



## California Council of Community Mental Health Agencies

*Leaders in the partnership that developed and promoted Proposition 63*

### **AB 3632/ Assembly Bill 114 Transition Mental Health Services for Special Education Students Department of Education Workgroup Meeting Highlights and Issues July 27, 2011**

The AB 3632 program had been underfunded and a constant challenge for the state counties and schools for many years. This year the legislature finally addressed the underfunding and structural instability by realigning the program to schools. This new approach will present significant transition challenges but also comes with hope for a better overall approach to identifying and serving students with mental health problems.

The funding is substantially greater than counties have ever been provided and is dedicated solely to this program, at least for the 2011-12 year and Proposition 63 will require that the level of state funding and entitlements not be reduced.

However, it is also recognized that this is a new responsibility for schools and there are widely varying approaches being discussed and a need for state guidance and leadership to ensure that this transition is positive.

The state department of Education is now responsible for the governance of mental health services to special education students. The department established a workgroup of stakeholders and announced plans to have the group meet monthly in two day meetings for the next eight months to develop guidance documents for the school officials responsible for delivering the services.

Prior to the first meeting (which was a one day meeting on July 27<sup>th</sup>) I had believed that we would need legislation to address some of our concerns. However, after the meeting I believe that Department of Education guidance can address all short term issues with legislation not required at this time and possibly only required to address the long term financing and funding allocation structure which may have to wait until there is sufficient data on utilization and needs..

Key conclusions from this first meeting are that the requirements will now be based completely on federal law (and its court interpretations). The state will not add statute or regulations which could be interpreted as adding any additional requirements as that would re-establish a state mandate claiming process which the state is committed to avoiding.

All materials that are developed will be in the form of information to school officials of recommended actions to ensure that federal requirements are met.

*Representing Non-Profit Community Mental Health Agencies Throughout California*

However, that is an incredibly powerful form of information because all federal education funds flow through the department which is responsible for ensuring that all districts are complying with all federal requirements.

The Department has the power to withhold funds from any school district when the department believes that a district is out of compliance.

At this first meeting the main goals were to make sure that all of the relevant issues got into the process and would eventually be addressed.

Following is a list of issues to be addressed:

- Continuity of Care as responsibility shifts from counties to schools
- Accessing each type of funding
- MediCal – County MH services (EPSDT)
- MediCal- LEA Billing Option for psychological counseling
- MediCal- what funds pay for non federal share
- MediCal – continuity of care for families entering or exiting
- Wrap Around
- Residential placements
- Out of State placements
- Assessment and Referral
- Treatment Planning and levels of care
- MOU Contracts between counties and schools
- Private Insurance for non covered services
- Penetration Rate Data
- Cost Data
- Outcomes Data
- Medication Management
- Crisis Services
- Prop 63 funds for 2011-12
- Prevention and Early Intervention
- Impact of National Healthcare Reform and Medical Homes
- CalMHSA Grants to Department of Education and County School Superintendents Association
- Relationship to school discipline and positive behavioral supports and one time intervention versus IEP

### **Counties and MediCal**

At the meeting there was discussion about different ways for school districts to access MediCal funds and serve MediCal students without having to contract with county mental health. Many school officials are trying to avoid the added county administrative costs and seeking to find a way to directly contract with the same providers that counties had used or to use their own personnel. While this might work for non MediCal

students the fact that half of the students are in MediCal and many families go off and on MediCal during the school year makes it impractical without a way to access MediCal funds.

There are lots of misconceptions of how EPSDT works. Many school officials think it works like a fee for service MediCal benefit whereby a school can be authorized to bill for the services and receive the federal share of costs. Schools also seemed to be unaware of the separate EPSDT funding that counties receive for the non Federal share of costs that is provided for special education students but billed separately from the AB 3632 program.

Where the non federal share was billed by counties through EPSDT to the state departments of mental health and health care services it would not have been identified as an AB 3632 program cost. Accordingly those funds would not have been included in calculating the funding for schools and schools would not be able to access this funding if they used the LEA MediCal option and did not contract with counties. It appeared that this was not something widely understood by school officials.

The LEA (Local Education Agency) MediCal billing option includes psychological counseling (by each of several licensed professional categories) as a covered benefit. One of the major questions is the scope of these services. It was generally believed that it is much narrower than what EPSDT covers but no one seemed too sure. As a practical matter that may not matter if the non federal share of costs has generally been paid with county allocations of EPSDT funds and not with AB 3632 funds. Further complicating any efforts for schools to avoid working with counties is the \$98 million in Prop 63 funds for the 2011-12 year that can only be accessed through counties and is intended to require schools and counties to be work together.

There is an urgent need to clarify these issues but the clear conclusion at this time is that schools will need to have a contractual relationship with counties in order to access MediCal EPSDT funds and Proposition 63 funds for 2011-12.

### **Will all children get all necessary services?**

With the state obligated to reimburse counties and the schools bearing now financial risk one of the best features of the AB 3632 program is that there was no financial incentive to not identify a child. The new approach puts schools at financial risk and our greatest fears are that in some districts there will be fewer children identified or inappropriate restrictions on the scope of services.

However, the federal entitlement is clear and schools are also aware of their responsibilities and risks of loss of other federal education funds if they fail to comply with federal standards that will be subject to guidance from the state. In addition we hope to be able to educate school officials that delaying mental health care to a child who needs it is likely to increase the severity of the child's disability and the eventual costs the school will have to pay. We also hope to be able to establish a more consistent prevention and early intervention system that will identify children with mental

health needs before they require an IEP and special education. Private health plans should be responsible for the costs of such services once the identification is made.

We are hearing of wide variations of initial strategies by school districts across the state and the attached survey is intended to help us identify the problems and develop solutions.

### **Utilization and Outcome Reports**

The Department of Education will develop and collect data from school districts on the numbers of children receiving services, what services they are receiving and what results are being achieved. Comparative reports will help us identify places of excellence to be replicated and problem areas requiring education, assistance or intervention.

### **Quarterly Surveys, Monthly Meetings and Monthly Conference Calls**

The attached survey will provide an initial overview of how it is going so far for the areas served by member agencies. We intend to update this survey quarterly to identify changes which we expect to be common over the first year or two under this new law.

**All agencies who provide services under this program are urged to complete the attached survey and return it to CCCMHA staff by August 10<sup>th</sup>.**

The Department of Education's workgroup will hold a two day meeting every month through next Spring. The first meeting is August 17-18. After each meeting we will provide information to members and hold a conference call to discuss issues with a newly established committee.