State of California—Health and Human Services Agency
Department of Health Care Services

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PPL No. 10-007

TO: Local Governmental Agency (LGA) Coordinators for
County-Based Medi-Cal Administrative Activities (CMAA)

SUBJECT: Certified Public Expenditure (CPE) Requirements for
Federal Financial Participation (FFP) for CMAA

This Policy and Procedure Letter (PPL) clarifies existing requirements and additional legislation for Federal claiming for CMAA.

This PPL clarifies CPE requirements that have been in effect for many years. This PPL also supersedes PPL 05-005, PPL 98-004, and PPL 98-023. To the extent that PPL 98-004 and PPL 98-023 are inconsistent with the general requirements for CPE outlined in the "General Overview" section, below, PPL 98-004 and PPL 98-023 are no longer operative for any purposes. Although the general requirements for the use of CPE in the CMAA and Targeted Case Management (TCM) programs are the same, the Department of Health Care Services (DHCS) has issued PPL 08-006 for TCM to reflect differences in the ways that these programs operate.

Assembly Bill (AB) 2527 (2009), Chaptered September 27, 2008, amended §14132.44 and §14132.47 of the Welfare and Institutions (W&I) Code to clarify a number of the provisions in these sections that govern the CMAA program.

Background

In 2003, auditors from the Federal Centers for Medicare & Medicaid Services (CMS) found that "some of the counties participating in TCM may be using private funds as the State's share of the payments" (letter to the State dated November 17, 2003). This finding refers to claims for TCM services from LGAs that contract with private community-based organizations (CBOs) where the expenditure certified by the LGA was made by the CBO and not by the LGA. Because of this audit finding, CMS has deferred over $35 million in reimbursements for TCM. If CMS ultimately disallows these claims, DHCS would be required to recoup these overpayments from the LGAs in question.

Both the CMAA and the TCM programs are reimbursed based on CPE requirements. CMAA claims reimbursement for administrative activities, while TCM claims reimbursement for services. Because of the claiming similarities, the W&I Codes listed above and guidance from this PPL would apply to the CMAA program.

General Overview of CPE Requirements

The following overview of CPE requirements is provided to give LGAs a clear understanding of the general requirements that are applicable to the CMAA program.[1] Section 1903(a) of Title XIX of the Social Security Act provides, in part, that the Federal Government shall pay to the State a percentage "of the total amount expended" for providing Medi-Cal administrative activities.[2] Section 433.51 of Title 42 of the Code of Federal Regulations (CFR) provides that the amount expended must be ". . . certified by the contributing public agency as representing expenditures eligible for FFP under this section."

Pursuant to §1903(a), Medicaid is a "reimbursement" program. It is not a "matching" or "grant" program. This means that federal claiming by a State is based on actual expenditures that have been made by the State or by another public agency authorized to certify expenditures to the State for Medicaid services. Based on the State's claim, Federal reimbursement is then provided to the State. It is improper and insufficient for a public agency to certify expenditures that have not yet been made; for example, where the certification is based, in whole or in part, on an invoice or other billing that has not yet been paid. FFP is reimbursement for expenditures that have been made and DHCS is required to certify that those expenditures have actually been made before it can claim FFP.

Thus, the only amount that can be certified (the CPE) is the actual Medicaid expenditures that have been made by the public agency for which all supporting documentation is available at the time the claim is made by the State. Federal reimbursement with respect to the expenditure certified is paid to the State in accordance with the FFP rate; for example, in the case of an FFP of 50%, a claim submitted to the State in the amount certified of $100, the resulting reimbursement would be for $50 in FFP, (i.e. 100 x .50).

Applying current CMS policy, the situations below are not in compliance with current Federal regulations governing CPE. These situations can be summarized as follows:

> (1) A certification that funds are available at a State or local level. The "availability" of funds does not meet the Federal requirement that State or local dollars have actually been expended to provide covered health care services to eligible Medicaid recipients.

[1] For purposes of the CMAA program, LGAs are counties and chartered cities. [W&I Code §14132.44 (m).]
[2] Title 42 of the United States Code, §1396(a), §1396(b).

(2) A certification based on an estimate of Medicaid costs derived from surveys of health care providers. An estimate does not meet federal requirements that State or local dollars have actually been expended to provide CMAA.

(3) A certification that is higher than the actual cost or expenditure of the Governmental unit that has generated the CPE (based on its provision of or payment for CMAA).

(4) A certification that is anything less than 100 percent of the total-funds (total computable) Medicaid expenditure. Federal reimbursement is available only as a percentage of the total-funds (total computable) Medicaid expenditure that has been certified. For example, a certification amount that only includes the non-federal share of the total-funds expenditure is not acceptable.

CPE Requirements as Applied to LGAs

This PPL describes the only two situations in which a public agency can certify an expenditure: (1) The public agency is the one performing the CMAA, or (2) the public agency has paid other providers for the performance of the CMAA. Each of these situations is discussed below:

(1) The Public Agency is the Provider

If the public agency is itself the administrator of the CMAA, then it may certify its own costs (subject to applicable payment limitations). The public agency may certify the costs that it actually incurred in performing the CMAA. LGAs (being Counties and Chartered Cities) are public agencies and are authorized by State and Federal law to certify their expenditures.

Accordingly, LGAs may certify their actual costs incurred in providing CMAA to Medi-Cal beneficiaries. DHCS then uses the LGA's certification to claim FFP from CMS. CMS then provides Federal reimbursement to DHCS at the appropriate FFP rate.

(2) The Public Agency Contracts with Providers

On January 1, 2009, AB 2527 became effective, amending §14132.44 and §14132.47 of the W&I Code to expand the entities with which an LGA can contract for the performance of CMAA.

> If a public agency has paid for CMAA furnished by a CBO (or other private entity), that public agency can certify the actual expenditures it has made.[3] The amount that is paid must be in compliance with any payment limitations set forth in State law, in the Medicaid State Plan, in the provisions of a Federal Waiver or demonstration, or in a contract between DHCS and the LGA, as may be applicable. The certification must reflect the payment by the public agency to the contracted provider for CMAA provided to Medi-Cal beneficiaries. An LGA may only certify its total-funds expenditures for CMAA provided by private CBOs in the amount the LGA has actually paid the CBOs for CMAA, and that the CBOs can appropriately document as having been provided.

Further, expenditures made directly to a CBO by State or other local agencies may not be certified by an LGA for the purpose of claiming FFP. LGAs may only certify expenditures that they have actually made, not expenditures that others have made.

It also should be noted that Federal Grants to LGAs that must be expended for CMAA cannot be claimed by LGAs as their expenditures because Federal reimbursement under Medicaid is not available for expenditures made using other Federal Funds, unless expressly authorized in Federal Law.

Certification by Other State Agencies (and Related Local Entities)

It has been questioned whether, under State law, organizations such as local Proposition 10 Commissions (County First 5 Commissions) and Area Agencies on Aging (AAAs) are also authorized to provide funding for CMAA and certify their expenditures for those services to DHCS.

Pursuant to State Law, County Proposition 10 Commissions that participate in the California Children and Families Program (First 5 California) may be established as either a legal entity separate from the County or, as an agency of the County, with independent authority over the County's strategic plan and the local trust fund.[4] Similarly, AAAs may be established as a part of the County (or Counties) or as some other type of Agency or Organization[5].

A County (as an LGA) may certify expenditures made by the County First 5 Commissions that are established as Agencies of the County. County First 5 Commissions that are established as legal entities separate from the County would

[3] W&I Code §14132.44 47 (ed) and §14132.47 (f).
[4] Health and Safety Codes 130140 and 130140.1.
[5] Title 42 of the United State Code, §3025 (c); California Code of Regulations, Title 22, §7206.

normally qualify as “Public Agencies” eligible to certify their expenditures under current Federal Law and Regulations.

To the extent that a County (LGA) provides funding to a First 5 Commission, the LGA may certify that expenditure. DHCS understands that County First 5 Commissions that were established as legal entities separate from the County were established as such by a decision of the County Board of Supervisors for administrative purposes, but that the Proposition 10 tax revenues, allocated to the County pursuant to Health and Safety Code §130105 and §130140, are considered County funds. As long as a County First 5 Commission is administering funds that are County funds, and expenditures of those funds for CMAA are certified by the LGA, DHCS may claim FFP for reimbursement to LGA’s.

Some AAAs are private and some are public (part of the County), but all receive funding from the California Department of Aging (CDA). The County, as a Public Agency, can certify the expenditures made by AAAs that are part of the County (or that otherwise could be classified as Public Agencies), but the private AAAs are not Public Agencies and therefore, in most cases, cannot certify directly to DHCS. However, because CDA is a Governmental entity, it can certify the funding that it has provided to the private AAAs. In this situation, however, LGA Coordinators and the AAAs would need to appropriately verify and document that the funds were expended for providing CMAA. Based on the CDA certification taken together with the required documentation as to how the funds were used, DHCS may claim FFP for reimbursement to LGAs.

It is essential to ascertain the nature of each entity established in a County (or Counties) in order to confirm to what extent the LGA, a First 5 Commission, or AAA may certify CMAA expenditures. DHCS invites County staff and other interested parties to contact DHCS to discuss specific situations. DHCS staff is also available to discuss the mechanism to obtain certifications from other State agencies, and to submit them with the claim or to maintain them in the audit file.

Required Documentation of Certified Public Expenditures

Federal law and the State law that implement CPE programs require that the public agency using the CPE process submit a certification to the State attesting that the total-funds (total computable) amount of its claimed expenditures are eligible for FFP[6]. That certification must be submitted to DHCS and would be used as the basis to claim FFP within two years from the date of the expenditure. CPEs must be supported by auditable documentation that identifies the relevant category of expenditure under the

[6] 42 Code of Federal Regulations, §433.51.

State Plan, and demonstrates the actual expenditures incurred by the LGA in providing services to Medi-Cal beneficiaries.

LGAs should also include and identify expenditures for CMAA in their general ledgers (including those paid to CBOs), spend a specific amount for those services, certify that the expenditures were made to provide CMAA for Medi-Cal beneficiaries, and submit invoices and other supporting documentation to DHCS that the services were provided. Such payments should also be supported by the CBO's contract with the LGA, and with invoices from the CBO to the LGA requesting payment and warrants/remittance advices from the LGA that specify the payment was for CMAA. CMS's current guidance emphasizes the importance of such documentation.

Example of Unacceptable Claim

The following example, with several variations, is provided to clarify what will not be permitted by DHCS, based on federal law and policies.

An LGA submits an invoice to DHCS on which it has certified a total-funds expenditure of $100 for CMAA contracted through the CBO. The LGA expects DHCS to reimburse it at the FFP rate of 50 percent, or $50. However, after DHCS reviews the LGA's supporting documentation, DHCS determines that the LGA:

(1) Has paid the CBO only $80. Even though the CBO's costs were actually $100, as stated on the invoice, DHCS will only reimburse the LGA based on the amount spent by the LGA. Because the LGA paid the CBO $80, DHCS may provide the LGA with $40 in FFP, not $50. If an LGA does not pay a CBO, the LGA may not submit invoices to DHCS for work the CBO has performed;

(2) Does not have adequate supporting documentation to demonstrate that it made a payment to its CBO specifically for the provision of CMAA. DHCS will not reimburse the LGA the Federal share of the invoice because all payments for CMAA must be supported by adequate documentation (e.g., LGA warrants to the CBO and remittance advices that specify the amount shown on the CMAA invoice submitted to DHCS, or specify the portion of the LGA payment to the CBO that was for the provision of CMAA). For example, an LGA's payments to its CBO(s) for CMAA could be identified as such in the LGA's general ledger or documented pursuant to an agreement between the LGA and the CBO;

(3) Based its certification solely on payments made directly to the CBO by other

State agencies. DHCS will not claim FFP or pay the LGA for this invoice because it does not reflect LGA expenditures; therefore, the LGA has no basis on which to certify that it has made an expenditure. Even though the CBO used State funds for the provision of CMAA, the LGA cannot certify as its own, a total-funds expenditure that was expended by another entity; and/or was for the provision of CMAA. For example, an LGA's payments to its CBO(s) for CMAA could be identified as such in the LGA's general ledger or documented pursuant to an agreement between the LGA and the CBO;

(4) Based its certification on expenditures made by another State or local agency within its geographical region, such as State departments, Proposition 10 Commissions and non-chartered cities. DHCS cannot claim federal reimbursement based on an LGA's certification when the LGA did not itself make the expenditure. Nothing, however, would prevent an LGA from collecting the appropriate certification and expenditure detail from other entities, and submitting this information to DHCS.

In Attachment A to this PPL, DHCS will use the operational steps outlined to maintain the validity of acceptable CPE. These steps were developed in collaboration with CMS to provide clarification of CPE requirements.

Conclusion

This PPL clarifies CPE requirements that have been in effect for many years, as well as new operational guidelines pertaining to CMAA. In summary, as applied to LGAs, CMS requires that an LGA must first incur its own total-funds expenditure before it may certify that amount to DHCS for Federal claiming. DHCS cannot claim FFP based on a certification from an LGA that does not meet this threshold requirement.

If you have questions regarding this PPL and the requirements for claiming for CMAA, please contact Ms. Geri Baucom, Chief, Administrative Claiming Local and Schools Services Branch, at (916) 552-9615 or geraldine.baucom@dhcs.ca.gov.

Sincerely,

ORIGINAL SIGNED BY JALYNNE CALLORI for

Bob Sands, Chief
Safety Net Financing Division
Department of Health Care Services

Attachment