



July 16, 2009

**TO:** Managed Risk Medical Insurance Board (MRMIB)

**FROM:** Don Kingdon, PhD, Deputy Director and Small Counties Liaison

**SUBJECT:** **California Mental Health Directors Association SED Discussion Items for July 30, 2009 MRMIB Board Meeting**

Thank you for the opportunity to review and comment on the Healthy Families document entitled, "Serving Children with Serious Emotional Disturbance" presented to the MRMIB board on 5/20/09. The comments and considerations listed below represent a summary of issues raised by the members of the California Mental Health Directors Association (CMHDA) who participate on the CMHDA Governing Board and the Medi-Cal Policy Committee. This summary was developed by Don Kingdon, PhD, Deputy Director and Small County Liaison, CMHDA.

In general the issues raised by the report have been the subject of formal and informal discussion between MRMIB, the health plans and the counties for many years. Various study and workgroups have been convened to address issues associated with the county SED coverage and these have shown success in some areas of the state. Recently renewed efforts to improve the communication between MRMIB staff and CMHDA have proven successful and have resulted in increased communication and collaboration. Currently MRMIB is convening regularly scheduled conference calls with the counties and the health plans to address issues of concern as well as participating in CMHDA sponsored committee activities.

The report offers a well developed background, summary of issues from the perspective of MRMIB and five options for discussion. The comments below are intended to add additional information from the county perspective and will hopefully serve to broaden the discussion at the meeting on July 30, 2009. Additionally these issues are being raised at a difficult time in our state, when the basic safety net is both being challenged locally as well as possibly redesigned federally. It is against this backdrop of uncertainty that we will need to carefully consider the role of federal, state and local government in assuring access to needed mental health services.

- The county mental health departments are responsible for providing, sub contracting and paying for mental health services associated with two federal entitlement programs and three state programs that are not entitlement based.
- The Medi-Cal Early, Periodic, Screening, Detection and Treatment (EPSDT) program is the largest of the federal entitlement programs and is governed by a federal waiver of choice in

providers as well as the state Medicaid Plan and state and federal regulation. The counties, under contract with the state are responsible for assuring access to medically necessary mental health and supplemental mental health services for EPSDT beneficiaries through age 21. The county Mental Health Plans (MHP) submit claims for these services through the state and certify the public expenditure for federal reimbursement.

- The county mental health departments are also responsible for assuring access to mental health services identified in a special education pupil's Individual Education Plan (IEP). This responsibility is defined in state law and represents an entitlement under the federal Individuals with Disabilities Education Act (IDEA). The state reimbursements to counties for these obligations are complicated and have been the subject of state mandated litigation resulting in significant delays in cost recovery on the part of the counties.
- The county mental health programs also provide the mental health services defined in the Bronzon-McCorquodale Act often called "realignment". The obligations to provide services under this state statute are limited by both target population and financial resource criteria and thus they do not represent an entitlement. The funding is tax and fee based and is significantly impacted by the economy and other realigned programs that do have entitlement obligations that must be met by the county, such as foster care. It is from here that the Healthy Families program borrows the definition of "Seriously emotionally disturbed" with an emphasis on removal from home and other statutorily defined risk criteria. From the county perspective the funds necessary to provide the required match for the Healthy Families SED obligations come from these limited tax and fee revenues.
- The county mental health programs also have obligations defined under state Welfare and Institutions Code (WIC); Chapter 2, Involuntary Treatment. These obligations include the evaluation and treatment of persons (minors and adults) determined to be a danger to self or others, or gravely disabled as a result of a mental disorder. The funding for these services also often comes from scarce mental health realignment revenues.
- With the passage, by the voters of the Mental Health Services Act (MHSA) additional tax revenue and mental health services are now available in counties subject to a local plan approved by the state. For children these services are to be targeted to those with severe mental illness who are not eligible for funding under other entitlement or insurance programs.
- The above summaries are provided to emphasize the fact that children can enter the county mental health system through many doors. Some of these doors represent entitlements and others access to crisis and other more intensive services such as those now available through the MHSA. Referrals from the health plans must be considered in this larger context when attempting to determine the utilization rates for SED children.
- When utilizing prevalence rate studies such as the January 2006, Charles Holzer study consideration must be given to the difference in definition of SMI used in that study and the WIC 5600.3 definition of SED. The WIC SED definition is heavily weighted for non diagnostic factors that require high levels of impairment and risk to establish eligibility.
- The financial risk for the Healthy Families SED "benefit" is clearly located at the county level. The county holds the risk for non payment of federal funds due to ineligibility as well as the provision of the required local match for federally eligible claims. Thus there is no obligation of

state general funds (SGF) associated with the provision of SED outpatient mental health services and there is a 30 day per year limitation on SGF exposure for inpatient mental health services.

The options outlined in the report are comprehensive and offer the board an opportunity to consider the risks and benefits of both the expansion and the contraction of the Healthy Families SED benefit. CMHDA representing the counties, as an "at risk" partner in the delivery of these important mental health services is committed to exploring the options outlined in partnership with MRMIB and the board. From our perspective this partnership should be guided by a set of agreed upon principles, that among other things acknowledge the need to address beneficiary access issues, that include the consideration of the appropriate alignment of risk and responsibility and that minimize unreimbursed indirect and administrative costs.