



California's Protection & Advocacy System
Toll-Free (800) 776-5746

Getting Medi-Cal Outpatient Specialty Mental Health Services

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I was told that I need Medi-Cal specialty mental health services. What are specialty mental health services?

Specialty mental health services are services that are provided by mental health specialists, such as psychiatrists, psychologists, licensed clinical social workers (LCSWs), licensed marriage and family therapists (MFTs), psychiatric technicians, or peer support providers. Your primary care physician or other physical health care provider can also provide mental health services to you if you both agree. However, these are not considered to be specialty mental health services.

How are Medi-Cal specialty mental health services provided?

Specialty mental health services are provided to Medi-Cal beneficiaries through Medi-Cal Mental Health Plans (MHPs). All of the MHPs are part of county mental health or behavioral health departments. The MHP can provide services through its own employees, or through contract providers.

What are the specialty mental health services that I am entitled to?

You are entitled to a specialty mental health service if the service is **both a covered** service under the Medi-Cal program, **and is medically necessary** for you. **Covered** services are provided **only if** they are **also medically necessary**.

Which specialty mental health services are covered under Medi-Cal?

Outpatient specialty mental health services are **covered** under Medi-Cal if they are on the following list.

1. Mental health services, which include:
 - A. assessment
 - B. plan development
 - C. therapy (either group or individual)
 - D. rehabilitation (either group or individual)
 - E. collateral services (such as training or counseling for family members or significant others), and
 - F. case management (personal services coordination)
2. Medication support services
3. Day treatment intensive
4. Day rehabilitation
5. Crisis intervention
6. Crisis stabilization
7. Adult residential treatment services
8. Crisis residential treatment services
9. Psychiatrist (physician) services
10. Psychologist services
11. EPSDT (Early and Periodic Screening, Diagnosis and Treatment) supplemental specialty mental health services for individuals under age 21
12. Targeted case management (personal services coordination)

The complete description of these covered services can be found in the Medi-Cal regulations at Title 9, California Code of Regulations (CCR) beginning with section 1810.100.

Inpatient hospital services are also covered under Medi-Cal. Only outpatient services are discussed in this memo.

What does “medically necessary” mean?

A service is medically necessary if you need it in order to address your particular mental health condition. To be more specific, a service is medically necessary if it is focused on addressing a functional impairment which is the result of a diagnosed mental disorder. Even if a service is medically necessary for you, it must also be a covered service under the Medi-Cal program in order for you to be entitled to it.

There are four parts to the medical necessity criteria:

1. You must have a **diagnosis** of at least one of the mental disorders listed in the regulations.
2. You must have an **impairment**, as a result of the disorder, that affects your ability to function individually or in the community.
3. The **intervention** (the mental health service that you need) must be focused on addressing the impairment.
4. The intervention must meet specialty **mental health service criteria**. This means that you must have a condition that would not be responsive to treatment by a physical health care provider. (In other words, a provider who does not provide specialty mental health services.)

If you are under age 21, and your condition does not meet the medical necessity criteria above, you are still entitled to EPSDT (Early and Periodic Screening, Diagnosis and Treatment) supplemental specialty mental health services that are necessary to correct or ameliorate mental illnesses and conditions.

The complete definition of medical necessity for outpatient specialty mental health services is found in the Medi-Cal regulations at Title 9 CCR sections 1830.205, 1830.210, and Title 22 CCR section 51340(e) and (f).

How do I get Medi-Cal specialty mental health services?

You must request the service from your county’s Medi-Cal MHP, i.e., the county mental health or behavioral health department. If you are not getting services now, you can call the MHP’s access line and ask for an

assessment. See the California Department of Mental Health Website for a list of MHP access line toll-free telephone numbers. The list is available at this link: <http://www.dmh.ca.gov/docs/CMHDA.pdf>.

Services must be provided to you when you need them. This means that you cannot be placed on a waiting list for services. It also means that you cannot be told to call back later because all of the appointment slots have been filled. You should at least get an assessment of your need for services. This usually consists of at least three appointments.

What can I do if the county turns me away, puts me on a waiting list, denies my request for a particular service, reduces or stops giving me services I am getting now, or does something else I disagree with?

The possibilities are:

1. Filing an **appeal** with the county Medi-Cal MHP;
2. Filing a request for **fair hearing** (state hearing) with the California Department of Social Services; or
3. Filing a **grievance** with the county Medi-Cal MHP.

What's the difference between an appeal, a fair hearing and a grievance?

You can file an **appeal** with the county Medi-Cal MHP if:

- a) Your request for a Medi-Cal specialty mental health service is denied or delayed.
- b) The county MHP wants to reduce, suspend, or terminate a service that you are getting now.

If you are dissatisfied with the appeal decision, you can request a **fair hearing** (state hearing) from the California Department of Social Services.

For any other complaints you may have, you can file a **grievance** with the county Medi-Cal MHP. For example, you can file a grievance if you are unhappy with the quality of Medi-Cal covered care you receive through

your county Medi-Cal MHP. You can also file a grievance if the MHP has not decided your appeal within 45 days (or within 3 days for an expedited appeal).

However, if a mental health service is denied, delayed, reduced, suspended or terminated, you must file an appeal with the MHP, rather than a grievance. If you are dissatisfied with the appeal decision, you could then request a fair hearing.

Can I keep getting my mental health services while I am waiting for my appeal or fair hearing?

Yes. You can continue to get the services that you are getting now until your appeal is decided, or until you have a fair hearing. This is called “aid paid pending” or “aid pending.” It means you will continue to get aid (or services) at the current level “pending” the appeal decision or “pending” the fair hearing.

To get “aid paid pending,” you usually must request an appeal **before** the reduction, suspension or termination of services is scheduled to take effect.

However, there are exceptions. See the sections on appeals and fair hearings below for a discussion of the exceptions.

How do I file an appeal?

You can file an appeal orally or in writing. You file the appeal with the county Medi-Cal MHP, that is, the county mental health or behavioral health department. If you file an appeal orally, the MHP can request that you follow up your appeal with a written and signed appeal. You can get help from the MHP in filing the appeal. The MHP and each of its contract providers should have information on how to file an appeal. This includes a poster in the waiting room, appeal forms, and self-addressed envelopes so that you can send the appeal form to the MHP.

You must file your appeal within 90 days of the denial, delay, suspension, reduction or termination of the service. You can file an appeal whether or not you got a written notice of action.

You can file an expedited appeal if the standard appeal time would seriously jeopardize your life, health, or ability to attain, maintain, or regain maximum function. An oral request for an expedited appeal does not need to be followed by a written appeal.

Your provider or someone else acting on your behalf, such as a relative, friend, attorney, advocate, or any other person can also request an appeal or fair hearing for you if you consent.

What happens after I file an appeal?

The county Medi-Cal MHP must acknowledge your request in writing. The MHP must also explain the roles and the responsibilities of the MHP, the provider, and you.

If you are getting services now, you can continue to get the services at the same level pending the decision on your appeal. (Aid paid pending.) To get “aid paid pending,” you usually must request an appeal **before the reduction, suspension or termination of services is scheduled to take effect.**

- a) If you got a written notice of action, you should have at least 10 days before the reduction, suspension or termination takes effect to file your appeal.
- b) However, if the notice was sent late, you have at least 10 days from the date of the notice to file your appeal and get aid paid pending.
- c) If you did not get a written notice at all, but you should have, you can ask for aid paid pending at any time before or during an appeal or fair hearing.

The person deciding the appeal must be a person who was not involved in reviewing or making a decision on the matter at issue in your appeal. If the decision is clinical in nature, the person must be a health care professional with the appropriate clinical expertise in treating your condition.

The appeal process is informal. However, you have the right to present evidence either in person or in writing. You also have the right to review your case file and any other records having to do with your appeal. You

can review your case file and other records at any time before or during the appeal process.

The MHP must provide a written decision on your appeal:

1. Within 45 days, or
2. Within 3 working days for an expedited appeal.
3. These deadlines can be extended for up to 14 days if you request the extension or if the MHP needs additional information and shows that the delay is in your interest.

For an expedited appeal, the MHP also must make an effort to give you oral notice of the decision.

The written decision will tell you:

- a) The outcome of the appeal.
- b) Information on your right to a Medi-Cal fair hearing and the procedure for filing for a fair hearing (if the decision is not fully favorable to you).
- c) Information on how to get aid paid pending the fair hearing.

How do I request a fair hearing?

You can request a Medi-Cal fair hearing orally or in writing. You request a hearing by contacting the California Department of Social Services (CDSS). The CDSS toll-free telephone number is: 1-800-952-5253. (TDD: 1-800-952-8349.) You can request a hearing even if you received no notice of action. You can request a hearing if:

- a) You are dissatisfied with the MHP's Appeal or Expedited Appeal decision.
- b) You are dissatisfied with any action or inaction of the MHP or any person or organization acting on behalf of the MHP (such as MHP contract providers) relating to your claim for Medi-Cal specialty mental health benefits.

Note that the MHP's Appeal process must be completed before you can request a Fair Hearing. Generally, any review of the original decision by the MHP will be considered to be a completion of the review process.

You must request a hearing within the following time limits:

1. Within 10 days of receipt of the written appeal decision, in order to continue aid paid pending the hearing.
2. Otherwise, within 90 days of receipt of the written appeal decision.

Someone else acting on your behalf, such as a relative, friend, attorney, advocate, or any other person can also request an appeal or fair hearing for you, and can represent you at the fair hearing, if you consent.

What happens after I request a fair hearing?

You will receive a written acknowledgement of your request for fair hearing. You and the county Medi-Cal MHP will receive written notice of the time and place of the hearing at least 10 days in advance. The fair hearing should occur within 30 working days of your request.

You will also receive written notice of the name, address and telephone number of the individual who will represent the MHP at the hearing. It's a good idea to contact the MHP representative before the hearing to see if you can resolve the matter. Also, the MHP representative will prepare a position statement to be presented at the hearing. This position statement will explain why the MHP took the action that it took. You are entitled to see a copy of this position statement at least two (2) days before the hearing. You can write your own statement if you want and present it at the hearing, but you are not required to do this.

The fair hearing will be held before an administrative law judge (ALJ) who is an employee of the California Department of Social Services. You may appear at the hearing on your own or with a representative, such as a relative, friend, advocate, attorney, or any other person. The hearing will cover the same issues as the appeal.

The hearing is informal and is conducted in a way to encourage free and open discussion. However, the ALJ will place witnesses under oath and will tape record the hearing. The tape recording helps the ALJ with the review of oral testimony, and also provides a record of the oral testimony in case you have to appeal the hearing decision.

You have the right to present evidence, and to subpoena witnesses. You also have the right to review your case file and records at or before the hearing.

If you are receiving aid paid pending, the ALJ will decide at the hearing whether to continue aid pending the hearing decision. The ALJ will continue aid paid pending if your claim involves a question of fact, rather than a question of law.

A written hearing decision must be made within 90 days of your request for hearing.

Either you or the MHP may file a request for rehearing if either you or the MHP is dissatisfied with the final decision. The request must be made within 30 days of receipt of the fair hearing decision.

If you want to appeal the fair hearing decision, you must file an appeal with the Superior Court within one year of the date of the hearing decision. Requesting a rehearing does not extend the time to file an appeal with the Superior Court.

How do I file a grievance?

You can file a grievance orally or in writing. You file the grievance with the county Medi-Cal MHP, that is, the county mental health or behavioral health department. You can get help from the MHP in filing the grievance. The MHP and each of its contract providers should have information on how to file a grievance. This includes a poster in the waiting room, grievance forms, and self-addressed envelopes so that you can send the grievance form to the MHP.

What happens after I file a grievance?

The county Medi-Cal MHP must acknowledge your request in writing. The MHP must also explain the roles and the responsibilities of the MHP, the provider, and you. (Title 9, CCR, § 1850.205(d)(4)&(5)).

The person deciding the grievance must be a person who was not involved in reviewing or making a decision on the matter at issue in your grievance. If the decision is clinical in nature, the person must be a health care professional with the appropriate clinical expertise in treating your condition.

The Medi-Cal MHP must provide you with a written decision on your grievance:

1. Within 60 days.
2. This deadline can be extended for up to 14 days if you request the extension or if the MHP needs additional information and shows that the delay is in your interest.

If your grievance is due to the failure of the MHP to decide your appeal within 45 days (3 days for an expedited appeal) the MHP must also give you notice of your right to request a fair hearing.

When is a written Notice of Action required?

Written notice of action must be given under the following circumstances:

1. The county Medi-Cal MHP, or one of its providers, determines that you are not entitled to any specialty mental health services because:
 - a. **Diagnosis criteria** – You do not have a covered mental health diagnosis;
 - b. **Impairment (functional limitation) criteria** – Your mental health condition does not cause a significant impairment, or reasonable probability of significant deterioration, in an important area of life functioning;

- c. **Intervention criteria** – Specialty mental health services are not likely to help you maintain or improve your mental health condition; or
 - d. **Specialty mental health service criteria** – Your mental health condition would be responsive to treatment by your physical health care provider.
2. A determination by the county Medi-Cal MHP, rather than your provider, that a particular specialty mental health service is not medically necessary for you.
 3. A reduction, suspension or termination of a Medi-Cal service by the county Medi-Cal MHP. This includes a modification of a provider's request for prior authorization.
 4. A failure by the county Medi-Cal MHP to act within the timeframes for resolution of grievances, appeals, or expedited appeals.

A written notice of action is not required when your provider determines that a covered service is not medically necessary for you in a particular situation. However, a written notice of action is required if your provider determines that the service you need is not covered by Medi-Cal.

What information must the Notice of Action contain?

A notice of action is a written notice to a Medi-Cal beneficiary that contains the following information:

- a. The action taken by the county Medi-Cal MHP on your claim for Medi-Cal services. (The claim for services is usually made by your provider on your behalf.)
- b. The reason for the action, including the specific regulations relied on by the MHP in taking the action.
- c. Your right to request an appeal or fair hearing.
- d. How to request an appeal or fair hearing.

What if I did not get a written notice of action?

You can still file an appeal, request a fair hearing, or file a grievance even if you did not get a written notice of action.

Where can I get more information?

Contact us at Disability Rights California if you would like assistance in getting mental health services. Our contact information is at the top of this memo.

There is also useful information on the California Department of Mental Health (DMH) website. Here is the link to the home page:

www.dmh.ca.gov.

Here is a contact list for county mental health departments:

<http://www.dmh.ca.gov/docs/CMHDA.pdf>. The list also contains websites for county mental health departments.

The DMH Ombudsman may also be able to help, especially with contacting the county mental health department or with getting you services right away. The Ombudsman's telephone number is: 1-800-896-4042, or 1-916-654-3890. (TTY: 1-800-896-2512.) The Ombudsman's website is:

http://www.dmh.ca.gov/Services_and_Programs/Quality_Oversight/Medi-Cal_Ombudsman.asp.

Medi-Cal specialty mental health regulations can be found at this link:

http://www.dmh.ca.gov/Laws_and_Regulations/docs/FinalRegsText_CLEA_R_06Jun27.pdf.

Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.