

**THIS CA UPDATE HAS BEEN SENT TO THE FOLLOWING:****COUNTIES:**

- Imperial
- Riverside/San Bernardino
- Los Angeles
- Orange
- Sacramento
- San Diego

**LINES OF BUSINESS:**

- Molina Medi-Cal Managed Care
- Molina Medicare
- Molina Marketplace (Covered CA)

**PROVIDER TYPES:**

- Medical Group/ IPA/MSO**
  - Primary Care**
  - IPA/MSO
  - Directs
- Specialists**
  - Directs
  - IPA
- Hospitals**
  - Ancillary**
  - CBAS
  - SNF/LTC
  - DME
  - Home Health
  - Other

## Delegation and Subcontractor Network Certification APL 23-006

This is an advisory notification to Molina Healthcare of California (MHC) network providers to provide guidance on the requirements for delegation and monitoring of Subcontractors.

This notification is based on an All-Plan Letter (APL) 23-006, which can be found in full on the Department of Health Care Services (DHCS) website at: <https://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2023/APL23-006.pdf>

### **BACKGROUND**

Title 42 Code of Federal Regulations (CFR) section 438.230 specifies the requirements MHC must include in all contracts or written agreements with any Subcontractors. This regulation addresses the duties and obligations of MHC and their Subcontractors.

The regulation also emphasizes that regardless of the relationship MHC has with a Subcontractor, whether direct or indirect through additional layers of contracting or delegation, MHC has the ultimate responsibility for adhering to, and fully complying with, all terms and conditions of its contract with the DHCS.

### **WHAT YOU NEED TO KNOW:**

#### **POLICY**

The following definitions apply:

- **Subcontractor** – An individual or entity that has a Subcontractor Agreement with MHC that relates directly or indirectly to the performance of MHC's obligations under its contract with DHCS. A Network Provider is not a Subcontractor solely because it enters into a Network Provider Agreement.
- **Downstream Subcontractor** – An individual or entity that has a Downstream Subcontractor Agreement with a Subcontractor of MHC or a Downstream Subcontractor that relates directly or indirectly to the performance of the Subcontractor's obligations under its Subcontractor Agreement with MHC.
- **Subcontractor Network** – A Provider Network of a Subcontractor or Downstream Subcontractor, wherein the Subcontractor or Downstream Subcontractor is delegated risk and is responsible for arranging for the provision of and paying for Covered Services as stated in their Subcontractor or Downstream Subcontractor Agreement.
- **Subcontracted Network Certification (SNC)** – A process that entails MHCs reporting on their monitoring of Subcontractors' and Downstream Subcontractors' Provider Networks and submitting documentation to DHCS verifying the compliance and/or noncompliance reported.

## I. MONITORING SUBCONTRACTORS

- A. Delegation Accountability:** If MHC delegates any activity or obligation to a Subcontractor, whether directly or indirectly, the Subcontractor Agreement must:
- 1) Specify any and all delegated activities, obligations, and related reporting responsibilities
  - 2) Include the Subcontractor's agreement to perform the delegated activities, obligations, and reporting responsibilities; and
  - 3) Provide for the revocation of the delegation of activities or obligations or specify other remedies where DHCS or MHC determines the Subcontractor is not performing satisfactorily.
- B. Ownership and Control Disclosures:** The review of ownership and control disclosures applies to all Subcontractors that contract with MHC, including disclosing entities, fiscal agents, and managed care entities.
- C. Data Reporting:** MHC will ensure the data reported by Subcontractors is complete, accurate, reasonable, and timely. This includes, but is not limited to, encounter data, monthly 274 Provider Network data files, data reported through quarterly templates, electronic visit verification reporting, and any other ad hoc data requests required by DHCS.
- D. Monitoring, Corrective Action, and Sanctions:** MHC will regularly monitor all functional areas delegated to Subcontractors. MHC will also impose corrective action and/or financial sanctions on Subcontractors upon discovery of noncompliance with the terms of their Subcontractor Agreement or any Medi-Cal requirements.

## II. SUBCONTRACTOR NETWORK CERTIFICATION (SNC)

- A. Circumstances for Submission:** MHC is required to undergo a SNC annually that is separate and distinct from the submission process for the Annual Network Certification (ANC). SNC is required (1) when a Subcontractor Network experiences a significant change, and (2) when MHC enters into a new risk-based Subcontractor Agreement with a Subcontractor that expands MHC's existing Provider Network.
- B. Subcontractor Network Criteria:** Whether a Subcontractor or Downstream Subcontractor is fully or partially delegated for functions and obligations under their Subcontractor or Downstream Subcontractor Agreement, Subcontractor Networks are only required to meet the Network adequacy and access standards for the Members assigned to the Subcontractor Network, and for Covered Services the Subcontractor or Downstream Subcontractor is contracted to arrange for Members on behalf of MHC or Subcontractor.
- C. Submission:** The SNC submission consists of three parts: (1) the Subcontractor Network Exemptions Request template (2) the Network Adequacy and Access Assurances Report (NAAAR) and (3) verification documents.
- D. Noncompliance:** All Subcontractor Network deficiencies impacting Member access to care, as identified by MHC while monitoring, will result in MHC, or the Subcontractor (if delegated utilization management), authorizing Covered Services from Out-of-Subcontractor Network (OOSN) Providers for Members in the deficient Subcontractor Network.

**WHAT IF YOU NEED ASSISTANCE?**

If you have any questions regarding the notification, please contact your Molina Provider Services Representative below:

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