

June 28, 2024

ALL COUNTY LETTER (ACL) NO. 24-43
BEHAVIORAL HEALTH INFORMATION NOTICE (BHIN) NO. 24-025
SUPERSEDES: ACL NO. [19-94](#) / BHIN NO. [19-041](#)

TO: ALL ADOPTION REGIONAL OFFICES
ALL CHIEF PROBATION OFFICERS
ALL COUNTY ADOPTION AGENCIES
ALL COUNTY WELFARE DIRECTORS
ALL FOSTER FAMILY AGENCIES
ALL GROUP HOME PROVIDERS
ALL TITLE IV-E AGREEMENT TRIBES
COUNTY BEHAVIORAL HEALTH PROGRAM DIRECTORS'
COUNTY DRUG & ALCOHOL ADMINISTRATORS
COUNTY BEHAVIORAL HEALTH DIRECTORS ASSOCIATION OF CALIFORNIA
COUNTY WELFARE DIRECTORS' ASSOCIATION OF CALIFORNIA
CHIEF PROBATION OFFICERS OF CALIFORNIA
CALIFORNIA STATE ASSOCIATION OF COUNTIES
CALIFORNIA COUNCIL OF COMMUNITY BEHAVIORAL HEALTH AGENCIES
COALITION OF ALCOHOL AND DRUG ASSOCIATIONS
CALIFORNIA ASSOCIATION OF ALCOHOL & DRUG PROGRAM EXECUTIVES, INC.
CALIFORNIA ALLIANCE OF CHILD AND FAMILY SERVICES
CALIFORNIA OPIOID MAINTENANCE PROVIDERS

SUBJECT: PRESUMPTIVE TRANSFER RELATED TO CHILDREN AND YOUTH IN FOSTER CARE PLACED IN OUT-OF-COUNTY SHORT-TERM FACILITIES

PURPOSE: This BHIN and ACL provides county Mental Health Plans (MHPs) and placing agencies (county child welfare agencies and juvenile probation departments and Tribes with a IV-E agreement) with information and guidance regarding implementation of [Assembly Bill \(AB\) 1051](#) (Bennett, Chapter 402, Statutes of 2022), which made changes to presumptive transfer requirements.

REFERENCE: [Welfare and Institutions \(W&I\) Code sections 14714, 14717.1, 14717.2, 14717.25, and 14717.26](#); [ACL 17-77/MHSUDSIN 17-032](#), and [ACL 18-60/MHSUDSIN 18-027](#).

BACKGROUND:

[AB 1299](#) (Ridley-Thomas, Chapter 603, Statutes of 2016), effective July 1, 2017, added [W&I Code section 14717.1](#), which established presumptive transfer, requiring that when a child or youth in foster care is placed outside of their county of original jurisdiction, the responsibility to provide or arrange and pay for that child or youth's Specialty Mental Health Services (SMHS) transfers from the MHP in the county of original jurisdiction to the MHP in the county where the child or youth resides (also referred to as the "county of residence"). On a case-by-case basis, and when consistent with the medical rights of children and youth in foster care, presumptive transfer may be waived so that responsibility for the provision of and payment for SMHS remains with the county of original jurisdiction. Presumptive transfer is intended to ensure that children and youth in foster care who are placed outside of their county of original jurisdiction are able to access SMHS in a timely manner, consistent with their individual strengths and needs, and the requirements of federal Early and Periodic Screening, Diagnostic, and Treatment services.¹

[AB 1051](#) (Bennett, Chapter 402, Statutes of 2022) added [W&I Code sections 14717.2, 14717.25, and 14717.26](#), with an implementation date of July 1, 2023, which was later amended by [AB 118](#) (Ch. 42, § 161) to change the implementation date to July 1, 2024.

Through [AB 1051](#), the Legislature declared that because certain residential placements are intended to be short term and specified admissions are intended to be time-limited based on medical necessity, the responsibility to provide and arrange for SMHS for children in such placements or admissions shall remain with the county of original jurisdiction, and that out-of-county placements or admissions should not disrupt continuity of care or adversely impact timely payment to providers. ([W&I Code § 14717.2\(a\)\(3\) and \(4\)](#).) [AB 1051](#) also includes provisions that address notifications, payment provisions, and data reporting. ([W&I Code §§ 14717.1, subd. \(f\)\(2\), 14717.25, and 14717.26](#).)

POLICY:

CHANGES TO PRESUMPTIVE TRANSFER APPLICABILITY

[AB 1051](#) modifies the conditions and requirements for presumptive transfer when a child or youth in foster care is placed in certain out-of-county residential settings. Effective July 1, 2024, when a child or youth is placed outside of their county of original

¹ [W&I Code section 14717.1, subd. \(a\)\(2\)](#)

jurisdiction into a community treatment facility (CTF), group home (GH), or short-term residential therapeutic program (STRTP) or admitted to a children's crisis residential program (CCRP), the responsibility to provide or arrange and pay for SMHS shall remain with the MHP in the county of original jurisdiction unless specific circumstances exist (as described below).

The requirements for presumptive transfer, as described in [W&I Code section 14717.1](#) and [ACL 17-77/MHSUDS IN 17-032](#), continue to apply when children and youth in foster care are placed outside of their county of original jurisdiction with relatives, including non-related extended family members², resource families in Therapeutic Foster Care homes, or in any other setting not identified above³

Pursuant to [W&I Code section 14717.2](#), for placements or admissions commencing on or after July 1, 2024, the MHP in the county of original jurisdiction of a child or youth in foster care shall retain responsibility to provide or arrange, and pay for, SMHS if the child or youth in foster care is placed out of the county of original jurisdiction in a CTF, GH, or STRTP, or is admitted to a CCRP, unless either of the following circumstances exist:⁴

1. The child or youth's case plan specifies that the child or youth will transition to a less restrictive placement in the same county as the facility in which the child has been placed or admitted; or
2. The placing agency determines, as informed by the Child and Family Team (CFT), that the child or youth will be negatively impacted if responsibility for providing or arranging for SMHS is not transferred to the same county as the facility in which the child has been placed or admitted. The placing agency shall document the basis for making this determination in the case record.

If either circumstance described above exists at any time during a child or youth's placement in an out-of-county CTF, GH, STRTP, or admission to a CCRP, the process for presumptive transfer set forth in [W&I Code section 14717.1](#) shall apply, and the responsibility to arrange and provide SMHS will transfer to the MHP in the county of residence.⁵

² See [Tribal information exchange page 2](#)

³ As described in [W&I Code Section 14717.1](#) and in [ACL 17-77/MHSUDSIN 17-032](#) and [ACL 18-60/MHSUDSIN 18-027](#);

⁴ [W&I Code, § 14717.2\(b\)\(1\)-\(2\)](#).

⁵ [W&I Code section 14717.2\(c\)](#)

Presumptive transfer requirements only pertain to children or youth who are in foster care. Children and youth who receive assistance under the Kinship Guardianship Assistance Payment Program (Kin-GAP) or who receive assistance under the Adoption Assistance Program (AAP) are no longer dependents of the court and are not in foster care, nor subject to court supervision, and are therefore not subject to the provisions of [W&I Code section 14717.1&14717.2](#).⁶

PLACING AGENCY NOTIFICATION AND DOCUMENTATION REQUIREMENTS

1. Prior to placing a child or youth in an out-of-county CTF, GH, STRTP, or admitting a child or youth to an out-of-county CCRP, placing agencies shall notify the MHP that will be responsible for providing, arranging, and paying for their SMHS of the child or youth. The placing agency may make this notification through e-mail.⁷

The placing agency should confirm with the responsible MHP that the communication was received. Strong communication and collaboration between the responsible MHP and the placing agency is critical to ensure that the child or youth in foster care receives timely SMHS. In the case of an Indian child, the placing agency shall provide information to the child's tribe about which MHP is responsible for arranging and paying for SMHS for the child.

2. If notification before placement is not possible, the placing agency shall notify the appropriate MHP no later than three (3) business days from the date the child or youth arrives at the facility.

These notification responsibilities are consistent with the notifications required for placing agencies in [ACL 17-77/MHSUDS IN 17-032](#). As described in the aforementioned guidance, as counties implement procedural steps for presumptive transfer, they should identify a single point of contact or unit and have a dedicated phone number and/or e-mail address for the MHP and placing agencies. In addition to posting the contact information to a public website to ensure timely communication.

⁶ For children and youth who receive assistance under Kin-GAP, the county of original jurisdiction continues to retain responsibility for authorizing and reauthorizing, and paying for, SMHS under the provisions of [SB 785 \(W&I Code §11376\)](#). For children and youth who receive assistance under AAP, the MHP in the county of residence of the child or youth's adoptive parents is responsible for providing SMHS and the MHP of the county of original jurisdiction retains responsibility for authorizing and reauthorizing, and paying for, SMHS under the provisions of [\(W&I Code §16125\)](#).

⁷ [W&I Code, § 14717.2, subd. \(d\)\(1\)-\(2\), \(f\)](#).

3. The placing agency shall document in the case record which MHP is responsible for providing or arranging and paying for the SMHS of the child or youth who is placed outside of their county of original jurisdiction into one of the above-specified facilities.

FACILITY NOTIFICATIONS

Upon accepting placement or admission of a child or youth in foster care from another county, a CTF, GH, STRTP, or CCRP may notify the MHP responsible for arranging or providing SMHS that a child or youth has been placed in their facility. It is a best practice for the facility to notify the MHP responsible for arranging or providing SMHS as soon as possible upon accepting the placement or admission of a child or youth in foster care from another county.

MHP RESPONSIBILITIES

If the responsibility for providing or arranging and paying for SMHS for a child or youth placed in an out-of-county CTF, GH, STRTP, or CCRP is not transferred in accordance with Sections [14717.1](#) and [14717.2](#), the MHP in the county of original jurisdiction and the SMHS provider may choose one of the following agreed-upon options to ensure timely provision and payment of SMHS:⁸

1. Utilize an existing contract between the MHP in the county of original jurisdiction and the SMHS provider for payment of services within a mutually agreed upon timeframe.
2. Establish a contract for payment between the MHP in the county of original jurisdiction and the SMHS provider for one or multiple children or youth in foster care within a mutually agreed upon timeframe.
3. If neither option 1) or 2) is available, the MHP in the county of original jurisdiction shall make payment to the SMHS provider or shall reimburse the MHP in the county of residence through an agreement between the two MHPs.
 - a. If reimbursement will occur between the two MHPs, the MHP in the county of original jurisdiction and the MHP in the county of residence shall enter into the agreement for payment of services within 30 days of notice, by either the placing agency or the placement provider, of the out-of-county placement.

⁸ [W&I Code, § 14717.25, subd. \(b\)-\(c\).](#)

EXPECTATIONS FOR COLLABORATION

County placing agencies are obligated to follow the CFT process and convene CFT meetings per [W&I Code §16501\(a\)\(4\)](#). The placing agency and MHP, and all involved entities must coordinate to ensure that there is a single CFT for each child or youth and their family.⁹

The placing agency may include in a CFT meeting the MHP of the receiving county where the facility is located. Presumptive transfer must be discussed by the CFT in situations in which a child or youth is to be placed outside the county of original jurisdiction. In the case of an Indian child, the tribe is a required member of the CFT and must be consulted for placement decisions. The use of an effective CFT process is especially important when youth's mental health and child welfare services are coordinated an out-of-county placement is being considered because the CFT can ensure the child or youth's mental health and child welfare services are coordinated.

The intent of presumptive transfer is to ensure children or youth in foster care placed outside of their counties of original jurisdiction receive timely access to medically necessary SMHS. Delays or disruptions in care may occur if the placing agency and MHP understand presumptive transfer's purpose differently, or there is confusion regarding roles and responsibilities. As such, DHCS and CDSS remind MHPs and placing agencies that, consistent with Children and Youth System of Care Memoranda of Understanding, and [California's Integrated Core Practice Model](#) (ICPM) practices, MHPs and county placing agencies have a shared responsibility to ensure children, youth, and families are engaged and involved in the decision-making process via the CFT and, for CTF, GH, STRTP, or CCRP, via the Interagency Placement Committee. To this end, DHCS and CDSS expect placing agencies and MHPs to collaborate and communicate with all CFT members to meet the specific behavioral health needs of children or youth prior to implementing a recommendation from the CFT for any placement in a CTF, GH, STRTP or admission into a CCRP. This includes active efforts to collaborate with tribal representatives and ensuring access to culturally responsive care and appropriate resources when working with Indian children and their families. In the case of an Indian child, it is vital to include the tribe in these discussions.

To meet their obligations to have an appropriate network of providers and provide timely access to SMHS, MHPs shall be proactive by establishing contracts with CTFs, STRTPs, and CCRPs where children or youth in foster care from their counties are typically placed or admitted. MHPs should know the options available to allow them to enter into a contract quickly with an out-of-county SMHS provider. MHPs should also

⁹ [MHP Contract, Exh. A, Att. 2, para. 2 \(A\)\(10\)](#) requires MHPs to provide medically necessary Intensive Care Coordination, which includes CFT meetings.

have policies and procedures to arrange and pay for SMHS within their timely access requirements (e.g., individual case agreements, single service agreements, or other payment agreements).

DATA REPORTING REQUIREMENTS

[AB 1051](#) added [W&I Code Section 14717.26\(b\)](#), which requires DHCS and CDSS to collect data on the receipt of SMHS by children and youth in foster care that are placed out-of-county and include it on the DHCS Medi-Cal SMHS performance dashboard. The data shall include:

1. The number of children or youth in foster care that are placed out-of-county.
2. The number of children or youth in foster care that are placed out-of-county who receive SMHS.
3. For children or youth in foster care that are placed out-of-county and receive SMHS, the number for whom the county of original jurisdiction is responsible and the number for whom the county of residence is responsible for that provision or arrangement.

More information and resources regarding Presumptive Transfer can be found at CDSS's [presumptive transfer](#) page or by sending an e-mail to PresumptiveTransfer@dss.ca.gov.

Questions regarding SMHS for children or youth in foster care may be directed to: CountySupport@dhcs.ca.gov. Technical assistance and support for County Behavioral Health departments can be found at DHCS' [County and Provider Monitoring](#) page.

Sincerely,

Original signed by

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