

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

December 19, 2023

FROM

GEORGINA YOSHIOKA, Director, Department of Behavioral Health

SUBJECT

Memoranda of Understanding for Managed Care Plans with Inland Empire Health Plan and Molina Healthcare of California, Inc. for Medi-Cal Mental Health and Substance Use Disorder Services

RECOMMENDATION(S)

1. Approve Memorandum of Understanding **Contract No. 23-1362** with Inland Empire Health Plan for the Managed Care Plan, for the provision of coordination of benefits of Medi-Cal Mental Health and Substance Use Disorder services for Medi-Cal eligible individuals, for the period of January 1, 2024 through December 31, 2026.
2. Approve Memorandum of Understanding **Contract No. 23-1363** with Molina Healthcare of California, Inc. for the Managed Care Plan, for the provision of coordination of benefits of Medi-Cal Mental Health and Substance Use Disorder services for Medi-Cal eligible individuals and if applicable, for treatment services for individuals with eating disorders, in a total amount not to exceed \$381,818, for the period of January 1, 2024 through December 31, 2026.
3. Authorize the Director of the Department of Behavioral Health to execute and submit any subsequent non-substantive amendments to the Memoranda of Understanding, on behalf of the County, subject to review by County Counsel.
4. Direct the Director of the Department of Behavioral Health to transmit all amendments in relation to the Memoranda of Understanding to the Clerk of the Board of Supervisors within 30 days of execution.

(Presenter: Georgina Yoshioka, Director, 252-5142)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Provide for the Safety, Health and Social Service Needs of County Residents.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

FINANCIAL IMPACT

This item does not impact Discretionary General Funding (Net County Cost). The Memoranda of Understanding (MOUs) delineates responsibilities between the Department of Behavioral Health (DBH) and Inland Empire Health Plan (IEHP) and Molina Healthcare of California, Inc. (Molina) for eligible services provided to Medi-Cal beneficiaries. The cost for the provision of eating disorders will be funded by the Mental Health Services Act and 1991 Realignment Funds. Adequate appropriation and revenue are included in the 2023-24 budget and will be included in future DBH recommended budgets.

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BACKGROUND INFORMATION

DBH, as San Bernardino County's (County) Mental Health Plan (MHP) and Drug Medi-Cal Organized Delivery System (DMC-ODS), is required by regulation (Title 9 of the California Code of Regulations Section 1810.370) and its Specialty Mental Health Services (SMHS) contract with the Department of Health Care Services (DHCS) to enter into MOUs with any Medi-Cal Managed Care Plan (MCP) operating within its county that enrolls Medi-Cal clients.

Currently, DBH works with the two MCPs (IEHP and Molina) operating within the county. DBH has had an MOU with both MCPs for over 20 years, with the purpose of ensuring that physical, SMHS and DMC-ODS delivered to Medi-Cal clients are coordinated. Both the MHP and MCPs develop and sustain a collaborative partnership for the coordination of SMHS and DMC-ODS to MCPs' members who meet medical necessity with DBH. The MCPs provide non-specialty mental health services while DBH provides SMHS and Substance Use Disorder (SUD) services through its network of care, which includes County clinics, Community Based Organizations, and fee for service providers, as the only system of care providing SMHS and DMC-ODS within the county.

DBH currently serves an average of 13,969 IEHP members per month and serves an average of 1,594 Molina members per month.

The MOUs are intended to clarify roles and responsibilities between MHPs and MCPs, support local engagement, facilitate care coordination and the exchange of information necessary to improve care coordination, and improve referral processes between the parties. The overall goal is to improve care coordination for enrolled Medi-Cal clients and protect and promote the behavioral health of the general population by providing and arranging appropriate services to MCP clients.

The MOU with Molina includes the provision for treatment and coordination for a small percentage of members/clients identified as having a severe eating disorder. DBH will collaborate with Molina to address the eating disorder needs of these clients as eating disorders overlap in treatment responsibility. Because a portion of the eating disorders are a covered diagnosis for treatment by DBH, and the clients need outpatient SMHS after the eating disorder services, DBH will work collaboratively with Molina to determine the appropriate level of care and reimburse Molina 50% of the costs for the eating disorder treatment services.

This is the first year the DHCS issued templates to the counties and managed care plans for use. Deviation of the template requires the review and approval by DHCS. The MOUs with IEHP and Molina omit certain County standard terms. The missing terms include the following:

1. The MOUs do not prohibit IEHP or Molina from assigning the MOUs without the County's prior approval.
 - The County standard contract requires that the County must approve any assignment of a contract.
 - Potential Impact: IEHP or Molina could assign the MOUs without the County's knowledge to a third party or business that the County is legally prohibited from doing business with due to issues of Federal debarment or suspension.
2. There is no stated venue in the MOUs.

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- County Policy 11-05 requires the venue for disputes be in the Superior Court of California, County of San Bernardino, San Bernardino District.
 - Potential Impact: IEHP is located in the county and therefore any legal dispute would generally be required to be filed in the county courts, but Molina is not located in the county and any legal dispute could be filed in a different county; in any event, the MOUs could also be assigned to a third party without the County's consent, which may result in any legal disputes with the new entity having venue in a different court resulting in additional expenses to the County.
3. The MOUs do not require IEHP or Molina to indemnify the County, as required by County Policies 11-05 and 11-07.
- The County standard contract requires that the contractor agrees to indemnify, defend, and hold the County harmless from third party claims arising out of the acts, errors, or omissions of any person.
 - Potential Impact: IEHP and Molina are not required to defend, indemnify or hold the County harmless from any claims, including indemnification for claims arising from IEHP or Molina's negligent or intentional acts, which could lead to additional expenses for the County.
4. The MOUs do not require IEHP or Molina to meet the County's insurance standards (except for cyber liability insurance with Molina) as required pursuant to County Policies 11-05, 11-07 and 11-07SP.
- County policy requires contracts to carry appropriate insurance at limits and under conditions determined by the County's Risk Management Department and as set forth in County policy and the County standard contract.
 - Potential Impact: The County has no assurance that IEHP or Molina will be financially responsible for claims that may arise under the MOUs, which could result in expenses to the County that exceed the total MOU amounts.
5. The MOUs do not contain a termination for convenience provision.
- The County standard contract gives the County the right to terminate the contract, for any reason, with a 30-day written notice of termination without any obligation other than to pay amounts for services rendered and expenses reasonably incurred prior to the effective date of termination.
 - Potential Impact: The MOUs do not allow the County to terminate the MOUs for any reason and therefore the County may be limited to terminating the MOUs for a material breach of the agreement by either IEHP or Molina.

Approval of Recommendations No. 2 and No. 3 allows for the delegation of authority to the Director of DBH to execute and submit any subsequent non-substantive amendments to the MOUs, on behalf of the County, subject to review by County Counsel. This action will allow DBH to expeditiously respond to changes in regulations/programs of Medi-Cal SMHS and SUD services in order to quickly meet the needs of mutual clients.

PROCUREMENT

Not applicable.

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REVIEW BY OTHERS

This item has been reviewed by Behavioral Health Contracts (Ellayna Hoatson, Contracts Supervisor, 388-0858) on November 29, 2023; County Counsel (Dawn Martin, Deputy County Counsel, 387-5455) on December 1, 2023; Risk Management (Victor Tordesillas, Director, 386-8623) on December 5, 2023; Finance (Christopher Lange, Administrative Analyst, 386-8393) on December 4, 2023; and County Finance and Administration (Cheryl Adams, Deputy Executive Officer, 388-0238) on December 4, 2023.

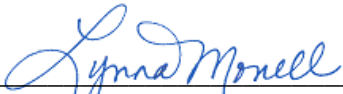
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Curt Hagman Seconded: Col. Paul Cook (Ret.)
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: December 19, 2023



cc: DBH - Yoshioka w/agrees
Contractor c/o DBH w/agree
File - w/agree

MA 01/3/2024