cal providers consistent with the provider disclosure, screening, and enrollment requirements of 42 Code of Federal Regulations part 455, subparts B and E (42 C.F.R 438.608(b). MCBH

may execute network provider agreements, pending the outcome of screening, enrollment, and revalidation, of up to 120 days but must terminate a network provider immediately upon determination that the network provider cannot be enrolled, or the expiration of one 120-day period without enrollment of the provider, and notify affected beneficiaries (42 C.F.R. § 438.602(b)(2).). Consistent with the requirements of 42 Code of Federal Regulations, part 455.436, MCBH must confirm the identity and determine the exclusion status of all providers (employees and network providers) and any subcontractor, as well as any person with an ownership or control interest, or who is an agent or managing employee of the of the Mental Health Plan through routine checks of Federal and State databases. This includes the Social Security Administration's Death Master File, the National Plan and Provider Enumeration System (NPPES), the Office of Inspector General's List of Excluded Individuals/Entities (LEIE), the System for Award Management (SAM), as well as the Department's Medi Cal Suspended and Ineligible Provider List (S & I List) (42 C.F.R. §438.602(d).).

If the Contractor find a party that is excluded, it must promptly notify the Department (42 C.F.R. §438.608(a)(2),(4)) and the Department will take action consistent with 42 C.F.R. §438.610((d). The Contractor shall not certify or pay any excluded provider with Medi-Cal funds, and any such inappropriate payments or overpayments may be subject to recovery and/or be the basis for other sanctions by the appropriate authority.

Program Integrity (438.600)

As a condition for receiving payment under a Medi-Cal managed care program, MCBH shall comply with the provisions of 42 C.F.R. §§ 438.604, 438.606 and 438.608, and 438.610. (42 C.F.R. § 438.600(b).), as applicable.

Recovery of Overpayment

MCBH and any subcontractor or any network providers, shall report to DHCS within 60 calendar days when it has identified payments in excess of amounts specified for reimbursement of Medicaid services (42 C.F.R. § 438.608(c)(3).)

MCBH or its subcontractors, to the extent that the subcontractor is delegated responsibility for coverage of services and payment of claims under the contract between DHCS and the MCBH, shall implement and maintain arrangements or procedures that include provision for the suspension of payments to a network provider for which the State, MCBH, determines there is a credible allegation of fraud (42 C.F.R. §§ 438.608(a)(8) and 455.23.).

MCBH shall specify the retention policies for the treatment of recoveries of all overpayments from the Contractor to a provider, including specifically the retention policies for the treatment of recoveries of overpayments due to fraud, waste, or abuse. The policy shall specify the process, timeframes, and documentation required for reporting the recovery of all overpayments. MCBH shall also specify the process, timeframes, and documentation

required for payment of recoveries of overpayments to DHCS in situations where the MHP is not permitted to retain some or all of the recoveries of overpayments (42 C.F.R. § 438.608(d).). MCHB and its contractors shall follow retention policies.

Compliance Program (438.608)

MCBH shall report fraud and abuse information to the Department. MCBH or any subcontractor, to the extent that the subcontractor is delegated responsibility by the Contractor for coverage of services and payment of claims under this Contract, shall implement and maintain a compliance program designed to detect and prevent fraud, waste and abuse.

- MCBH shall adhere to written policies, procedures, and standards of conduct that articulate the organization's commitment to comply with all applicable requirements and standards under the contract, and all applicable Federal and state requirements. MCBH Compliance Plan.
- The Compliance Officer (CO) and/or designee is responsible for developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements of the contract and who reports directly to the CEO and the Board of Directors (BoD).
- MCBH recognizes the Quality Improvement Committee (QIC) as its regulatory Compliance committee (RCC). The Compliance Officer has been named and the Compliance Committee is meeting and functioning, in accordance with MCBH Policy 104.
- Ongoing training and education for the CO, the organization's senior management, and the organization's employees for the federal and state standards and requirements are afforded to staff.
- MCBH has established effective lines of communication between the CO and the organization's employees.
- MCBH has established the enforcement of standards through well-publicized Disciplinary guidelines.
- MCBH has established and implemented procedures and a system with dedicated staff for routine internal monitoring and auditing of compliance risks, prompt response to compliance issues as they are raised, investigation of potential compliance problems as identified in the course of self-evaluation and audits, correction of such problems promptly and thoroughly (or coordination of suspected criminal acts with law enforcement agencies) to reduce the potential for recurrence, and ongoing compliance with the requirements under the contract (42 C.F.R. §438.608(a), (a)(1).).
- MCBH or any subcontractor, to the extent that the subcontractor is delegated responsibility by MCBH for coverage of services and payment of claims under the contract with DHCS, shall implement and maintain arrangements or procedures designed to detect and prevent fraud, waste and abuse that include prompt reporting to the Department about the following:

    - Any potential fraud, waste, or abuse. (42 C.F.R. §438.608(a), (a)(7).)
    - All overpayments identified or recovered, specifying the overpayments due to potential fraud. (42 C.F.R. §438.608(a), (a)(2).)
    - Information about changes in a beneficiary's circumstances that may affect the beneficiary's eligibility including changes in the beneficiary's residence or the death of the beneficiary. (42 C.F.R. §438.608(a), (a)(3).)
    - Information about a change in a network provider's circumstances that may affect the network provider's eligibility to participate in the managed care program, including the termination of the provider agreement with the Contractor. (42 C.F.R.§438.608(a), (a)(4).)
- In the event MCBH identifies an issue or receives notification of a complaint concerning an incident of potential fraud, waste or abuse, in addition to notifying DHCS, MCBH shall conduct an internal investigation to determine the validity of the issue/complaint, and develop and implement corrective action, if needed.
- MCBH shall implement and maintain written policies for all employees of the Mental Health Plan, and of any contractor or agent, that provide detailed information about the False Claims Act and other Federal and state laws, including information about rights of employees to be protected as whistleblowers. (42 C.F.R. §438.608(a), (a)(6).)
- MCBH shall implement and maintain arrangements or procedures that include provision for the MCBH's suspension of payments to a network provider for which there is a credible allegation of fraud. (42 C.F.R. §438.608(a), (a)(8).)

Data, Information, and Documentation (438.242, 438.604, 438.606, 438.616 438.818)

MCBH shall submit encounter data to the Department at a frequency and level specified by the Department and CMS (42 C.F.R. § 438.242(c)(2).). MCBH shall ensure collection and maintenance of sufficient beneficiary encounter data to identify the provider who delivers service(s) to the beneficiary. (42 C.F.R. § 438.242(c)(1).) MCBH shall submit all beneficiary encounter data that the Department is required to report to CMS under § 438.818 (42 C.F.R. § 438.242(c)(3).). MCBH shall submit encounter data to the state in standardized Accredited Standards Committee (ASC) X12N 837 and National Council for Prescription Drug Programs (NCPDP) formats, and the ASC X12N 835 format as appropriate. (42 C.F.R. § 438.242(c)(4).)

MCBH shall submit any data, documentation, or information relating to the performance of the entity's obligations as required by the State or the United States Secretary of Health and Human Services (42 C.F.R. § 438.604(b).) The individual who submits this data to the state shall concurrently provide a certification, which attests, based on best information, knowledge and belief that the data, documentation and information is accurate, complete and truthful (42 C.F.R. §438.606(b) and (c).). The data, documentation, or information submitted to the state by MCBH shall be certified by one of the following:

- The Contractor's Chief Executive Officer (CEO).
- The Contractor's Chief Financial Officer (CFO).
- An individual who reports directly to the CEO or CFO with delegated authority to

sign for the CEO or CFO so that the CEO or CFO is ultimately responsible for the certification. (42 C.F. R. § 438.606(a).)

MCBH shall submit data to demonstrate it has made adequate provision against the risk of insolvency to ensure that beneficiaries will not be liable for the MHP's debt if the MHP becomes insolvent (42 C.F.R. § 438.604(a)(4); 42 C.F.R. § 438.116.). The MHP shall meet the State's solvency standards for private health maintenance organizations or be licensed by the State as a risk-bearing entity, unless one of the following exceptions apply (42 C.F.R. § 438.116 (b).):

- The MHP does not provide both inpatient hospital services and physician services.
- The MHP is a public entity.
- The MHP is (or is controlled by) one of more federally qualified health centers and meets the solvency standards established by the State for those centers.
- The MHP has its solvency guaranteed by the State.

MCBH shall submit, in a manner and format determined by the DHCS, documentation to demonstrate compliance with the DHCS's requirements for availability and accessibility of services, including the adequacy of the provider network. (42 C.F.R. § 438.604(a)(5).)

MCHB shall submit information on its and its subcontractors' ownership and control described in 42 C.F.R. §455.104 and Attachment 13 of this Contract. (42 C.F.R § 438.604(a)(6).)

MCBH shall submit an annual report of overpayment recoveries in a manner and format determined by the Department. (42 C.F.R § 438.604(a)(7).)

In an effort to improve the performance of the State's managed care program, in accordance with 42 Code of Federal Regulations part 438.66(c), MCBH will submit the following to the Department (42 C.F.R. §438.604(b).):

- Enrollment and disenrollment data;
- Member grievance and appeal logs;
- Provider complaint and appeal logs;
- The results of any beneficiary satisfaction survey;
- The results of any provider satisfaction survey;
- Performance on required quality measures;
- Medical management committee reports and minutes;
- MHP's annual quality improvement plan;
- Audited financial and encounter data; and
- Customer service performance data.

Inspection Rights/Records Keeping Requirements

Audit and Record Retention- (DHCS contract, Exhibit D(F)). The MHP, and subcontractors, shall allow the DHCS, CMS, the Office of the Inspector General, the Comptroller General of the United States, and other authorized federal and state agencies, or their duly authorized designees, to evaluate Contractor's, and subcontractors', performance under this contract, including the quality, appropriateness, and timeliness of services provided, and to inspect, evaluate, and audit any and all records, documents, and the premises, equipment and facilities maintained by the MHP and its subcontractors pertaining to such services at any time. The MHP shall allow such inspection, evaluation and audit of its records, documents and facilities, and those of its subcontractors, for 10 years from the term end date of this Contract or in the event the MHP has been notified that an audit or investigation of this Contract has been commenced, until such time as the matter under audit or investigation has been resolved, including the exhaustion of all legal remedies, whichever is later. (See 42 C.F.R. §§ 438.3(h), 438.230(c)(3)(i-iii).) Records and documents include, but are not limited to all physical and electronic records and documents originated or prepared pursuant to Contractor's or subcontractor's performance under this Contract including working papers, reports, financial records and documents of account, beneficiary records, prescription files, subcontracts, and any other documentation pertaining to covered services and other related services for beneficiaries.

The MHP, and subcontractors, shall retain, all records and documents originated or prepared pursuant to MHP or subcontractor's performance under this Contract, including beneficiary grievance and appeal records identified in Attachment 12, Section 2 and the data, information and documentation specified in 42 Code of Federal Regulations parts 438.604, 438.606, 438.608, and 438.610 for a period of no less than 10 years from the term end date of this Contract or in the event the MHP has been notified that an audit or investigation of this Contract has been commenced, until such time as the matter under audit or investigation has been resolved, including the exhaustion of all legal remedies, whichever is later. (42 C.F.R. § 438.3(u); See also § 438.3(h).) Records and documents include but are not limited to all physical and electronic records and documents originated or prepared pursuant to MHP's or subcontractor's performance under this Contract including working papers, reports, financial records and documents of account, beneficiary records, prescription files, subcontracts, and any other documentation pertaining to covered services and other related services for beneficiaries.

External Quality Review (438.320, 438.330, 438.350)

MCBH shall undergo annual, external independent reviews of the quality, timeliness, and access to the services covered under this Contract, which are conducted pursuant to Subpart E of Part 438 of the Code of Federal Regulations (42 C.F.R. §§ 438.350(a) and 438.320).

Performance Improvement Projects (438.330)

MCBH shall maintain conduct a minimum of two active Performance Improvement Projects (PIPs) that meet the criteria in 42 C.F.R. § 438.330(b)(1) and (d). Performance improvement projects shall per year, including any PIPs required by DHCS or CMS. DHCS may require additional PIPs. One PIP shall focus on a clinical area, as well as and one on a non-clinical area. (42 C.F.R. §438.330(b)(1) and (d)(1).) Each PIP shall:

- Be designed to achieve significant improvement, sustained over time, in health outcomes and beneficiary satisfaction;
- Include measurement of performance using objective quality indicators;
- Include implementation of interventions to achieve improvement in the access to and quality of care;
- Include an evaluation of the effectiveness of the interventions based on the performance measures collected as part of the PIP; and,
- Include planning and initiation of activities for increasing or sustaining improvement. (42 C.F.R. § 438.330(d)(2).)

MCBH shall report the status and results of each performance improvement project to the Department as requested, but not less than once per year. (42 C.F.R. § 438.330(d)(3).)

Utilization Management (438.210)

MCBH shall operate a utilization management program that is responsible for assuring that beneficiaries have appropriate access to specialty mental health services as required in California CCR, title 9, section 1810.440(b)(1)-(3). The Utilization Management Program shall evaluate medical necessity, appropriateness and efficiency of services provided to Medi-Cal beneficiaries prospectively or retrospectively. Compensation to individuals or entities that conduct utilization management activities must not be structured so as to provide incentives for the individual or entity to deny, limit, or discontinue medically necessary services to any beneficiary (42 C.F.R. §438.210(e).). MCBH may place appropriate limits on a service based on criteria applied under the State Plan, such as medical necessity and for the purpose of utilization control, provided that the services furnished are sufficient in amount, duration or scope to reasonably achieve the purpose for which the services are furnished (42 C.F.R. § 438.210(a)(4)(i), (ii)(A).).

<u>Service Authorization</u>

MCBH has in place, and follows, written policies and procedures for processing requests for initial and continuing authorizations of services (42 C.F.R. § 438.210(b)(1).); has mechanism to ensure consistent application of review criteria for authorization decisions and shall consult with the requesting provider when appropriate. (42 C.F.R. §438.210(b)(2)(i-ii).); have any decision to deny a service authorization request or to authorize a service in an amount, duration, or scope that is less than requested be made by a health care professional who has appropriate clinical expertise in addressing the beneficiary's behavioral health need. (42 C.F.R. § 438.210(b)(3).). Notifies the requesting provider, and gives the beneficiary written notice of any decision by the MHP to deny a service authorization request, or to authorize a

service in an amount, duration, or scope that is less than requested (42 C.F.R. § 438.210(c)). The beneficiary's notice shall meet the requirements and be provided within the timeframes set forth in the contract with DHCS. Additional information may be found in MCBH Policy 120 and Policy 128.

Practice Guidelines (438.236(b))

MCBH shall comply with 42 C.F.R. § 438.236(b) and CCR, title 9, § 1810.326 which requires the adoption of practice guidelines.

1. Such guideline shall meet the following requirements:
    a. They are based on valid and reliable clinical evidence or a consensus of health care professionals in the applicable field
    b. They consider the needs of the beneficiaries
    c. They are adopted in consultation with contracting health care professionals; and
    d. They are reviewed and updated periodically as appropriate.
2. MCBH shall disseminate the guidelines to all affected providers and, upon request, to beneficiaries and potential beneficiaries.
3. MCBH shall take steps to assure that decisions for utilization management, beneficiary education, coverage of services, and any other areas to which the guidelines apply shall be consistent with the guidelines.

Accreditation Status (438.332)

MCBH shall inform DHCS whether it has been accredited by a private independent accrediting entity. (42 C.F.R. 438.332(a).); If the Contractor has received accreditation by a private independent accrediting entity, the Contractor shall authorize the private independent accrediting entity to provide the Department a copy of its most recent accreditation review, including:

- Its accreditation status, survey type, and level (as applicable);
- Accreditation results, including recommended actions or improvements, corrective action plans, and summaries of findings; and
- The expiration date of the accreditation (42 C.F.R. § 438.332(b)