STATE OF MICHIGAN
DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

GRETCHEN WHITMER
GOVERNOR

ROBERT GORDON
DIRECTOR

MEMORANDUM

DATE: May 29, 2020

TO: CEOs and Directors of Prepaid Inpatient Health Plans

FROM: Allen Jansen, Senior Deputy Director
Behavioral Health and Developmental Disabilities Administration

SUBJECT: **PIHP Funding**

The attached documents reflect the stability plan for the Pre-paid Inpatient Health Plans (PIHPs) provider networks and the requisite contract language that supports the approach that is being taken. It should be noted that there is still work going on within MDHHS to support funding to the licensed psychiatric hospitals that are taking COVID-19 positive patients that will be outside of the PIHP system. MDHHS is working with CMS on this effort that will be through the currently established HRA process.

PIHP Provider Network Stability Plan

Consistent with current contractual and federal requirements (42 CFR 438.68 and 438.206), the Pre-paid Inpatient Health Plan is required to establish and maintain a provider network that is sufficient to provide adequate access to all services covered under the contract (the specialty behavioral health benefit). The impact of the COVID-19 pandemic and the necessary response by the state to address it have resulted in a significant decrease in the delivery of services by numerous providers which has put their ongoing viability in question due to a decrease in revenue and static overhead costs. Additionally, providers are required to take several new measures, to maintain the safety of staff and individuals being served, that are also resulting in increased costs.

It is critical that the specialty behavioral health system maintains an adequate and viable provider network for this year moving into the next. PIHPs are required to take all necessary steps to ensure that an adequate provider network is in place to meet the needs of eligible beneficiaries. MDHHS will allow PIHPs to engage in contracting methods to ensure stability that includes sub-capitation arrangements, retro-active rate adjustments, cost-reimbursement arrangements or other alternative funding structures based on historical funding. Any method chosen must adhere to all applicable financial and compliance audit requirements.

MDHHS is requesting each PIHP submit a Provider Network Stability Plan that outlines the policy and/or contractual actions that are being or have already been initiated in order to sustain and support your networks. These plans must include a description of the funding mechanism(s) being employed, length of time it will be utilized and what criteria will be used to determine when the plan will be discontinued and the internal audit process that will be used to monitor the approach(es) for effectiveness and compliance with established rules and regulations. MDHHS will review each plan and provide approval for the plan within one week of receipt. Additionally, a status update on the plan will be due to MDHHS at the end of each month for the remainder of the fiscal year. The stability plans must address the complete provider network, not just select providers or provider types.

Inpatient psychiatric providers are a key part of the provider network. While MDHHS has made the decision to provide additional support to the facilities that have made provisions to treat individuals who are COVID-19 positive through the HRA, it is still expected that the PIHPs utilize alternative methods for funding all inpatient psychiatric providers and include them in their stabilization plans.

In the interest of ensuring that individuals in need of inpatient care who are COVID-19 positive have access to care, MDHHS is requesting that the PIHPs report any denials of admission from facilities identified as taking COVID-19 positive patients. These reports can be made to Jeff Wieferich at wieferichj@michigan.gov .

The stability plans are due to MDHHS by close of business, June 4, 2020 and must be submitted via email to Jeff Wieferich at wieferichj@michigan.gov.

PIHP Contract Language Related to the Provider Network

7.0 PROVIDER NETWORK SERVICES

The PIHP is responsible for maintaining and continually evaluating an effective provider network adequate to fulfill the obligations of this contract. The PIHP remains the accountable party for the Medicaid beneficiaries in its service area, regardless of the functions it has delegated to its provider networks.

In this regard, the PIHP agrees to:

1. Maintain a regular means of communicating and providing information on changes in policies and procedures to its providers. This may include guidelines for answering written correspondence to providers, offering provider-dedicated phone lines, and a regular provider newsletter.
2. Have clearly written mechanisms to address provider grievances and complaints, and an appeal system to resolve disputes.
3. Provide a copy of the PIHP's prior authorization policies to the provider when the provider joins the PIHP's provider network. The PIHP must notify providers of any changes to prior authorization policies as changes are made.
4. Provide a copy of the PIHP's grievance, appeal and fair hearing procedures and timeframes to the provider when the provider joins the PIHP's provider network. The PIHP must notify providers of any changes to those procedures or timeframes.
5. Provide to MDHHS in the format specified by MDHHS, provider agency information profiles that contain a complete listing and description of the provider network available to recipients in the service area.
6. Assure that services are accessible, taking into account travel time, availability of public transportation, and other factors that may determine accessibility.
7. Assure that network providers do not segregate PIHP individuals in any way from other people receiving their services.

37.0 PROVIDER PROCUREMENT

The PIHP is responsible for the development of the service delivery system and the establishment of sufficient administrative capabilities to carry out the requirements and obligations of this contract. Where the PIHP and its provider network fulfill these responsibilities through subcontracts, they shall adhere to applicable provisions of federal procurement requirements as specified in Attachment P.37.0.1.

In complying with these requirements and in accordance with 42 CFR 438.12, the PIHP:

1. May not discriminate for the participation, reimbursement, or indemnification of any provider who is acting within the scope of his or her license or certification under applicable state law, solely on the basis of that license or certification;
2. Must give those providers not selected for inclusion in the network written notice of the reason for its decision;
3. Is not required to contract with providers beyond the number necessary to meet the needs of its beneficiaries and is not precluded from using different practitioners in the same specialty. Nor is the PIHP prohibited from establishing measures that are designed to maintain quality of services and control costs and are consistent with its responsibilities to its beneficiaries. In addition, the PIHP's selection policies and procedures cannot discriminate against particular providers that serve high-risk populations or specialize in conditions that require costly treatments. Also, the PIHP must ensure that it does not employ or contract with providers excluded from participation in federal health care programs under either Section 1128 or Section 1128A of the Social Security Act.

PIHP Contract Language Related to the Provider Network

In complying with these requirements and in accordance with 42 CFR 438.206, the PIHP:

1. Monitor and maintain a network of appropriate providers that is sufficient to provide adequate access to all services covered under the contract for all eligible persons including those with limited English proficiency or physical or mental disabilities. The PIHP will ensure that network providers provide physical access, reasonable accommodations, and accessible equipment for Medicaid enrollees with physical or mental disabilities.

In complying with these requirements and in accordance with 42 CFR 438.206, the PIHP:

2. Monitor and maintain a network of appropriate providers that is sufficient to provide adequate access to all services covered under the contract for all eligible persons including those with limited English proficiency or physical or mental disabilities. The PIHP will ensure that network providers provide physical access, reasonable accommodations, and accessible equipment for Medicaid enrollees with physical or mental disabilities.

37.0.2 MDHHS Specialty Behavioral Health Network Adequacy Standards

The Code of Federal Regulations at 42 CFR Parts 438.68 and 457.1218 charges states holding managed care contracts with the development and implementation of network adequacy standards. Furthermore, 42 CFR 438.68(b)(iii) indicates that standards pertinent to behavioral health must be developed for the adult and pediatric populations. Michigan will continue to utilize the minimum time/distance standard of 30-minute/30-mile and 60-minute/60-mile for behavioral health services for urban and rural areas, respectively. Pursuant to the federal rules, Michigan's specialty behavioral health standards reflect Medicaid enrollee-to-provider ratios for services congruent with community need and statewide strategic priorities. These services for adults include Assertive Community Treatment, Crisis Residential Programs, and Psychosocial Rehabilitation Programs (Clubhouses). For children, services include Crisis Residential Programs, Home-Based, and Wraparound Services. Please note that the Opioid Treatment Program standards reflect both adults and children. Moreover, adults and children have distinct standards for Crisis Residential Programs. The chosen standards reflect the top quartile of enrollee-to-provider ratios (except for Crisis Residential Programs, which reflects a distinct methodology based on the number of beds per total population).