

Joe Lombardo
Governor

Richard Whitley, MS
Director



**DEPARTMENT OF
HEALTH AND HUMAN SERVICES**
DIVISION OF HEALTH CARE FINANCING AND POLICY
Helping people. It's who we are and what we do.



Stacie Weeks,
JD MPH
Administrator

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**Notice of Meeting to Solicit Public Comments and Intent to Act Upon Amendments to the
Medicaid Services Manual (MSM)**

**Public Hearing November 28, 2023
Summary**

Date and Time of Meeting: November 28, 2023, at 10:23 AM

Name of Organization: State of Nevada, Department of Health and Human Services (DHHS), Division of Health Care Financing and Policy (DHCFP)

Place of Meeting: DHCFP
1100 E. William Street
First Floor Conference Room
Carson City, Nevada 89701

Teleconference and/or Microsoft Teams Attendees

(Note: This List May Not Include All Participants, Just Those Who Identified Themselves)

Malinda Southard, Deputy Administrator, DHCFP
Karen Griffin, Senior Deputy Attorney General
Casey Angres, DHCFP
Evette Cullen, DHCFP
Elizabeth Scott, DHCFP
Lisa Dyer, DHCFP
Tanya Benitez, DHCFP
Kayla
Marcel Brown, DHCFP
Julie Gwin, Northern Nevada HOPES
Dr. Susan Priestman, American Physical Therapy
Association of Nevada
Christina Gaglione
Ferrari Reeder Public Affairs (FRPA)
Dev Bararia
Ariana Sherman, Clark County Nevada
Basil Dibsie, Wellpoint
Areli Alarcon
Jessica Vannucci, DHCFP

Angel-Leigh Fischer, Washoe County School District
Michelle Soule, DHCFP
April Caughron, DHCFP
Kimberly Adams, DHCFP
Sean Linehan, DHCFP
Stephanie Sadabseng, DHCFP
Candace McClain-Williams, DHCFP
Alicia Roman, DHCFP
Carin Hennessey, DHCFP
Alexandra Garcia, DHCFP
Brooke Gruger, Liberty Dental Plan
Daniel H. Stewart, Brownstein Hyatt Farber Schreck, LLP
Belz & Case Government Affairs Scribe by Rewatch
Rianna White, Fidelis-Rx
Cheri Glockner, Silver Summit Health Plan (SSHP)
Nancy Kane, CCDS
Michael Gorden, DHCFP
Sabrina Schnur, Belz & Case
Laura Kniola, Clark County School District

Carissa Pearce
Zach R.
Kaelyne Day, DHCFP
Kenneth Kunke, Roseman University of Health Sciences
Lucille Wroldsen, DHCFP
Nancy Kuhles
Elyse Monroy-Marsala, Belz & Case
Travis Walker, Community Health Alliance (CHA)
Ivan Chatterley, Myriad
Tashanae Glass, DHCFP
Luke Lim, Anthem
Sherron Dickenson, CCSD
Amy Shogren, Black & Wadhams
Dawnesha Powell, Silver Summit Health Plan (SSHP)
Shirish S. Limaye, SSHP
Morgan Biaselli, SSGR
Stephanie Pocchia, Nevada Department of Education
Ivy Y. Burns, CCSD
Meskerem Kassa, CCSD
Paula Konomos, Evergreen HealthCare
Holly Long, CHA
Stephanie Cook, Department of Health and Human
Services, (DHHS)
Keith Benson, DHCFP
Keri Kelley, Silver Summit Health (SSH)
Ryan Studebaker,

Breana Taylor, Department of Education
Jeana C. Piroli, Washoe Schools
JoAnne DeFoe, Absolute Dental
Joy Thomas, Anthem
Kurt Karst, DHCFP
Amy Levin, MD, Anthem
Mary Wherry, Community Health Alliance (CHA)
Catherine Vairo, DHCFP
Tarsha
Tarsha L. Austin, Clark County School District (CCSD)
Verona M. Sutton-Dunn
Mark Rosenberg, Fidelis-Rx

Sandra Stone, Division of Child and Family Services (DCFS)
Rachael Devine, DHCFP
Brian Evans, The Perkins Company
Chris Bosse, Renown
Angela Mangum, MBA-HCM. CBCS, WestCare
Laurie Curfman, Liberty Dental Plan
Sheri Gaunt, DHCFP
Ellen Flowers, DHCFP
Alex Tanchek - Silver State Government Relations
Serene Pack, DHCFP
Ester Quilici, Vitality Unlimited
Briza Virgen, DHCFP
Amber
Regina C. De Rosa, Anthem
Margaret L. Keteian, Anthem
Lori Follett, DHCFP
Keiko Duncan, DHCFP
Maria Reyes, Fidelis-Rx
Francisco J. Morales-Sánchez, Brownstein Hyatt Farber Schreck
Jackie Matter, Anthem
Katie M. Nease, United Healthcare (UHC)
Beth Slamowitz, Department of Health and Human
Services (DHHS)
Amy Roukie
Christy Nguyen, Fidelis-RX
Trey Delap
Theresa Carsten, DHCFP
Vickie S. Ives, Division of Public and Behavioral Health
(DPBH)
Ky Plaskon, DHCFP
Dawn Tann, DHHS
Lovia "Vi" Larkin, Vitality Unlimited
Skyler Basanez
Brooke Greenlee, Elevance Health
Celina
Dr. Ken Higbee-ECSD
Jessica Medulla, Washoe County School District
Mary Gilbertson, UCare

Introduction:

Casey Angres, Chief of Division Compliance, DHCFP, opened the Public Hearing introducing herself, Malinda Southard, Deputy Administrator, DHCFP, and Karen Griffen, Senior Deputy Attorney General.

Casey Angres – The notice for this public hearing was published on October 26, 2023, and revised on October 30, 2023, and November 8, 2023, in accordance with Nevada Statute 422.2369.

1. **Public Comments:** Ivan Chatterley’s comments are entered under Item 6.
2. **Discussion and Proposed Adoption and Changes to MSM 200**

Subject: MSM Chapter 200 – Hospital Services

Stephanie Sadabseng, Social Services Program Specialist in the Medical Benefits Coverage Unit, DHCFP, presented a Nevada MSM update is being proposed to MSM Section 200- Hospital Services. The updated proposed policy includes the following: Section 201B rename ‘alien’ references to non-citizens. Added Newborns’ and Mothers’ Health Protection Act (NMHPA). Section 203.1A(8) added the term “medically necessary”. Section 203.1B(6)(c) removed the reference to hospital admissions for elective/non-medically necessary cesarean sections. Section 203.1B(7) changed three to two calendar days for vaginal deliveries and removed the terms “emergency” and “elective” from cesarean delivery. Section 203.1B(8) revised three obstetric and newborn inpatient days to two for vaginal deliveries. Section 203.2N added references to The Newborns’ and Mother’s Health Protection Act (NMHPA) and 29 CFR 2590.711. Added “in consultation with the mother” when making a decision to discharge. Attachment A #02-02 renamed ‘alien’ references to non-citizens.

The effective date of this new policy is December 1, 2023.

At the conclusion of Stephanie Sadabseng’s presentation, Casey Angres asked Malinda Southard and Karen Griffin if they had any questions or comments, they had none.

Public Comments: There were none.

Malinda Southard approved the changes, pending spelling and grammar checks.

Casey Angres – Closed the Public Hearing for proposed adoption and changes to MSM Chapter 200 – Hospital Services.

3. **Discussion and Proposed Adoption and Changes to MSM 600**

Subject: MSM Chapter 600 – Physician Services; Certain Cesarean Sections and Obstetric Hospital Admissions

Stephanie Sadabseng, Social Services Program Specialist in the Medical Benefits Coverage Unit, DHCFP, advised a Nevada MSM update is being proposed to MSM Chapter 600 - Physician Services. Updated proposed policy includes Section 601- Add Newborns’ and Mothers’ Health Protection Act (NMHPA); Section 603.4A(2)(a)- changed vaginal deliveries from three days to two days; and Section 603.4A(2)(b)- updated language that non-medically necessary cesarean sections are a non-covered service and added reference to ICD-10 diagnosis code list.

The effective date of this new policy is December 1, 2023.

At the conclusion of Stephanie Sadabseng’s presentation, Casey Angres asked Malinda Southard and Karen Griffin if they had any questions or comments, they had none.

Public Comments: There were none.

Malinda Southard approved the changes, pending spelling and grammar checks.

Casey Angres – Closed the Public Hearing for proposed adoption and changes to MSM Chapter 600 – Physician Services; Certain Cesarean Sections and Obstetric Hospital Admissions.

4. Discussion and Proposed Adoption and Changes to MSM 600

Subject: MSM Chapter 600 – Physician Services; Expanded Postpartum Coverage

Stephanie Sadabseng, Social Services Program Specialist in the Medical Benefits Coverage Unit, DHCFP, presented as a result of the passage of SB 232 during the 82nd Legislative Session, a MSM update is being proposed to MSM Chapter 600 – Physician Services Section 603.3 - Family Planning Services, Section 603.4 - Maternity Care, and Section 603.4A(3) - Stages of Maternity Care. The updated proposed policy modified the length of postpartum coverage from 60 days to 12 months and removed language that refers to pregnancy related coverage.

The effective date of this new policy is December 1, 2023.

At the conclusion of Stephanie Sadabseng’s presentation, Casey Angres asked Malinda Southard and Karen Griffin if they had any questions or comments, they had none.

Public Comments: There were none.

Malinda Southard approved the changes, pending spelling and grammar checks.

Casey Angres – Closed the Public Hearing for proposed adoption and changes to MSM Chapter 600 – Physician Services; Expanded Postpartum Coverage.

5. Discussion and Proposed Adoption and Changes to MSM Chapter 3800 and MSM Chapter 600

Subject: MSM Chapter 3800 – Medication Assisted Treatment and MSM Chapter 600 – Physician Services

Sarah Dearborn, Behavioral Health Benefits Coverage, Chief, DHCFP, advised DHCFP is proposing revisions to MSM Chapters 3800 – Medication-Assisted Treatment (MAT) and Chapter 600 – Physicians Services. These revisions are being proposed to allow for services of a pharmacist to assess a patient to determine if the patient has an Opioid Use Disorder (OUD), determine whether MAT is appropriate, counsel the patient and prescribe and dispense a drug for MAT at a rate equal to the rate of reimbursement provided to a Physician provider type (PT 20), Physician Assistant (PT 77), or an Advanced Practice Registered Nurse (PT 24) as required through the passing of AB 156 of the 82nd Legislative Session.

Structural changes were made throughout the chapter including grammar, punctuation and capitalization changes, duplications removed, acronyms used and standardized, and language reworded for clarity. Renumbering and re-arranging of sections was necessary.

MSM Chapter 3800, Section 3802 - Coverage and Limitations, Pharmacist (PT 91) has been added as an eligible provider. MSM Chapter 600, Section 603.2B(7) - Licensed Pharmacist, has been added as an

eligible provider of MAT services. Section 610.2A(3), details the services related to MAT for OUD that a pharmacist may now be reimbursed which is consistent with the requirements within AB 156.

The proposed changes affect all Medicaid-enrolled providers delivering MAT services for OUD. Those PTs include but are not limited to: Physician, M.D., Osteopath, D.O., (PT 20), Advance Practice Registered Nurse, (PT 24), Nurse Midwife, (PT 74), Physician’s Assistant, (PT 77), Pharmacist (PT 91), Methadone Clinic, (PT 17, Specialty 171), and Substance Use Agency Model (PT 17, Specialty 215).

Financial impact on the local government for State Fiscal Years (SFY) 2024 and 2025.

| | |
|--------|-------|
| SFY 24 | \$321 |
| SFY 25 | \$734 |

The effective date of this change is January 1, 2024.

At the conclusion of Sarah Dearborn’s presentation, Casey Angres asked Malinda Southard and Karen Griffin if they had any questions or comments, they had none.

Public Comments: There were none.

Malinda Southard approved the changes, pending spelling and grammar checks.

Casey Angres – Closed the Public Hearing for proposed adoption and changes to MSM Chapter 3800 – Medicated Assisted Treatment and MSM Chapter 600 – Physician Services.

6. Discussion and Proposed Adoption and Changes to MSM 800

Subject: MSM Chapter 800 – Laboratory Services

Stephanie Sadabseng, Social Services Program Specialist, Medical Benefits Coverage Unit, DHCFP, advised as a result of the passage of AB 155 during the 82nd 2023 Legislative Session, a Nevada MSM update is being proposed to MSM Chapter 800 – Laboratory Services. Updated proposed policy added a definition of biomarker testing; added language for requirements of covered biomarker tests; and removed previous sections that listed specific biomarker tests

The effective date of this new policy is October 1, 2023.

At the conclusion of Stephanie Sadabseng’s presentation, Casey Angres asked Malinda Southard and Karen Griffin if they had any questions or comments, they had none.

Public Comments: Ivan Chatterley, Associate Regional Account Manager in the Payer Markets Department, commented on behalf of Myriad Genetics Incorporated, specific to the Laboratory Services updates under Chapter 800 in the MSM. In reference to the outline changes, they suggest moving the BRCA1/ BRCA2 testing out of the Non-Covered Services section, 803.1A-803.1P, and place it in the Covered Services section 803.1A(1). Their interpretation is that DHCP intends to cover BRCA1/ BRCA2 testing for individuals with appropriate personal or family history. However, listing BRCA1/ BRCA2 testing as an exception to a Non-Covered Service is potentially confusing. Furthermore, to be consistent with the current standards

of care, they encourage the state to make these services available to the patients that meet USPSTF and/or NCCN Clinical Practice Guidelines for individuals with and without a personal history of cancer. Second, they proposed that Section O of 803.1A(2) be deleted in its entirety. The biomarker testing described as covered in section 803.1A(1)(q) applies to prognostic gene expression profiling tests used to inform cancer management beyond Oncotype DX alone. In other words, because there are other prognostic gene profiling tests that meet the definition of covered biomarker tests under the Nevada law, including a section defining that gene expression profiling is a non-covered service when some of these tests would be considered covered under the biomarker section will result in conflicting policy and may lead to confusion and misinterpretation by providers, patients, and or health plans. Third, they proposed that section 803.1A(1)(q)(4) be updated to reflect that the Medicaid director be responsible for ensuring access to biomarker testing as outlined in Assembly Bill (AB) 155 Section 15. They encouraged DHCFP in accordance with the HIPAA regulations to reconsider the coverage of PLA codes. Many of the covered biomarker tests utilize PLA codes, which include descriptors that allow the labs to identify their tests more specifically.

Written comments from Myriad Genetics were also submitted and are attached.

Malinda Southard approved the changes, pending spelling and grammar checks.

Casey Angres – Closed the Public Hearing for proposed adoption and changes to MSM Chapter 800 – Laboratory Services.

7. Discussion and Proposed Adoption and Changes to MSM 1000

Subject: MSM Chapter 1000 – Dental

Tanya Benitez, Social Services Program Specialist, Managed Care and Quality Assurance Unit, DHCFP, advised DHCP is proposing revisions to MSM Chapter 1000 - Dental for clarification and assisting with ease of access to the provider. There are not any changes in the procedures and or processes. The proposed changes to MSM Chapter 1000 are as follows: Section 1003.5B(3), the removal of the word time and replacing it with item as a requirement on the denture delivery form receipt. The forms are correct, this is just correcting the word within the policy. Sections 1003.A(2)(a-i) and Section 1003.8D(1)(a-i), adds the definitions from the medically necessary orthodontic automatic qualifying conditions form. These definitions are also located on the FA-25 orthodontic medical necessity OMN form located on the QIO-Like Vendors website. This is to assist the provider with ease of access to the information. Section 1005 removes the word “forms” from the title. Title will read “References and Cross References.” Section 1005.1B, updates the fiscal agent’s name from DXC to QIO Like Vendor. Sections 1005.2B-1005.2E added links for the orthodontic medical necessity form, the client treatment history form, the partial denture delivery receipt form, and the denture delivery receipt form. These forms are also located on the QIO-Like Vendors website, and this will assist the provider with ease of access to the information.

The effective date of the change is November 29th, 2023.

At the conclusion of Tanya Benitez's presentation, Casey Angres asked Malinda Southard and Karen Griffin if they had any questions or comments, they had none.

Public Comments: JoAnne DeFoe, Absolute Dental Orthodontic Billing Department, wanted to clarify that the only changes being made on the last item is verbiage only.

Tanya Benitez advised that is correct.

Malinda Southard approved the changes, pending spelling and grammar checks.

Casey Angres – Closed the Public Hearing for proposed adoption and changes to MSM Chapter 1000 – Dental.

8. Discussion and Proposed Adoption and Changes to MSM 1500

Subject: MSM Chapter 1500 – Healthy Kids Program

Stephanie Sadabseng, Social Services Program Specialist in the Medical Benefits Coverage Unit, DHCFP, reported a MSM update is being proposed to MSM Chapter 1500 - Healthy Kids Program. Changes updated proposed policy for Section 1503.8- Pregnancy Related Only, and Section 1503.8A- Coverage and Limitations. Both sections have been removed as there is no longer pregnancy related only coverage benefits.

The effective date of this new policy is December 1, 2023.

At the conclusion of Stephanie Sadabseng's presentation, Casey Angres asked Malinda Southard and Karen Griffin if they had any questions or comments, they had none.

Public Comments: There were none.

Malinda Southard approved the changes, pending spelling and grammar checks.

Casey Angres – Closed the Public Hearing for proposed adoption and changes to MSM Chapter 1500 – Healthy Kids Program.

9. Discussion and Proposed Adoption and Changes to MSM 2800

Subject: MSM Chapter 2800 – School Health Services

Evette Cullen, Chief of the Medical Benefits Coverage Unit, DHCFP, advised DHCFP is proposing the following updates to MSM Chapter 2800 – School Health Services, to reflect updates to other Medicaid policies such as Telehealth and Behavioral Health; to provide clarification related to the Medical Team Conference process and the use of form FA-11F for Applied Behavioral Analysis (ABA) diagnosis. A public workshop was held on September 18, 2023, to discuss these proposed changes.

The proposed changes to policy are Section 2802 – Definitions, added the definition of “Assessment” and “Crisis Intervention Services,”. Updated the definition of “Medical Team Conference” and added the definition of “Screening.”

NOTE: The word “Program” was updated to “Plan” for Individualized Education Program. DHCFP will be correcting the language back to “Program” to ensure proper alignment with the federal Individuals with Disabilities Education Act (IDEA) terminology.

Section 2803.1C - Coverage and Limitations, Item 3, Covered Services, added Community Health Worker (CHW) services and Item 4, Non-Covered Services, updated item ‘g’ to clarify only the administration fee of vaccinations, biological products, and other products available for free from DPBH, is a billable service. Section 2803.1D - Provider Responsibility, Item 1, General Information, removed “and identified in the POC as it pertains to screening, diagnostic, and treatment services.” Item 3, Ordering, Prescribing and Referring (OPR), was reworded for better clarity and flow. Item 4, By Or Under The Direction Of, updated the physician and nursing services chart to include CHWs. Added item 6, Continuity of Care, to include information on the Whole School, Whole Community, Whole Child (WSCC) Model. Item 7, Medical Team Conference, clarifying language was added, also added was what a qualifying MTC meeting can be. Item 12, Katie Becket Recipients, clarifying language was added. Section 2803.2B - Mental Health and Substance Use Services Qualifications, updated language regarding tuberculosis (TB) testing. Section 2803.2G – PCS Qualifications, Item 3, removed documentation requirements relating to TB testing requirements and removed qualification for CPR as a minimum qualification. Added Section 2803.2M - Community Health Worker Provider Qualifications. Section 2803.5A - Covered Services, Item 6, included what Rehabilitative Mental Health Services could include in a school-based setting. Section 2803.12 - Applied Behavior Analysis (ABA), added proper documentation must be present if the box “other” is marked on form FA-11F to justify ABA services for a diagnosis other than ASD or FASD. Section 2803.16 - Telehealth, removed the restriction of standard telephone. Added Section 2803.17 - Community Health Workers (CHWs). Added Section 2803.17A - Covered Services for CHWs. Added Section 2803.17B - Service limitations for CHWs. Section 2806.1 - Provider Specific Information, added Medicaid Operations Manual (MOM) as a resource where information can be found for specific providers.

Throughout the chapter, grammar, punctuation, and capitalization changes were made, duplications removed, acronyms used and standardized, and language reworded for clarity. Renumbering and re-arranging of sections was necessary.

The effective date of this new policy is November 29, 2023.

At the conclusion of Evette Cullen’s presentation, Casey Angres asked Malinda Southard and Karen Griffin if they had any questions or comments. Malinda Southard asked if DHCFP received the information regarding the special education teacher in time for a friendly amendment or will we need to do that update at the next update of this chapter.

Evette Cullen replied she does not have an answer to the question but advised she would get back to her later.

Public Comments: Casey Angres acknowledged a written comment was received from Kim Reddig, please see attached. Nancy Kuhles submitted a written comment, please see attached.

Susan Priestman advised she is a doctor of physical therapy, as are all current graduates of physical therapy and they are educated at the doctoral level. She said her comment relates to Chapter 1700 and she noticed there was a slight change in the verbiage of who may refer for physical therapy. She said her comment really is kind of informational in nature because she thinks physical therapists have a lot to offer in terms of cost savings to the Medicaid program. Physical therapists are direct access practitioners and do not need a referral from physicians but are excellent at triaging and referring patients as necessary. When physical therapy is offered to the patient as a first line of defense, they have great data to support that musculoskeletal episodes are resolved at the 70% or 80% level. There is a decrease in opioid use by 91%. There is a decrease in pain injections by 16%, and there is a decrease in unnecessary MRI usage by 50%, a decrease in physician visits by 25%, and decrease in prescription medications by 52%. She said she realized that “your hands may be tied” in terms of eliminating the referral requirement for physical therapy and that may be a bridge too far. However, she would be very interested in engaging with this group on Chapter 1700 with regard to how we can use creative solutions to direct patients into a less invasive path, especially for musculoskeletal concerns, pelvic floor concerns, and a myriad of balance disorders, and other afflictions that physical therapists can treat effectively with less treatment harm to the patients.

Malinda Southard approved the changes, pending spelling and grammar checks.

Casey Angres – Closed the Public Hearing for proposed adoption and changes to MSM Chapter 2800 – School Health Services.

10. Discussion and Proposed Adoption and Changes to MSM 3400

Subject: MSM Chapter 3400 – Telehealth Services

Sarah Dearborn, Behavioral Health Benefits Coverage, Chief, DHCFP, advised DHCFP is proposing revisions to MSM Chapter 3400 – Telehealth Services. These revisions are being proposed to align with the passing of SB 119 of the 82nd Legislative Session. SB 119 provides authority for the state to pay the nonfederal share of expenses for services in the same amount as in person or by other means for counseling or treatment relating to a mental health condition or a substance use disorder, including, without limitation, when such counseling or treatment is provided through audio-only interaction. Revisions made will remove any limitations for the service delivery of behavioral health services and incorporate the need for service delivery to be medically necessary and clinically appropriate based on the individual’s treatment needs.

Structural changes were made throughout the chapter including grammar, punctuation and capitalization changes, duplications removed, acronyms used and standardized, and language reworded for clarity. Renumbering and re-arranging of sections was necessary.

Section 3403.5(D) - Coverage and Limitations, has removed the specific behavioral health services that audio-only service delivery was allowable for and added language detailing the requirement that audio-only service delivery must be medically necessary and clinically appropriate for the recipient receiving the service. Section 3403.6D, Number 1 was removed under this Non-Covered Services section, removing behavioral health services that were previously not allowable through telehealth delivery to align with the requirements of SB 119.

This proposed change affects all Medicaid-enrolled providers delivering behavioral health services. Those PTs include but are not limited to: Behavioral Health Outpatient Treatment (PT 14), Behavioral Health Rehabilitative Treatment (PT 82), Psychologist (PT 26), Substance Use Agency Model (PT 17, Specialty 215), Certified Community Behavioral Health Center (PT 17, Specialty 188), and Specialized Foster Care (PT 86).

The financial impact on the local government is unknown at this time.

The effective date of this change is November 29, 2023.

At the conclusion of Sarah Dearborn's presentation, Casey Angres asked Malinda Southard and Karen Griffin if they had any questions or comments, they had none.

Public Comments: There were none.

Malinda Southard approved the changes, pending spelling and grammar checks.

Casey Angres – Closed the Public Hearing for proposed adoption and changes to MSM Chapter 3400 – Telehealth Services.

11. Adjournment

There were no further comments and Casey Angres closed the Public Hearing at 11:01 AM.

****An Audio (CD) version of this meeting is available through the DHCFP Compliance office. For more detailed information on any of the handouts, submittals, testimony and or comments please contact Jenifer Graham at documentcontrol@dhcp.nv.gov with any questions.***



Division of Health Care Financing and Policy
Nevada Department of Health and Human Services
1100 East William St., Suite 101
Carson City, NV 89701



Sent via email: documentcontrol@dhcpf.nv.gov

Re: Revisions to Medicaid Services Manual (MSM) Chapter 800- Laboratory Services

Dear Division of Health Care Financing and Policy (DHCFP),

Myriad Genetics, Inc. is pleased to submit this comment letter in response to the Nevada Department of Health and Human Services DHCFP proposed revisions to MSM Chapter 800 – Laboratory Services. We commend DHCFP for revising the MSM chapter to align with the state’s recent legislation regarding biomarker testing for the treatment, management, and monitoring of cancer.

By way of public comment on the DHCFP proposed revisions **in red**, we respectfully recommend the additional changes **in purple**;

-  DHCFP proposed revisions
-  Myriad additional revisions

1. Under 803.1A(1)(q)(4), “Covered Service”, in addition to the proposed revision, we suggest,

Providers The Director **must: a. Ensure** Deliver biomarker testing services are delivered to a recipient in a manner consistent with the standard of care for such services and should avoid unnecessary or excessive biopsies, biospecimen sampling, or other delays or disruption in care when rendering biomarker testing.

Rationale: This clarifies that it is the responsibility of “The Director”, not individual health care providers, to enable access to biomarker coverage without disruptions in care as per Assembly Bill No. 155, Section 15(2)(a).

2. Under 803.1A(2)(o), “Non-Covered Services”, in addition to the proposed revision, we suggest *deleting* the entire section,

~~o. Gene expression profiling, except when it is medically necessary as a prognostic assay to identify recipients diagnosed with breast cancer who are likely to respond to systemic chemotherapy. **when utilizing Oncotype DX™, as defined in Policy Attachment #08-02.**~~

Rationale: The biomarker testing described as covered in 803.1A(1)(q), applies to prognostic gene expression profiling assays used to inform cancer management *beyond Oncotype DX alone*. In other words, because there are other prognostic gene profiling assays that meet the definition of covered biomarker tests under the Nevada law, including a section defining that gene expression profiling is a non-covered services when some of these tests would be considered covered under biomarker section will result in conflicting policy and may lead to confusion and misinterpretation by providers, patients, and or health plans.

3. Under 803.1A(2)(p), “Non-Covered Services”, in addition to the proposed revision, we suggest making the following edits, and moving this section on BRCA1/BRCA2 testing to 803.1A(1), “Covered Services”,

- p. Molecular testing ~~except~~ for BRCA1/BRCA2 testing services for:
1. Individuals without a personal history of breast and/or ovarian cancers, considered to be high risk ~~as defined in Policy Attachment #08-01 or as otherwise~~ defined by the US Preventive Services Task Force ~~or the NCCN Clinical Practice Guidelines~~;
 2. Women with a personal history of breast and/or ovarian cancer with a personal history of breast cancer ~~as defined in Policy Attachment #08-01 or as otherwise~~ defined by the National Comprehensive Cancer Network (NCCN) Clinical Practice Guidelines; or 3. Men with a personal history of ~~breast~~-BRCA-associated cancer ~~as defined in Policy Attachment #08-01 or as otherwise defined~~ by the NCCN Clinical Practice Guidelines.

Rationale: Our interpretation is that DHCFP intends to cover BRCA1/BRCA2 testing for individuals with appropriate personal or family history, however listing BRCA1/BRCA2 testing as an “exception” to a “non-covered service” is potentially confusing. During this time of revision, we encourage DHCFP to move this section on BRCA1/BRCA2 testing out of the non-covered section to bring clarity to the intended coverage. Furthermore, in order to be more consistent with current standards of care, we encourage the state to apply NCCN Clinical Practice Guidelines for individuals with *and without* a personal history of cancer.

One could argue that this section on BRCA1/BRCA2 testing is no longer necessary given that these are biomarker tests described in section 803.1A(1)(q). However, given that BRCA1/BRCA2 coverage is also mandated testing under Nev. Rev. Stat. Ann. § 422.27175 and Nev. Rev. Stat. Ann. § 457.301 for patients both affected or unaffected with cancer, we support DHCFP’s inclusion of this well-established testing by name in the manual to ensure clarity around coverage.

Question:

Lastly, we would be interested to know how DHCFP plans to address coverage of biomarker tests that use proprietary laboratory (PLA) codes. To enable billing and payment specificity, we strongly recommend that DHCFP take into consideration that there are several tests with assigned PLA codes that meet the definition of a biomarker test, ideally before the manual updates are finalized.

Thank you for the opportunity to comment on this critical guidance and for your commitment to coverage biomarker testing for appropriate Nevada Medicaid beneficiaries. Please feel free to contact me directly at 917-749-0043 if you have any questions or if we can provide any additional information.

Sincerely,



Ashley Svenson, MS, CGC
Medical Policy Director
Myriad Genetics, Inc.
Email: ashley@myriad.com



November 28, 2023

Ms. Malinda Southard
Nevada Department of Health and Human Services
Division of Health Care Financing and Policy

Re: Public comment on proposed revisions to MSM Chapter 2800, School Health Services, Agenda Item #9

Dear Ms. Southard,

For the record:

My name is Nancy Kuhles. I am a speech-language pathologist and Co-Chair of the Nevada Speech-Language-Hearing Association's (NSHA) Coalition to Address Personnel Shortages in Special Education and Related Service.

My public comment today addresses the proposed revisions to Medicaid Service Manual (MSM) Chapter 2800 School Health Services, agenda item # 9, specifically the updates to "Under the Direction of" section of 2803.1 D (4), supervisors of Community Health Workers (CHWs), and the Medical Team Conference required composition of the Team, section 2803.1D (7).

First, the NSHA Coalition kindly requests Nevada Medicaid to consider future inclusion of Registered Nurses (RNs) as supervisors of CHW's. Registered Nurses practice in school settings and provide medically necessary services. It is within their scope of practice to supervise, and the inclusion of CHW's as supervisees "Under the Direction of" a school-based Registered Nurse would support the services provided by the school-based Registered Nurse.

Second, the proposed change to the composition of the Medical Team Conference members defined in MSM Section 2803.1D(7) is a concern. IDEA's Code of Federal Regulations CFR 300.321 (3), states: The public **agency must ensure that the IEP**

Team, which is the Medical Team Conference members per MSM 2800, for each child with a disability includes—

(3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;

To meet both the required IDEA CFR and the pursuit of Medicaid reimbursement for special education services, the NSHA Coalition strongly suggests the inclusion of a special education teacher, and as an added OR, inclusion of a speech language pathologist as special education provider in the composition of the Medical Team Conference members.

The exclusion of these IDEA REQUIRED members of the Medical Team Conference, puts a burden on school districts and/or charter schools who choose to pursue Medicaid reimbursement for IEP / Medical Team Conference meetings.

Thank you for your time and consideration of this matter.

Respectfully submitted:

Nancy Kuhles, M.S. CCC-SLP

Co-Chair, Nevada Speech-Language and Hearing Association (NSHA) Coalition to Address Personnel Shortages

11/28/2023

Re: Agenda Item #9 changes to MSM 2800

To whom it may concern:

While I understand that there are edits that need to be made to include and add in reimbursement opportunities for behavioral/ mental health professionals, by changing the language and removing the requirement of a special education teacher, or perhaps including with an 'OR' you are undermining the value of a special education teacher as the case manager of students that receive special education. By requiring a licensed psychologist, or nurse, or behavioral health professional you are removing the case manager as a required team member, the person that completes all of the paperwork necessary for a student's services. This change could be remedied by continuing to include a special education teacher as a member of a MTC, this allows collaboration and coordination of services for the whole child when the case manager is included and required in these team meetings.

This kind of change will affect all schools and how their meetings are scheduled and held moving forward if a district chooses to attempt reimbursement for Medical Team Conferences. There are already a shortage of these professionals to work in school buildings, with this new requirement holding these meetings becomes a bigger challenge. It is unfortunate that this team did not take into consideration the importance of and requirement of the special education teacher/ case manager to this process and team meeting.

Thank you for your time and consideration.

Sincerely,

Kim Reddig, M.S. CCC- SLP