



SAN MATEO COUNTY HEALTH
**BEHAVIORAL HEALTH
& RECOVERY SERVICES**

DATE: January 9, 2020

BHRS POLICY: 20-03

SUBJECT: Presumptive Transfer

AUTHORITY: MHSUDS IN Nos., 17-032, 18-027, and 19-041; Assembly Bill 1299 (Ridley-Thomas, Chapter 603, Statutes 2016), California Welfare and Institutions Code 14717.1, subdivision (c)(f)(g)

NEW POLICY: January 9, 2020

ATTACHMENTS: Attachment A: Referral Request for Presumptive Transfer Child in San Mateo County (AB1299)

PURPOSE:

To provide clarification and guidance regarding presumptive transfer of Specialty Mental Health Services (SMHS) for children, youth, and non-minor dependents in foster care.

SCOPE:

This policy applies to all County and Contracted Providers of San Mateo County Outpatient Behavioral Health and Recovery Services (BHRS) SMHS.

BACKGROUND:

To provide children and youth in foster care who are placed outside their counties of original jurisdiction timely access to SMHS, consistent with their individual strengths and needs, and Medicaid Early and Periodic Screening Diagnostic and Treatment requirements. Assembly Bill 1299 was enacted to establish presumptive transfer. Presumptive transfer means a prompt transfer of the responsibility for the provision of or arranging and payment for SMHS from the county of original jurisdiction to the county in which the foster child resides. Discussions regarding presumptive transfer should occur with the child and his or her parent, with the Child and Family Team (CFT) members, and in consultation with other professionals who serve the child or youth, as appropriate.

Children and youth removed from the home and care of their parents and placed in protective custody, or foster care are legal dependents or wards of the juvenile court in the county where the removal occurred. The county that establishes dependency or wardship of a child or youth is the county of original jurisdiction and is referred to as the “county of original jurisdiction” for this policy.

POLICY:

BHRS has a protocol for out of county youth referrals and has an established BHRS Out of County Coordinator and Utilization Management Team Manager that monitors/tracks out of county and presumptive transfer referrals and requests. The BHRS Out of County Coordinator and Utilization Management Team will maintain and update the protocol annually.

Requirements for Presumptive Transfer

BHRS will be responsible for authorization, provision, and payment of SMHS for foster children placed in a San Mateo County, if San Mateo county is not the county of original jurisdiction, no exceptions to presumptive transfer apply, and it is determined to necessitate the waiving of presumptive transfer.

To provide timely provision of mental health services BHRS is required to accept an assessment, if one exists, of needed SMHS for the foster child from the county of original jurisdiction. BHRS will update the assessment or conduct a new assessment if clinically indicated, but these updates or new assessments will not delay the timely provision of SMHS to the child.

Presumptive transfer can only be waived by the placing agency if all the following conditions are met:

- 1) An individualized determination has been made that an exception outlined in statute applies (Welfare and Institutions Code § 14717.1 (b) 2(A)), and
- 2) A demonstration that the county of original jurisdiction can contract and provide services within 30 days.

Prior to the Transfer or Request

Each time a child is placed outside of the county of original jurisdiction, presumptive transfer and the waiver process apply. In the event that a child’s placement status changes and the child is placed back within the county of original jurisdiction, the placing agency in the county of original jurisdiction must notify the MHP in the former county of residence as well as the MHP in the county of original jurisdiction that the responsibility for providing or arranging for the provision of SMHS is returning to the county of original jurisdiction. This notification should be made through each county MHPs designated presumptive transfer single point of contact.

Placing agencies are responsible for informing the foster child, the person or agency responsible for making mental health care decisions on behalf of the foster child, and the

child's attorney, of the presumptive transfer requirement under AB 1299, including a description of exceptions, the right to request a waiver of presumptive transfer if an exception exists, and how to make such a request to the placing agency. The placing agency should document these notifications in the child or youth's case file. This documentation may include, but is not limited to, copies of signed forms, copies of CFT meeting agendas and meeting notes that document presumptive transfer discussions, and narrative case plan notes. Placing agencies must also notify the CFT coordinator or all members of the CFT; this notification may be written and/or verbal.

At the Time of a Request

When a request for a waiver of presumptive transfer is received, the placing agency is responsible for informing the foster child, person or agency responsible for making mental health care decisions on behalf of the foster child, and the child's attorney of the waiver request. The placing agency should also inform the CFT coordinator if one exists, the social worker or deputy probation officer, and county of original jurisdiction.

Conditions for Presumptive Transfer

Effective July 1, 2017, presumptive transfer applies under the following three conditions:

Condition A: For any foster child who is placed by a placing agency out of the county of original jurisdiction on or after July 1, 2017, the responsibility to provide or arrange for the provision of and payment for SMHS will transfer to the county of residence.

Condition B: For any foster child who resides in a county other than the county of original jurisdiction after June 30, 2017, that is not receiving SMHS consistent with his or her mental health needs as specified in the child's client plan, the responsibility to provide or arrange for the provision of and payment for SMHS will be transferred to the county of residence.

Condition C: For any foster child who resides in a county other than the county of original jurisdiction after June 30, 2017, and who continues to reside outside the county of original jurisdiction after December 31, 2017, the responsibility for the provision and payment of SMHS will be transferred to the county of residence no later than the child's first regularly scheduled status review hearing conducted pursuant to Welfare and Institutions Code Section 366 in the 2018 calendar year. Under Condition C, placing agencies are required to complete notification responsibilities regarding conditions of presumptive transfer, waiver requests, and waiver determinations 10-days prior to the foster child or youth's next scheduled status review. Status review hearings are conducted pursuant to W&I Code Section 366 and/or W&I Code Section 727.2(c).

Condition A – Procedural Steps

If no exception exists to presumptive transfer, BHRS will inform the foster youth and CFT coordinator (if one exists), or the placing agency social worker or deputy probation officer, the child's attorney, biological parent(s) (when appropriate) of the transfer of responsibility to

provide, or arrange for the provision of and payment of SMHS transfer to the county of residence within 3 business days of this decision.

Notification shall include the following information:

- Name, location, and contact information of the referring placing agency;
- The county of the placement; and
- The date when the child will be physically placed or the date the physical placement did occur in cases where the youth's physical placement is expedited within the county of residence.

The placing agency shall notify the MHP where the child resides through their posted single point of contact within 3-business days of the presumptive transfer decision and ensure that the foster child's residence address is updated in the Medi-Cal Eligibility Data System (MEDS) within 2-business days of making the determination. This notification shall include the following information:

- Identifying information about the child: name, date of birth, and address;
- Name, location, and contact information of the referring placing agency;
- Name and contact information of who can sign releases of information;
- Name and contact information of who can sign consents;
- Send, or arrange to have sent to, the MHP the most recent consent for services, and consent for medication, including the JV-220; and
- Send, or arrange to have sent to, the MHP the most recent mental health records, including the most recent mental health assessment. Nothing should preclude the MHP of residence from updating the assessment or conducting a new assessment if clinically indicated, but these updates or new assessments may not delay the provision of SMHS to the child.

All determinations regarding waiver of presumptive transfer are required to be made in consultation with the child's CFT members, and other professionals who serve the child as appropriate, and documented in the foster child's case plan and client plan.

Condition B – Procedural Steps

BHRS follows the steps described for Condition A above; and for children subject to Condition B the following additional steps shall be followed:

- The placing agency shall ensure that the child or youth has been provided a mental health screening prior to completing the steps for presumptive transfer, unless a waiver is requested.
- If a foster child has been screened and assessed as needing SMHS but is not receiving SMHS, the applicable placing agency will transfer the foster child utilizing steps described for Conditions A above unless a waiver is requested.

Condition C – Procedural Steps

At least 10-calendar days prior to the child's next status review hearing that occurs after December 31, 2017, the placing agency shall notify the foster child and the CFT coordinator if one exists, or the placing agency's case carrying social worker or deputy probation officer, the child's attorney, the biological parent(s) when appropriate (if they are not already a member of the CFT) of the transfer of responsibility to provide, or arrange for the provision of, SMHS and payment for SMHS to the county of residence when a youth is placed outside of the county of original jurisdiction. All determinations regarding waiver of presumptive transfer are required to be made in consultation with the child's CFT members, and other professionals who serve the child as appropriate and documented in the foster child's case plan and client plan. The placing agency shall notify the MHP where the child resides through their posted single point of contact within 10-calendar days of the presumptive transfer decision and ensure that the foster child's residence address is updated in the MEDS Database. Placing agencies may discuss and initiate the transfer of SMHS with the foster child, CFT, child's attorney, and biological parents earlier than the next status review hearing.

Exceptions to the conditions of Presumptive Transfer

The foster child, the person or agency responsible for making the mental health care decisions on behalf of the foster child, the county probation agency or the child welfare services agency with responsibility for the care and placement of the child, or the child or youth's attorney may request that the placing agency consider a waiver of presumptive transfer. The placing agency may decide to waive presumptive transfer on **an individual, case-by-case basis** only if one or more of the four exceptions listed below exists. The waiver decision must be documented in the child's case plan and communicated to all other members of the CFT through a CFT coordinator if one exists, or the placing agency's social worker or deputy probation officer, and the county of jurisdiction.

- The transfer would negatively impact mental health services being provided to the child or youth, or delay access to services provided to the foster child;
- The transfer would interfere with the family reunification efforts documented in the individual case plan;
- The foster child's placement in a county other than the county of original jurisdiction is expected to last less than six months; or
- The foster child's residence is within 30 minutes of travel time to his or her established SMHS care provider in the county of original jurisdiction.

A waiver processed based on an exception to presumptive transfer shall be contingent upon the county of original jurisdiction demonstrating an existing contract with a SMHS provider, or the ability to enter into a contract with a SMHS provider within 30 days of the waiver decision, and the ability to deliver timely SMHS directly to the foster child. Such information may be obtained by the placing agency verbally or in writing from the county of original jurisdiction. That information shall be documented in the child's case plan. The placing agency is responsible for informing the child, his or her parent, the CFT coordinator if one exists, or the

placing agency's case carrying social worker or deputy probation officer, the county of original jurisdiction and the county of residence, and the child's attorney of a waiver request.

Expedited Transfers

AB 1299 provides for a process of expedited presumptive transfer, and BHRS will provide or arrange for the provision of SMHS to beneficiaries that meet SMHS medical necessity criteria. For all children and youth who are under 21 years of age and have full-scope Medi-Cal coverage, Early and Periodic Screening Diagnostic and Treatment SMHS are available and are to be provided consistent with the child or youth's treatment needs and goals as documented in the mental health client plan. In situations when a foster child or youth is in imminent danger to themselves or others or experiencing an emergency psychiatric condition, BHRS will provide SMHS immediately, and without prior authorization. California Welfare and Institutions (W&I) Code Section 14717.1(b)(2)(F) requires a procedure for expedited transfers within 48-hours of placement of the foster child or youth outside of the county of original jurisdiction.

There may be instances when a child or youth must be moved to a new placement outside of the county of original jurisdiction for his or her safety and a CFT meeting is unable to be convened prior to placement. In these instances, the county placing agency must immediately contact the county of residence to notify BHRS of the placement and the need to provide or arrange and pay for SMHS to meet the needs of the child or youth.

Counties may use the presumptive transfer county points of contact list on this webpage: <http://www.cdss.ca.gov/County-Offices> to assist with the expedited transfer of SMHS

Presumptive Transfers when placed in Short Term Residential Therapeutic Programs (STRTP)

A Short-Term Residential Therapeutic Program (STRTP) is a new type of licensed care facility that provides intensive services, including SMHS, to children and youth. Placement in an STRTP is an example of a situation that would potentially qualify as an exception to presumptive transfer. Placements in STRTPs are intended to be short-term, with the child or youth returning to a home-based setting after treatment.

If a child or youth is placed in an STRTP with a case plan indicating that the duration of his or her stay is expected to last less than six months, and the child or youth will return to the county of original jurisdiction after the STRTP placement, this placement meets the criteria of an exception to presumptive transfer. If the placing agency determines that a waiver of presumptive transfer for a child or youth placed in an STRTP is in the best interest of the child or youth and the contract requirements for approving a waiver are met the existing waiver process (including notification requirements) must still be completed. If a child or youth placed in an STRTP, whose stay was expected to last less than six months, stays longer than six months, the CFT should discuss whether the waiver should continue. 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.

Presumptive transfer waiver decisions are made on a case-by-case basis, and only when an exception to presumptive transfer exists therefore, providers may not make waivers, or the

absence of waivers, a general condition of accepting placements. MHPs may not compel providers, including STRTPs, to make waivers a general condition of accepting placements.

Psychiatric Inpatient Hospitalization

Presumptive transfer does not distinguish between inpatient and outpatient SMHS with regard to the transfer of the responsibility to arrange, provide, and pay for SMHS from the county of original jurisdiction to the county of residence. Regarding psychiatric inpatient hospital services, the applicability of presumptive transfer depends on the specific scenario, as described below:

1. A foster child or youth that resides in the county of original jurisdiction receives psychiatric hospital inpatient services in a county outside of the county of original jurisdiction. Presumptive transfer does not apply in this scenario because psychiatric inpatient hospitalizations are not considered foster care placements and the foster child or youth will return to the county of original jurisdiction following the psychiatric inpatient hospital stay. The county of original jurisdiction retains responsibility for the provision of and payment for the psychiatric inpatient hospitalization.
2. A foster child or youth that resides outside the county of original jurisdiction, but is waived from presumptive transfer, receives psychiatric hospital inpatient services. Due to the waiver, presumptive transfer does not apply in this scenario and the county of original jurisdiction retains responsibility for the provision of and payment for the psychiatric inpatient hospitalization, regardless of the county in which the hospitalization occurs.
3. SMHS for a foster child or youth that resides outside the county of original jurisdiction are presumptively transferred to the county of residence and the foster child or youth receives psychiatric inpatient hospital services outside of the county of residence. Since SMHS for this foster child or youth have been presumptively transferred, the county of residence is responsible for the provision of, and payment for psychiatric inpatient hospitalization regardless of the county in which the hospitalization occurs.

Substance Use Disorder Treatment Services

The responsibility for the Drug Medi-Cal benefit for substance use disorder treatment services did not change as a result of AB 1299. Presumptive transfer, as defined in statute, only applies to the transfer of the responsibility for the provision, arrangement, and payment of SMHS to the MHP in the foster child or youth's county of residence. Therefore, responsibility for the Drug Medi-Cal benefit remains with the county of original jurisdiction, even if the responsibility for the provision of, and payment for, SMHS has transferred to the foster child or youth's county of residence. This is the case even if the county of residence is a Drug Medi-Cal Organized Delivery System county. In this situation, counties are expected to work together to

establish an agreed-upon arrangement for the provision of necessary substance use disorder services for the foster child or youth placed outside the county of original jurisdiction.

Approved: _____ *Signature on File*
Scott Gilman, MSA
BHR Director