

May 20, 2010

To: ACBHCS Providers

From: Marye Thomas, MD, Executive Director

RE: Policy: Annual Notification of Beneficiary Rights

In accordance with Title 42, Code of Federal Regulations (42 CFR), Part 438, Section 438.100, all providers and programs must inform Medi-Cal beneficiaries of their guaranteed rights, including assurance that treatment will not be adversely affected as a result of the exercise of these rights. This procedure, known as Notification of Beneficiary Rights, is accomplished by offering Medi-Cal beneficiaries a set of informing materials (e.g., Freedom of Choice, Notice of Privacy Practices, etc.) at specified intervals for their review and obtaining their signature to prove the notification was made.

Behavioral Health Care Services recently clarified that 42 CFR requires different notification intervals for different informing materials, ranging from one- to three-year intervals. To simplify the mandated procedures, a new BHCS “Notification of Beneficiary Rights” policy (attached) requires providers to give that notification for all required informing materials supplied by BHCS on an annual basis. This new policy eliminates the burden for providers to keep track of different notification intervals for different materials. (*The new “Notification of Beneficiary Rights” policy replaces the previous requirement for tri-annual notification of the “Notice of Privacy Practices.”*)

To comply with the new “Notification of Beneficiary Rights” policy, providers must have proof in the clinical record that the Medi-Cal beneficiary was given an opportunity to review the “Informing Materials – Your Rights & Responsibilities” packet (see below) in the following situations

- Upon enrollment for services
- Upon request
- Once a year to beneficiaries enrolled in the BHCS Mental Health Plan*

*Annual notification may occur at any time in the year, however, providers may choose a single anniversary date for all Medi-Cal beneficiaries in their program/practice to simplify compliance.

“Informing Materials – Your Rights & Responsibilities” Packet:

The Quality Assurance Office has responded to providers’ request for a more streamlined method to manage the notification process of required informing materials supplied by BHCS.

In addition, new Federal and State regulations have required updates to some BHCS informing materials. A single packet of updated materials, titled “Informing Materials – Your Rights & Responsibilities,” was created and translated into all Alameda County threshold languages with the following goals:

- Require just one beneficiary signature on one signature page for all materials and consequently improve the admission experience for the beneficiary and provider.
- Ensure proof of provider compliance with notification regulations.
- Reduce the number of papers filed in the clinical record.

All threshold language versions of the “Informing Materials” packet, an instruction sheet for how to use the packet, and the new BHCS “Notification of Beneficiary Rights” policy are available at www.acbhcs.org/providers, under the Quality Assurance tab. Attached to this memorandum are the English version of the packet, instruction sheet, and new Policy.

Provider Requirements:

- County-Operated Clinics are required to:
 - Use the entire “Informing Materials” packet.
 - *Prior to use with beneficiaries: Add the clinic’s site name to the packet’s first page AND to the first page of the “Notice of Privacy Practices” in the spaces provided.*
- Community-Based Organizations & Fee-For-Service Providers are required to either:
 - Use the entire “Informing Materials” packet,
or
 - Use/create their own packet or individual documents *that meet the same content standards, with the following caveats:*
 - Do not modify the “Beneficiary Problem Resolution Information” language.
 - Consider retaining the language on the packet’s signature page, as it specifically addresses regulations for the timing & method of distribution of informing materials to beneficiaries.
 - The packet’s updated version of the “Notice of Privacy Practices” must be used, but may be additionally amended per legal advice obtained by the provider.
 - Providers choosing to create their own materials must have those materials translated into all threshold languages used by beneficiaries served by that provider.
 - *Prior to use with beneficiaries: These providers must, at minimum, add their contracted name to the first page of the “Notice of Privacy Practices.” In addition, if the BHCS “Informing Materials” packet is used, they must add their contracted name to the packet’s first page in the space provided.*

Attachments: BHCS Policy: “Notification of Beneficiary Rights”
Packet: “Informing Materials – Your Rights & Responsibilities,” English version
Instructions: How to Use the “Informing Materials” Packet
Informing Materials List (included as reference item)