Fostering Cooperation for Out-of-County Kids

Implementing AB 1299

A joint webinar developed by:
California State Association of Counties (CSAC)
Chief Probation Officers of California (CPOC)
County Behavioral health Directors of California (CBHDA)
County Welfare Directors Association of California (CWDA)

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Webinar Structure:

- ✓ Overview
- ✓ Key Terms
- ✓ Challenges of 1299
  - ➢ Coordination Among Agencies
  - ➢ Fiscal Concerns
- ✓ Q&A

Overview: What's It All About?

AB 1299 (Chapter 63, Statutes of 2016) presumptively transfers the responsibility for Medi-Cal specialty mental health services for foster youth placed by child welfare and probation in a county other than the one in which they lived. The responsibility is automatically transferred unless waived by either the child welfare or probation agency, or the courts.

The intent of AB 1299 was to ensure the timely provision of specialty mental health services for these "out of county" children.

Key Terms:

Presumptive Transfer

Requires the responsibility for providing or arranging for specialty mental health service to be promptly transferred from the county of original jurisdiction to the county in which the foster youth resides.

Key Terms:

Wavier of Presumptive Transfer

Presumptive transfer of specialty mental health services may be waived on a case-by-case basis for the following reasons:

- The transfer would disrupt the continuity of care or delay access to services
- The transfer would interfere with family reunification efforts documented in the child's case plan
- The child's placement is expected to last less than six months
- The child is within 30 minutes of travel time to his or her established specialty mental health care provider in the county of original jurisdiction.

Key Terms:

Wavier of Presumptive Transfer continued…

The county of jurisdiction's placing agency (child welfare and probation departments) makes the determination as to whether a waiver of presumptive transfer is necessary and notifies all parties of any waiver requests, in consultation with the Child and Family Team (CFT).

Key Terms:

County of Jurisdiction

The county in which the child's Child Welfare Services or Probation case is initiated. The county of jurisdiction retains the legal responsibility for the welfare of the child regardless of the location/placement of the child.

Key Terms:

County of Placement/Host County

A county in which a youth is placed that is different from the county of jurisdiction.

Key Terms:

County of Placing Agency

County Child Welfare Services (CWS) and probation Departments retain local responsibility for the care, custody, and control of the foster child/youth regardless of where the youth are placed. Placing agencies are responsible for finding safe living arrangements, overseeing the child's case plan, coordinating with other entities, ensuring oversight of the child's health (including mental health services), education, and well-being, and referrals and informing the responsible mental health plan (MHO) of the placement transfer.

Key Terms:

County of Placing Agency continued…

County Behavioral Health Departments are not placing agencies, but are required to provide medically necessary specialty mental health services to foster children/youth under federal and state law.

Key Terms:

Short-Term Residential Therapeutic Programs

Under the state's Continuum of Care reform effort, STRTPs are intended to be a high-level congregate care model that offers both a safe placement as well as intensive services to foster children/youth.

Key Terms:

Short-Term Residential Therapeutic Programs continued…

STRTPs must:

- Be nationally accredited
- Develop programs that provide the required "core services," including specialty mental health services, in order to assist the child's transition back to their community and in a home-based setting.
- Obtain a Mental Health Program Approval through county Mental Health Plan (MHP) of DCHCS, and to become Medi-Cal Certified to provide specialty mental health services and/or have a contract to provide such service with the MHP.

Challenges:

As with all new laws, AB 1299's passage and implementation has been rife with challenges. Two of the major themes counties are encountering include:

- Coordination: AB 1299 requires close coordination and communication among multiple county departments as well as providers to ensure that foster children/youth receive timely specialty mental health services.

- Fiscal Concerns: AB 1299 requires a host county to arrange, provide, and pay for specialty mental health services for foster children/youth who are presumptively transferred to their county.

Challenge: Coordination Among Agencies

Roles & Responsibilities

County CWS and Probation Departments, as the placing agencies, must adhere to myriad federal and state requirements as they oversee the care of foster children/youth. This includes responsibility for:

- Developing a child's case plan and updating it as specified
- Shepherding the case through the judicial process and complying with all court orders
- Ensuring that a Child and Family Team (CFT) is convened.
- Finding and overseeing a safe placement for the child
- Ensuring the health, safety, education of the child, including all needed services

Challenge: Coordination Among Agencies

Roles & Responsibilities continued…

This requires a significant level of coordination and, under AB 1299's Presumptive Transfer, requires the case worker to:

- Generate notifications to CFTs, MHPs, and the court regarding the provision of specialty mental health services
- Determine whether a waiver of presumptive transfer is necessary and, if deemed necessary, complete the administrative steps to request a waiver
- Notify the responsible MHP of the presumptive transfer or Waiver, and monitor the provision of necessary services,
- Update the case plan as needed.

Challenge: Coordination Among Agencies

Information Sharing

County CWS, Probation, and Behavioral Health Departments must share additional documentation, including:

- Identifying information about the child: name, date of birth, and address;
- Name, location, and contact information of the referring placing agency;
- The most recent court document to identify legal holder of medical rights.
- Name and contact information of who can sign releases of information;
- Name and contact information of who can sign consents;
- The most recent consent for services, and consent for medication, including the JV-220.
- Mental health records, including the most recent mental health assessment.

Challenge: Coordination Among Agencies

Information Sharing Example

Q: What if the host county Mental Health Plan is seeking ***additional*** clinical information regarding the child, beyond the required documents?

A: According to ACL No. 17-77/MHSUDS IN No. 17-032, The Host Mental Health Plan shall contact the County of Jurisdiction Mental Health Plan's single point of contact to initiate the information sharing process, subject to federal confidentiality requirements.

Challenge: Coordination Among Agencies

Additional Communication Challenges

Counties have additionally identified the following challenges:

- Variation in county policies for acceptable signatories on consents forms and release of protected health information.
- Knowing when a mental health assessment has been completed by the other county, and which services have been authorized and started.
- Wanting to know what services are available in other counties and how to establish services identified as needed for the child.

The Associations are committed to working through these issues in the coming months and will also engage the State departments in guidance as necessary.

Challenge: Fiscal Issues

Under Presumptive Transfer, once the host county Mental Health Plan is informed of the presumptive transfer, they must provide or arrange for, and pay for, all medically necessary specialty mental health services for the foster child/youth.

A child's CWS or Probation case and related administrative costs remain with the county of jurisdiction.

Challenge: Fiscal Issues

The core idea of presumptive transfer is to ensure the timely provision of specialty mental health services for these vulnerable youth. By requiring the mental health plan in the county in which the child resides to provide or arrange for services, AB 1299 attempts to answer the question of which county should pay for these services.

Challenge: Fiscal Issues

Potential Fiscal Solutions
2011 Realignment Behavioral Health Growth

Newly implemented 2011 Realignment Behavioral Health Growth Formula will help alleviate fiscal pressure related to AB 1299.

2011 Realignment Behavioral Health growth funding will be distributed to counties using a 50/50 formula: 50 percent of available growth funding is allocated based on a county's Medicaid caseload and 50 percent of available growth funding is allocated based on the number of weighted Medicaid Eligible Groups in a county:

- Foster Care – weight: 27 (this ensures that a county with the highest-cost beneficiaries receives funding for these costs)
- Disabled – weight: 7
- Other – weight: 1

Challenge: Fiscal Issues

Potential Fiscal Solutions
2011 Realignment Behavioral Health Growth continued…

Each county's share of available growth is calculated using 80 percent of the Medicaid claims for the fiscal year in which the growth accrued (2017-18 growth reflects claims for services provided in 2017-18). Growth is slated to be distributed to each county in November following the fiscal year in which growth was calculated (2017-18 growth should go out to counties this month).

This formula will be in effect for the next three years (until 2021-22).

Challenge: Fiscal Issues

Potential Fiscal Solutions
CalMHSA Member Transfer Program

The California Mental Health Services Authority (CalMHSA), a joint powers agreement between county MHPs, has created a banking pool in which participating counties can deposit funding to both pay for and receive payment for out-of-county specialty mental health services.

Expected launch: November 1

The CalMHSA Member Transfer Program has received initial payments from 9 counties totaling $1,048,349.79 (as of October 18, 2018).

Other Challenges:

Intersection of Continuum of Care reform (CCR) with AB 1299

The new STRTP model integrates both placement and services for children, including mental health services.

However, AB 1299 assumes that placement and services are separate, or at least provided by separate entities, and that mental health services are solely provided by or arranged by the county mental health plan.

The integrated design of STRTP's may cause confusion for counties who place in STRTPs or counties that host STRTPs.

Other Challenges:

Intersection of Continuum of Care reform (CCR) with AB 1299 continued…

It is important to note that ACL 18-60/MHSUDS 18-027 allows for a waiver if the child's case plan indicates the expected stay is 6 months or less and the child/youth will be returning to their jurisdiction county. This assumes that other requirements are met – including the ability of the jurisdiction MHP to contract with the STRTP within 30 days. This can include child-specific service agreements arranged by the county MHP.

Note that stays in STRTPs are, by design, intended to be short in duration. If the child's stay goes longer than the expected six months, the placing agency with the CFT must evaluate whether a waiver should continue.

Other Challenges:

Contracting

County MHPs must have agreements with STRTPs for the provision of specialty mental health services. Therefore, a STRTP will typically have a contract with their own county MHP for services (although this is not always the case).

If a child/youth is placed from another county to that same STRTP, and the presumptive transfer is waived, the provider would also need to have a contract or service agreement with the county of jurisdiction.

Other Challenges:

Contracting continued…

Result: a STRTP may have multiple contracts with multiple counties. Because the terms, conditions, and rates may differ per county, this can present challenges to the STRTP provider in managing multiple contracts.

Other Challenges:

Contracting continued…

Q: What happens if a foster child/youth is placed out of a county in a STRTP and the host county MHP does not have a contract in place with the STRTP and does not intend to complete a contract with the STRTP due to concerns with the facility?

A: The MHP is the county where the foster child/youth now resides must either provide the youth with SMS services or arrange for the youth to receive the needed treatment by a third party. This particular example highlights why it is important for placing agencies and behavioral health departments to share information and concerns when taking cases to the IPC and exploring placement options.

Other Challenges:

Hospitalization

Under AB 1299, all Specialty Mental Health Services are transferred to the county of responsibility mental health plan, including the costs of psychiatric inpatient hospitalization for any foster child presumptively transferred to the county of residence. However, hospitals will likely notify the county of jurisdiction MHP per regular standard of practice of looking up county code in MEDS. For this reason, is important that the two MHPs coordinate and communicate to ensure payment.

Other Challenges:

MEDS Data

There is no indicator in MEDS regarding whether a child has been presumptively transferred. At this time, DHCS is not pursuing a change. Counties must ensure notification is tracked to prevent confusion and avoid any loss of services for the foster child/youth.

Single Point of Contact for MHPs and CWs for AB 1299

Each county should maintain a single point of contact within Child Welfare Services, Behavioral Health, and Probation to allow other counties to contact them regarding a presumptive transfer.

Remember to use this SPOC list for county-specific questions and to share information:

- County Offices: http://www.cdss.ca.gov/County-Offices
- Probation Offices: http://www.cdss.ca.gov/Portals/13/Users/036/36/36/Presumptive%20Transfer%20P_oints%20of%20Contact.pdf?ver=2018-08-02-122730-367

Updates to this list should be sent to: http://www.cdss.ca.gov/County-Offices.

Resources:

We will post a variety of resources, including a recording of this webinar, the two ACL/MHSUDS INs, simple flow charts, and the single point of contact information on the CSAC website.

Questions & Answers