**Fostering Cooperation for Out-of-County Kids – Implementing AB 1299**

The California State Association of Counties (CSAC), County Welfare Directors Association of California (CWDA), County Behavioral Health Directors of California (CBHDA), and Chief Probation Officers of California (CPOC) held a joint webinar on implementing AB 1299 (Chapter 603, Statutes of 2016) on October 31, 2018. This document compiles the questions received during the webinar and represents our associations’ best efforts to provide answers. For contact information, please see the end of the document.

**Corrected Point of Contact links!**The Presumptive Transfer list can be accessed via this website:
<http://www.cdss.ca.gov/County-Offices>.
Direct link to county lists:
[http://www.cdss.ca.gov/Portals/13/Users/036/36/36/Presumptive%20Transfer%20Points%20of%20Contact.pdf?ver=2018-10-12-153223-243](http://www.cdss.ca.gov/Portals/13/Users/036/36/36/Presumptive%20Transfer%20Points%20of%20Contact.pdf?ver=2018-10-12-153223-243\)

**INFORMATION SHARING**

1. *I have encountered that county MHPs are requesting items that are outside the scope of what is outlined in the ACLs, including:*
* *CFT notes where the treatment team decided to move forward with a presumptive transfer request (Placer County MHP).*
	+ Answer: While this is not a “required” document, there is nothing that prohibits requesting additional information.
* *The placing agencies responsibility to discuss presumptive transfer with the CFT. The ACLs note the placing agencies responsibility is to discuss presumptive transfer with the CFT, however, as also noted in ACL 18-60, this is not always possible. MHPs should not make this a contingency.*
	+ Answer: The intent of the law is to consult with the CFT. This can occur outside of a CFT meeting. For example, there may be situations where a CFT does not meet prior to a placement change, such as in urgent situations. If the presumptive transfer is not discussed during the CFT meeting, efforts should be made by the placing agency to consult members of the CFT individually in order to inform the decision of presumptive transfer or waiver of the transfer.
* *The need for the MEDSLITE system to reflect the current address (Merced County MHP) or foster care status*
	+ Answer: The placing agency is responsible to ensure the current address and status is updated in MEDS.
* *Consent forms signed by the legally authorized person*
	+ Answer: Consent for treatment must be signed by the legally authorized person prior to the MHP providing the actual service.
1. *The requirement says the placing agency must inform the MHP of “who” can sign such consents. The reality is that the MHPs cannot even contact a care provider without a consent and ROI, so they must receive the consents to process the referral. It seems the receipt of these consents is now being required up front before they will “accept” a presumptive transfer, impacting the effective date of payment. (I have compiled many county consents and ROI forms to complete and send with the notice of transfer, and this seems to have alleviated some of the delay, but has added to the time it takes to compile these documents prior to transfer.)*

Answer: Some county placing agencies have obtained a standing court order giving the placing agency authority to sign consents for treatment, and releasees of information (ROI) for purposes of coordinating treatment. CWDA and CBHDA are currently in process of collecting all county consent forms and ROI’s and will make these forms available for all county placing agencies for purposes of expediting transfers and access to mental health treatments.

1. *Can receiving counties require counties of jurisdiction to complete their additional forms prior to serving children?*

Answer: While filling out additional forms is not a requirement for any new client, basic information is required for an entity to provide appropriate and responsible Specialty Mental Health Services for a Medi-Cal beneficiary new to them. Sending previous assessments and other information is critical. Some counties may have created forms to gather that information for new clients, and would typically have the parent of a beneficiary fill out those forms prior to beginning treatment. While this is valuable and helpful, “the form” is not a requirement, but may have elements that are “good practice.”

1. *What is your advice for MH providers that will not accept the minute orders of the County of Jurisdiction, as far as who can sign consents and releases? Some counties have delayed service to our youth due to not liking the way our minutes read or are redacted.*

Answer: County Policy may differ from State or Federal requirements in this area. Minute orders are not required by state law or regulation. The county placing agency, which has jurisdiction for the child/youth, is required to follow all applicable laws and regulations with respect to signed consents and ROIs. Therefore, the county MHP should accept these forms from the placing county without requiring additional information including minute orders from the court.

1. *How do we mitigate issues between unique county policies and what's required by the ACL? We're having issues where other counties just won't accept our court orders.*

Answer: County Policy may differ from State or Federal requirements in this area. Minute orders are not required by state law or regulation. The county placing agency, which has jurisdiction for the child/youth, is required to follow all applicable laws and regulations with respect to signed consents and ROIs. Therefore, the county MHP should accept these forms from the placing county without requiring additional information including minute orders from the court.

NOTE: Questions or concerns regarding this process can be directed to the CDSS Integrated Services Unit at CWScoordination@dss.ca.gov or (916) 651-6600, and to the DHCS Mental Health Services Division County Support Unit Liaison for your county. The current list can be found at: <http://www.dhcs.ca.gov/services/MH/Pages/CountySupportUnit.aspx>.

1. *One challenge has been obtaining appropriate consent for treatment and release of information forms from the placing county. Are there any efforts under way to develop a state-wide form to be used across counties?*

Answer: Yes, CWDA and CBHDA are working to collect all county MHP forms (consents and releases of information). Those forms will be posted online by early 2019. Please stay tuned for additional information.

**NOTIFICATION AND TRANSFER OF RESPONSIBILITY**

1. *The main clarification that would be most helpful is when the county of residence becomes responsible for payment, authorization, and provision of services, whether it goes back to the date of placement, or if it is depending on the date of notice, or even if it is depending on the date decided by the MHP in the county of residence (contingent on their requests for documentation, etc.).*

Answer:

* + The date of responsibility is based on the date of placement.
	+ Authorization is required to ensure payment.
	+ Treatment/services cannot begin until consents are signed.
	+ Mental health needs and goals must be coordinated through the CFT.
	+ All services must be listed in the Client Plan to be billable, other than unplanned services such as Crisis Intervention and Targeted Case Management.
	+ Additional documentation requests, while beneficial, must not hold up services.
1. *The issue is also that the MHP is not determining that they have “accepted” the presumptive transfer until their requests have been satisfied, and will only begin payment as of the date they “accept” the presumptive transfer. This is leaving providers in a situation where they are asking the placing agency for payment, and if we have an existing contract we of course have authorized payment, but if we don’t have an existing contract, that also leaves the placing agency in a difficult situation.*

Answer: See Answer to #6. A provider must have authorization by the MHP to provide the specific services for per child/beneficiary and have an agreed upon method of payment, to expect reimbursement for any services rendered. A provider may not be reimbursed for services provided without authorization. Policy differs in each county.

1. *For example, group home providers are demanding that presumptive transfer be addressed on the date of placement (not specifically waiver or transfer, just that it be determined), and if transfer is determined, they require the social worker call their access line the day of placement, otherwise they report the county of jurisdiction will* *not pay until the date of the call to access, which may leave the provider days short in payment for SMHS.*

Answer: Same as #7 above.

1. *Can you please address the effective date for when a transfer is effective in terms of providing and paying for services?*

Answer: Same as #7 above.

1. *If Host County does not receive the presumptive transfer notification, what is the host county's responsibility?*

Answer: Same as #7 above.

1. *Once a child is placed in the Host County. How many days does the host county have to link the child to mental health services?*

Answer: Same as #7 above.

1. *One of the reasons for a county to waive would be if transferring would disrupt continuity of care. If a county chooses not to waive and they place at an STRTP in our county that we don't contract with and it may disrupt care for us to provide MH services on an outpatient basis, can we question the transfer? How do we do that without being perceived as not accepting transfers?*

Answer: The receiving MHP of presumptive transfer is responsible to serve their new beneficiary. While the previous assessment must be accepted for medical necessity, beginning services and continued assessment may warrant a request for a CFT to address treatment and service needs.

1. *When presumptive transfer notice is sent by County of Jurisdiction, what is the effective date for payment, authorization, and provision of services? Does it go back to the date of placement, or if it is depending on the date of notice, or even if it is depending on the date decided by the MHP in the county of residence (contingent on their requests for documentation, etc).*

Answer: Same as #7 above.

1. *Is an update to the MEDS residence address a requirement for the county of residence MHP to accept a presumptive transfer, or can the notice in and of itself from the placing agency or probation with the youth’s address serve as verification of residence?*

Answer: Same as #7 above.

1. *Is Wraparound subject to Presumptive Transfer? What if there is a waiting list for a Wrap program in the residence county?*

Answer:

* Wraparound is not a Medi-Cal Specialty Mental Health Service (SMHS), so it is not subject to the Medi-Cal standards of access and medical necessity.
* Most Wraparound Programs are administered by county child welfare agencies and partnered MHPs to pair SMHS through contractual agreements with local providers. These programs often have specified contractual terms and conditions that may limit the number of children, youth and families who can be served. Wraparound programs may have waiting lists.
* Children and youth in the foster care system are entitled under federal and state law to medically necessary SMHS and must have access to such services without a waiting list, which is different than accessing a specific program.
1. *Challenges with encrypted email: Often when providing notice to the MHP POC, using the email address listed online, and sending encrypted due to confidential client info, the response is that they prefer documents to be faxed, as they have challenges opening the various encryption sites. Would it be possible for those counties that prefer fax notification to include that information on the POC list?*

Answer: This is a suggestion that we will pass on to CDSS and DHCS as a consideration.

**ASSESSMENTS**

1. *Don't MH plans have a certain number of days to complete their assessments once the youth starts to receive services?*

Answer: Each MHP sets their policies regarding the timelines of completion of the assessment. AB 1299 allows a host county the option to use the county of jurisdiction’s assessment.

1. *How old can an assessment be?*

Answer: Each MHP sets polices regarding the frequency of re-assessments.

1. *If a youth is placed out-of-county on an emergency basis and an assessment has not been completed, can the host county complete the assessment?*

Answer: Regardless of where a child’s emergency placement is located, a CFT should be held to inform the foster child’s needs and service recommendations, including whether the child could or should remain in that placement. If it is an out-of- county placement, then there should also be a recommendation as to presumptive transfer or waiver.

If it has not been determined whether the child will be presumptively transferred, but there is a perceived mental health service need, the MHP of jurisdiction (currently the responsible MHP) should conduct the assessment as soon as possible. The child should not have to wait for the assessment due to the presumptive transfer process.

Other than for children placed in a STRTP, if presumptive transfer has occurred, then the host county MHP (currently the responsible MHP) conducts the assessment.

If the child is placed in a STRTP, whether in or out of county, it is the county of jurisdiction’s responsibility to assess and determine medical necessity for a STRTP placement and need for SMHS.

If the child is placed in a setting out of county other than a STRTP, a CFT meeting should be convened to discuss the needs of the child and presumptive transfer or waiver.

**CHILD AND FAMILY TEAMS**

1. *Are all foster children required to have a CFT?*

Answer: The requirements for a CFT are specified in ACL 16-84 and MHSUDS 16-049, based on Welfare and Institution Code 706.6, 832 and 16501.1. The county placing agency is responsible for ensuring a CFT exists for the child or youth in foster care and for convening the CFT regardless of the residence of the child. The placing agency is required to convene a CFT meeting within 60 days of the child/youth coming into care. Please refer to the ACL and statute for further instructions concerning the requirements for convening a CFT.

1. *Is there an expectation that the receiving county be included in the CFT where placement is being decided?*

Answer: The CFT process informs placement decisions, the child or youth’s case plan including needed services and supports, and the mental health treatment plan. There are many factors that go into the placement decision which are driven by federal and state mandates, including but not limited to, preference for placement with relative caregivers, proximity to school of origin, placement of siblings together, and support for family reunification activities. The placement decision will typically include consideration of many of these factors. The decision to presumptive transfer, or waive the presumptive transfer, is a separate decision that considers whether the transfer will impact the delivery to or access to services and does not directly impact the placement decision. Therefore, while it may be helpful to include the host MHP in the CFT when placement decisions are being made, it is not expected. However, the jurisdiction MHP must assist the county placing agency (the jurisdiction county) to identify any specialty mental health

services needed by the child/youth and share any information with the host MHP necessary to ensure the child/youth receives needed services on a timely basis in the event the presumptive transfer is not waived.

1. *What if MEDS is not up to date, can the host county begin billing? Or should we wait until MEDS has been updated to link youth to services?*

Answer: MEDS does not reflect presumptive transfer or waiver. The MHP of responsibility can provide and bill Medi-Cal Specialty Mental Health Services at any time. The only change reflected in MEDS is when the placing agency updates the place of residence.

1. *I have received clarification verbally from DHCS on a TA call that MEDS residence address being updated is not a requirement for the county of residence MHP to accept a presumptive transfer, that the notice in and of itself from the placing agency with the youth’s address is verification of residence, however, it would be helpful for this to be clarified in writing for MHPs as it continues to be an issue. Updates in MEDS are not always able to be made within 2 days and this should not impact payment or responsibility of services.*

Answer: Correct, same as # 22 above.

1. *Should we wait until MEDS is updated to notify Host County?*

Answer: Same as #22 above – MEDS updates are not required for the presumptive transfer and notification of the host county.

1. *We're experiencing facilities that are making a completed Presumptive Transfer a requirement before they will accept placement. Can facilities require this?*

Answer: No. Providers may not make waivers, or the absence of waivers, a general condition of accepting placements. Such requests should be reported to DSS and DHCS immediately. The decision to transfer or waive the transfer is solely a decision of the county placing agency, or the court if the decision is contested. Facilities that are licensed as STRTPs are required to have a mental health contract to provide services, or otherwise ensure access to such services. If the facility does not have a mental health contract with the jurisdiction county MHP, the waiver may only be effectuated if the jurisdictional county has a contract in place, or the ability to execute a contract with a provider, within 30 days. This can also be accomplished through an individual service agreement between the jurisdiction county MHP and the facility. Otherwise, the presumptive transfer must occur.

1. How *does presumptive transfer affect cost coverage/billing for health-related services for foster care children with Medi-Cal?*

Answer: AB 1299 provisions only apply to specialty mental health services and do not impact health-related services. Therefore, existing rules and regulations apply. See WIC 14093.09 which requires the county child welfare agency with responsibility for the care and placement of the child to determine, in consultation with the child’s foster caregiver, if the child should remain in, or has enrolled in, a Medi-Cal managed care plan in the county where the child will be placed or in the county with responsibility for the care and placement of the child, as long as the department determines that enrollment is available for the child.

1. *Can we waive presumptive transfer without having a contract with the provider, but have our own county provider, like Wrap, continue to provide all MH services?*

Answer: Yes if the conditions and requirements of AB 1299 are met. Specifically, the waiver may be invoked if one of four conditions are met: (1) the transfer would disrupt continuity of care, or would delay the child or youth’ access to services; (2) the transfer would interfere with family reunification efforts documented in the child or youth’s case plan; (3) the child or youth’s placement outside of the county of jurisdiction is expected to last less than six months; or (4) the child or youth’s residence is within 30 minutes of travel time to his or her established SMHS provider in the county of jurisdiction. Also keep in mind that pursuant to ACL 18-80/MHSUDS 18-027, the county of origin MHP may continue to provide, and bill, for SHS even if there is a presumptive transfer. For example, to provide transition services as the child/youth is returning to their home county.

1. *Will there be reporting to the state on out of county placements with pending presumptive transfer evaluation or receipts of presumptive transfers*?

Answer: We are not aware of any reporting requirements at this time.

1. *If the county waives presumptive transfer due to the expectation that the child/youth will be in an STRTP for less than six months, but the child/youth stays longer, can the waiver be continued and under what circumstances?*

Answer: The waiver must be reviewed if the placement exceeds six months. Further, ACL 18-60/MHSUDS IN 18-027 states that “The decision to continue the waiver in this case is based on an exception to presumptive transfer other than the expectation that the placement will last less than six months.”

1. *Once a youth is placed out-of-county, is a new mental health assessment required?*

Answer: The jurisdiction county placing agency should ensure that a mental health screening of the child/youth has been completed and must ensure that all records are transferred, including any assessments. AB 1299 specifically requires that if the county MHP of jurisdiction has completed an assessment, the MHP in the host county must accept that assessment. The host county MHP may conduct additional assessments if the foster child’s needs change or an updated assessment is needed to determine the child’s needs and identify the needed treatment and services to address those needs. [WIC 14717.1(e)].

1. *We understand some counties are reaching out to STRTPs in neighboring counties, asking to contract for beds with those STRTP with plans to waive Presumptive Transfers. Is that an acceptable approach? We thought PT was to be assessed on a case by case basis?*

Answer: Yes, that is a proactive approach for counties to ensure seamless access to mental health services for youth placed out-of-county. While the presumptive transfer should still be assessed on a case-by-case basis, contracts with providers will enable the county to meet the conditions and requirements of AB 1299 if the decision is made to waive transfer.

1. *Have the psychiatric hospitals been educated on AB 1299? I ask because when a child is hospitalized on a 5150 hold, the hospital bills the county of origin and not the county of residence.*

Answer: No. The hospitals will likely continue to bill the county of origin, as they look up the County Code for billing. This highlights why it is so important to inform the County of Jurisdiction MHP and the Host County MHP of the Presumptive Transfer, as they will likely need to coordinate*.*

1. If our county initiates a PT to a host county, how do we know who the mental health plan's single point of contact is? Is there a state/county list?

Answer:
Yes please visit <http://www.cdss.ca.gov/County-Offices>.

Direct link to county lists:

[http://www.cdss.ca.gov/Portals/13/Users/036/36/36/Presumptive%20Transfer%20Points%20of%20Contact.pdf?ver=2018-10-12-153223-243](http://www.cdss.ca.gov/Portals/13/Users/036/36/36/Presumptive%20Transfer%20Points%20of%20Contact.pdf?ver=2018-10-12-153223-243\)

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