



State of California—Health and Human Services Agency  
Department of Health Care Services



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**DATE:**

ALL PLAN LETTER 18-XXX  
SUPERSEDES ALL PLAN LETTER 16-017

**TO:** ALL MEDI-CAL MANAGED CARE HEALTH PLANS

**SUBJECT:** ACCESS REQUIREMENTS FOR FREESTANDING BIRTH CENTERS  
AND THE PROVISION OF MIDWIFE SERVICES

**PURPOSE:**

The purpose of this All Plan Letter (APL) is to clarify the requirements for Medi-Cal managed care health plans (MCPs) regarding their responsibilities to provide members with access to freestanding birth centers (FBCs) as well as to services provided by Certified Nurse Midwives (CNMs) and Licensed Midwives (LMs). This APL supersedes APL 16-017.<sup>1</sup>

**BACKGROUND:**

The Department of Health Care Services (DHCS) policy pertaining to FBCs, CNMs, and LMs, as contained in this APL, is supported by federal and state law, official guidance from the federal Centers for Medicare & Medicaid Services (CMS), and the California State Plan.

**Freestanding Birth Centers**

Federal law mandates coverage of FBC services and requires separate payments to providers administering prenatal labor and delivery or postpartum care in an FBC.<sup>2</sup> CMS guidance clarifies that the FBC benefit category is considered both a service and a setting for services.<sup>3</sup> Federal law defines an FBC<sup>4</sup> as a health facility –

- (i) that is not a hospital;
- (ii) where childbirth is planned to occur away from the pregnant woman's residence;

<sup>1</sup> A listing of APLs by number is available at: <http://www.dhcs.ca.gov/formsandpubs/Pages/AllPlanLetters.aspx>.

<sup>2</sup> See Title 42 United States Code [USC] Sections 1396d (a)(28), 1396d (l)(3)(A), and 1396d (l)(3)(C).

Title 42 USC Section 1396d is available at:

[http://uscode.house.gov/view.xhtml?req=\(title:42%20section:1396d%20edition:prelim\)%20OR%20\(granuleid:USC-prelim-title42-section1396d\)&f=treesort&edition=prelim&num=0&jumpTo=true](http://uscode.house.gov/view.xhtml?req=(title:42%20section:1396d%20edition:prelim)%20OR%20(granuleid:USC-prelim-title42-section1396d)&f=treesort&edition=prelim&num=0&jumpTo=true)

<sup>3</sup> See CMS State Health Official letter (SHO) #16-006, which is available at:

<https://www.medicare.gov/federal-policy-guidance/downloads/smd16006.pdf>.

<sup>4</sup> See Title 42 USC Section 1396d (l)(3)(B).

- (iii) that is licensed or otherwise approved by the state to provide prenatal labor and delivery or postpartum care and other ambulatory services that are included in the plan; and
- (iv) that complies with such other requirements relating to the health and safety of individuals furnished services by the facility as the state shall establish.

California State Plan Amendment (SPA) 11-022 added FBCs – also referred to in the SPA as Alternative Birth Centers (ABCs) – to the State Plan, as federally mandated.<sup>5</sup> SPA 11-022 did not change the scope of services at ABCs or the requirement that ABCs be certified as Comprehensive Perinatal Services Program providers.<sup>6</sup> The DHCS Provider Manual contains additional information about ABC services.<sup>7</sup>

### **Certified Nurse Midwives and Licensed Midwives**

Federal law mandates coverage of services furnished by CNMs, as legally authorized by the state,<sup>8</sup> and California law requires coverage of both CNMs and LMs.<sup>9</sup> The California State Plan authorizes CNMs and LMs as providers of all services permitted within the scope of the practitioner's license.<sup>10</sup>

While CNMs and LMs are both authorized under state law to provide prenatal, intrapartum, and postpartum care, including family planning care for the mother and immediate care for the newborn, there are some differences between the two provider types with regard to licensing and supervision requirements, as well as the circumstances under which care may be provided.<sup>11</sup> For instance, a CNM is licensed as a Registered Nurse and certified as a nurse midwife by the California Board of Registered Nursing, while an LM is licensed as a midwife by the Medical Board of California. Under state law, CNMs are permitted to “attend cases of normal childbirth,” whereas LMs are permitted to

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<sup>5</sup> SPA 11-022 is available at:

<http://www.dhcs.ca.gov/formsandpubs/laws/Documents/Recent%20Amendment%20SPA%2011-022.pdf>

<sup>6</sup> See Welfare Institutions Code (WIC) Section 14148.8, which is available at:

[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=14148.8.&lawCode=WIC](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=14148.8.&lawCode=WIC).

<sup>7</sup> The DHCS Provider Manual section on ABCs is available at:

[http://files.medi-cal.ca.gov/pubsdoco/publications/masters-mtp/part2/altern\\_m00o03.doc](http://files.medi-cal.ca.gov/pubsdoco/publications/masters-mtp/part2/altern_m00o03.doc).

<sup>8</sup> See 42 USC Section 1396d (a)(17).

<sup>9</sup> See WIC Sections 14132.4 and 14132.39 at:

[http://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=WIC&division=9.&title=&part=3.&chapter=7.&article=4](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=9.&title=&part=3.&chapter=7.&article=4).

<sup>10</sup> The California State Plan, Section 3 – Services, is available at:

<http://www.dhcs.ca.gov/formsandpubs/laws/Pages/Section3.aspx>. See Limitations on Attachment 3.1-A.

<sup>11</sup> See Business and Professions Code (BPC) Sections 2746 – 2746.8 for CNMs and BPC Sections 2505 – 2523 for LMs. In particular, see BPC Sections 2746.5 (CNMs) and 2507 (LMs). BPC is available at:

[http://leginfo.legislature.ca.gov/faces/codes\\_displayexpandedbranch.xhtml?tocCode=BPC&division=2.&title=&part=&chapter=&article=](http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=BPC&division=2.&title=&part=&chapter=&article=)

“attend cases of normal pregnancy and childbirth, as defined” and must adhere to a detailed set of restrictions and requirements when a patient’s condition deviates from the legal definition of normal.<sup>12</sup> The DHCS Provider Manual details supervision, billing, and enrollment requirements, along with covered services, for each provider type.<sup>13</sup>

**POLICY:**

MCPs are required to provide their members with access to FBC services. In accordance with CMS requirements and in order to achieve an adequate provider network, each MCP must include at least one FBC in the provider network, to the extent that FBCs are available in the MCP’s contracted service area.<sup>14</sup>

MCPs are also required to provide their members with access to both CNMs and LMs as providers of services permitted within each practitioner’s scope of practice. As part of maintaining an adequate provider network, MCPs must attempt to contract directly with at least one CNM and at least one LM in the MCP’s contracted service area. MCPs must document efforts to include at least one of each provider type in the provider network.<sup>15</sup>

MCPs are not required to contract with an FBC, a CNM, or an LM if any of the following circumstances apply:

- 1) The provider is unwilling to accept the higher of the MCP’s contract rates or the Medi-Cal fee-for-service rates.
- 2) The provider does not meet the MCP’s applicable professional standards or has disqualifying quality of care issues (i.e., the MCP has documented concerns with the provider’s quality of care).<sup>16</sup>

If the MCP is unable to provide access to FBC services in-network, the MCP must reimburse out-of-network FBCs for services provided to its members, in accordance with the MCP contract. Additionally, if the MCP’s provider network does not include at least one CNM and one LM, the MCP must arrange for members to access these provider types out-of-network and provide appropriate reimbursement as required by the MCP

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<sup>12</sup> See BPC Section 2507 at:

[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=2507.&lawCode=BPC](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=2507.&lawCode=BPC)

<sup>13</sup> See the DHCS Provider Manual section on Non-Physician Medical Practitioners at:

[http://files.medi-cal.ca.gov/publications/masters-mtp/part2/nonph\\_m00o03o11.doc](http://files.medi-cal.ca.gov/publications/masters-mtp/part2/nonph_m00o03o11.doc)

<sup>14</sup> See SHO #16-006. Also, for details on requirements pertaining to network adequacy, see APL 18-005, “Network Certification Requirements.”

<sup>15</sup> See APL 18-005, “Network Certification Requirements.”

<sup>16</sup> For details on professional standards and quality deficiencies, see APL 17-019, “Provider Credentialing/ Recredentialing and Screening/Enrollment.”

contract. MCPs must also inform members of their right to obtain access to these out-of-network provider types.

MCPs are responsible for ensuring that their delegates comply with all applicable state and federal laws and regulations, contract requirements, and other DHCS guidance, including APLs and Policy Letters. These requirements must be communicated by each MCP to all delegated entities and subcontractors.

If you have any questions regarding this APL, please contact your Managed Care Operations Division Contract Manager.

Sincerely,

Nathan Nau, Chief  
Managed Care Quality and Monitoring Division

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