CALIFORNIA DEPARTMENT OF
Mental Health

1600 9th Street, Sacramento, CA 95814
(916) 654-2309

July 23, 1999

DMH LETTER NO.: 99-03

TO: LOCAL MENTAL HEALTH DIRECTORS
LOCAL MENTAL HEALTH PROGRAM CHIEFS
LOCAL MENTAL HEALTH ADMINISTRATORS
COUNTY ADMINISTRATIVE OFFICERS
CHAIRPERSONS, LOCAL MENTAL HEALTH BOARDS

SUBJECT: THERAPEUTIC BEHAVIORAL SERVICES

The Department of Mental Health (DMH) Information Notice 99-09 notified Mental Health Plans (MHPs) that Medi-Cal will now reimburse therapeutic behavioral service as an Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) supplemental specialty mental health service. Pursuant to a court order, this service activity is reimbursable for full-scope Medi-Cal beneficiaries under age 21 years who meet MHP medical necessity criteria, are a member of the certified class and meet the criteria for needing this service, as specified in this letter. This service activity is a component of and can be billed as a Mental Health Service when it meets the requirements established in this policy letter.

MHPs are responsible for determining the need for, ensuring access to and managing Medi-Cal specialty mental health services that now include therapeutic behavioral services. These requirements are consistent with the MHP's contract with DMH and the California Code of Regulations (CCR) Title 9, Chapter 11 and the preliminary injunction issued by U.S. District Court in the case of Emily Q. vs. Belshe.

The California Department of Health Services (DHS) will provide notifications to members of the class to inform them of procedures available for them to request and access therapeutic behavioral services. A copy of the notice will be provided to the MHPs prior to distribution to beneficiaries.

The terms and conditions of the permanent injunction in this case have not been established. In addition, the plaintiffs are requesting changes in the DMH requirements under the preliminary injunction for assessing children/youth in Institutions for Mental Disease (IMDs) where federal funds are not available. Modifications in this policy letter may be needed to implement any changes required by the court. Applicable information regarding changes will be distributed when it becomes available. These potential changes do not affect the MHPs' obligations to comply with this policy letter.

SUMMARY

Therapeutic behavioral services are an EPSDT supplemental service for children/youth with serious emotional problems who are experiencing a stressful transition or life crisis and need additional short-term support to prevent placement in a group home of Rate Classification Level (RCL) 12 through 14 or a locked facility for the treatment of mental health needs, including acute care; or to enable a transition from any of those levels to a lower level of residential care.

Therapeutic behavioral services are intended to supplement other specialty mental health services by addressing the target behavior(s) or symptom(s) that are jeopardizing the child/youth's current living situation or planned transition to a lower level of placement. The purpose of providing therapeutic behavioral services is to further the child/youth's overall treatment goals by providing additional therapeutic services during a short-term period.

Therapeutic behavioral services:

1) Provide critical, short-term supplemental support services for full-scope Medi-Cal children/youth for whom other intensive specialty mental health Medi-Cal reimbursable interventions and potentially in some cases, other human services, have not been, or are not expected to be, effective without additional supportive services;

2) Are targeted towards children/youth who, without this service, would require a more restrictive level of residential care and are designed to:

3)
   a) Prevent placement of the child/youth in a more restrictive residential level of care for children/youth at imminent risk or expected to be at imminent risk of removal from the home or residential placement; or

   b) Enable placement of the child/youth in a less restrictive residential level, such as enabling a discharge from acute care, a step down from a group home to a foster home or return to natural home, etc.;

4) Involve the MHP as the manager of this service;

5) Are consistent with system of care principles and the wraparound process*, (see Attachment 1 for more information on wraparound); and

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*Although therapeutic behavioral services have been designed to be consistent with system of care and wraparound process, these strategies are not required in the implementation of this service.

6) Meet Medicaid, EPSDT regulations and lawsuit settlement requirements of T.L. vs. Belshe.

I. SERVICE DEFINITION

Therapeutic behavioral services are a one-to-one therapeutic contact between a mental health provider and a beneficiary for a specified short-term period of time which are designed to maintain the child/youth's residential placement at the lowest appropriate level by resolving target behaviors and achieving short-term treatment goals. A contact is considered therapeutic if it is intended to provide the child/youth with skills to effectively manage the behavior(s) or symptom(s) that is the barrier to achieving residence in the lowest appropriate level.

II. SERVICE DESCRIPTION

The person providing therapeutic behavioral services is available on-site to provide individualized one-to-one behavioral assistance and one-to-one interventions to accomplish outcomes specified in the written treatment plan. The critical distinction between therapeutic behavioral services and other rehabilitative Mental Health Services is that a significant component of this service activity is having the staff person on-site and immediately available to intervene for a specified period of time. The expectation is that the staff person would be with the child/youth for a designated time period and the entire time the mental health provider spends with the child/youth in accordance with the treatment plan would be reimbursable. These designated time periods may vary in length and may be up to 24 hours a day, depending upon the needs of the child/youth.

III. CRITERIA FOR MEDI-CAL REIMBURSEMENT OF THERAPEUTIC BEHAVIORAL SERVICES

To qualify for Medi-Cal reimbursement for this service, a child/youth must meet the criteria in Sections A, B, and C.

A. Eligibility for Therapeutic Behavioral Services—must meet criteria 1 and 2.

1. Full-scope Medi-Cal beneficiary under age 21 years.

2. Meets MHP medical necessity criteria.

B. Member of the Certified Class—must meet criteria 1, 2, 3, or 4.

1. Child/youth is placed in a group home facility of RCL 12 or above and/or a locked treatment facility for the treatment of mental health needs which is not an Institution for Mental Disease which disqualifies them from receiving federally reimbursed Medi-Cal services; or

2. Child/youth is being considered by the county for placement in a facility described in B.1. above; or

3. Child/youth has undergone at least one emergency psychiatric hospitalization related to their current presenting disability within the preceding 24 months; or

4. Child/youth previously received therapeutic behavioral services while a member of the certified class.

C. Need for Therapeutic Behavioral Services—must meet criteria 1 and 2.

1. The child/youth is receiving other specialty mental health services.

2. It is highly likely in the clinical judgment of the mental health provider that without the additional short-term support of therapeutic behavioral services that:

   a) The child/youth will need to be placed in a higher level of residential care, including acute care because of a change in the child/youth's behaviors or symptoms which jeopardize continued placement in current facility; OR

   b) The child/youth needs this additional support to transition to a lower level of residential placement. Although the child/youth may be stable in the current placement, a change in behavior or symptoms are expected and therapeutic behavioral services are needed to stabilize the child in the new environment. (The MHP or its provider must document the basis for the expectation that the behavior or symptoms will change.)

IV. CONDITIONS UNDER WHICH THERAPEUTIC BEHAVIORAL SERVICES ARE NOT REIMBURSABLE

1. When the need for therapeutic behavioral services are solely:

   a) for the convenience of the family or other caregivers, physician, or teacher.

   b) to provide supervision or to assure compliance with terms and conditions of probation.

   c) to ensure the child/youth's physical safety or the safety of others, e.g., suicide watch, or

   d) to address conditions that is not part of the child/youth's mental health condition.

2. For children/youth who can sustain non-impulsive self-directed behavior, handle themselves appropriately in social situations with peers, and who are able to appropriately handle transitions during the day probably do not need these services.

3. For children/youth who will never be able to sustain non-impulsive self-directed behavior and engage in appropriate community activities without full-time supervision.

4. When the beneficiary is an inpatient of a hospital, psychiatric health facility, nursing facility, IMD, or crisis residential program.

V. SERVICE DELIVERY REQUIREMENTS

This service activity is focused on resolution of target behaviors or symptoms which jeopardize existing placements or which are a barrier to transitioning to a lower level of residential placement and completion of specific treatment goals. Therapeutic behavioral services must be expected in the clinical judgment of the MHP's provider to be effective in addressing the above focus to meet the goals of the treatment plan. Therapeutic behavioral services are to be decreased when indicated and discontinued when the identified behavioral benchmarks have been reached or when reasonable progress towards the behavioral benchmarks are not being achieved and are not reasonably expected in the clinical judgment of the MHP's provider to be achieved. They are intended to be short-term, time-limited services and not appropriate to maintain a child/youth at a specified level for the long-term.

The entity providing the services must meet the statewide provider selection criteria specified in CCR, Title 9, Chapter 11 Section 1810.435. Therapeutic behavioral services must be provided by a licensed practitioner of the healing arts or trained staff members who are under the direction of a licensed practitioner of the healing arts as defined in the contract between DMH and the MHP. The qualifications of organizational provider staff delivering this service will be determined by the MHP and may include non-licensed staff.

The individuals providing this service must be available on-site to intervene with the child/youth as needed. On-call time cannot be claimed as billable service time through Medi-Cal.

Attachment 2 provides examples of strategies/activities/interventions that may be included under therapeutic behavioral service.

Staff providing therapeutic behavioral services will follow requirements regarding restraint which are applicable to the child/youth's setting or program. Seclusion is not allowable as a component of therapeutic behavioral services.

VI. TREATMENT PLAN AND DOCUMENTATION REQUIREMENTS

There must be a written treatment plan for therapeutic behavioral services, as a component of an overall treatment plan for specialty mental health services, which identifies all of the following:

1. Specific target behaviors or symptoms that are jeopardizing the current placement or presenting a barrier to transitions, e.g., tantrums, property destruction, assaultive behavior in school.

2. Specific interventions to resolve the behaviors or symptoms, such as anger management techniques.

3. Specific outcome measures that can be used to demonstrate that the frequency of targeted behaviors has declined and has been replaced with adaptive behaviors.

The treatment plan that includes therapeutic behavioral services should be based on a comprehensive assessment of the child/youth and family, if applicable, strengths and needs. It should be developed with the family, if available, and appropriate.

The therapeutic behavioral service component of the plan must be reviewed monthly by the MHP or its designee to ensure that therapeutic behavioral services continue to be effective for the beneficiary in making progress towards the specified measurable outcomes. The therapeutic behavioral service component of the plan should be: 1) adjusted to identify new target behaviors, interventions and outcomes as necessary and appropriate; and 2) reviewed and updated as necessary whenever there is a change in the child/youth's residence.

Since this is a short-term service, each mental health treatment plan that includes therapeutic behavioral services must include a transition plan from the inception of this service to decrease and/or discontinue therapeutic behavioral services when they are no longer needed or appear to have reached a plateau in benefit effectiveness and, when applicable, a plan for transition to adult services when the beneficiary turns 21 years old and is no longer eligible for therapeutic behavioral services. This plan should address assisting parents and/or caregivers with skills and strategies to provide continuity of care when this service is discontinued.

If the therapeutic behavioral services are intensive and last for several months without observable improvement towards the treatment goals, the residential placement/living situation may not be appropriate and the child/youth shall be reevaluated for a more appropriate placement.

A progress note is required for each time period that a mental health provider spends with the child/youth. Significant interventions that address the goals of the treatment plan must be

documented. The progress notes do not have to justify staff intervention or activities for all billed minutes. In progress notes, the time of the service maybe noted by contact/shift, e.g., 8:00 a.m. to 1:30 p.m. However, the time must be converted to minutes for claiming purposes. All other components of the progress notes must meet the requirements specified in the contract between the MHP and DMH.

As with all Mental Health Services, the staff travel and documentation time are also Medi-Cal billable. On-call time for the staff person providing therapeutic behavioral services is not Medi-Cal billable.

VII. CLAIMING

Therapeutic behavioral services shall be claimed by the MHP through the SD/MC claiming system as a Mental Health Service using service function 12-58 for hospital outpatient programs and 18-58 for other outpatient programs. (It shall be reported as service function 15-58 to the Client and Services Information (CSI) system). Reimbursement will be provided by the state to the MHP consistent with other EPSDT specialty mental health services. Billing procedures, reimbursement amounts, cost reporting, and cost settlement procedures are identical to those used for other Mental Health Services.

VIII. MHP ROLES AND RESPONSIBILITIES

Consistent with the MHP's contract with the Department and Title 9, Chapter 11, the MHP is responsible for managing this EPSDT supplemental service, including providing access to and authorization of the service for their beneficiaries. The MHP will determine medical necessity, ensure the development of an individualized service plan and provide or arrange for the provision of therapeutic behavioral services. In urgent situations, MHPs are expected to be able to authorize and provide these services within their timeliness standards for urgent care. All beneficiary protections under Title 9, Chapter 11 are applicable to this service. This includes the notice of action, complaint, grievance and fair hearing processes.

As stated previously, therapeutic behavioral services are not Medi-Cal reimbursable in an IMD where federal funding is not available. However, consistent with the preliminary injunction, "while in such facilities, members of the plaintiff class will be able to establish their eligibility for therapeutic behavioral services immediately upon leaving the IMD." In such cases, the MHP is responsible for determining this eligibility as follows: 1) will the individual be eligible for Medi-Cal upon discharge; and 2) will the person be eligible for MHP services upon discharge.

The MHP is also responsible for ensuring that the Medi-Cal funding for therapeutic behavioral services does not duplicate other funding for the same service. For example, some group homes RCL 13 and 14 are required to provide one-to-one assistance as part of the mental health certification. If therapeutic behavioral services are provided in a group home with such a

requirement, the MHP must clearly specify that this service is in addition to and different from the services provided through the group home's one-to-one staffing. Additionally, if a group home or other provider is using their staff to provide therapeutic behavioral services, there must be a clear audit trail to ensure that there is not duplicate funding.

IX. MHP REPORTING REQUIREMENTS

A. MHP Implementation Description

Each MHP is required to submit to DMH, a brief, one page description of their plan for implementation of therapeutic behavioral services by September 1, 1999. Specifically, it must address whether county clinics, current contract providers or new providers will determine the need for and deliver this service, how and when the providers will be informed of these new responsibilities and an estimate of hourly rates to be paid to the staff persons providing therapeutic behavioral services. MHPs may choose to inform DMH of their technical assistance and training needs. A suggested format for providing this information is included as Attachment 3. DMH will review this information and forward requests for training to the Cathie Wright Technical Assistance Center.

B. Notification to DMH of Provision of Therapeutic Behavioral Services

Within 30 days of inception of the provision of therapeutic behavioral services to a beneficiary, the MHP shall submit the information specified in Attachment 4 to DMH in the required format. If the child/youth receives therapeutic behavioral service for more than three months, an update will be submitted quarterly.

Attachment 4 is an interim format for providing this information. DMH is developing an on-line system for reporting this data. More information about this system will be provided under separate cover when it is designed and ready for implementation.

A review of paid claims data for this service will be made to ensure information is submitted for every child/youth receiving therapeutic behavioral services. If the required data is not submitted for a beneficiary for whom therapeutic behavioral services are claimed, DMH will follow up with the county to ensure that the data is submitted. If the county still does not submit the information, then the claim may be disallowed.

C. Notices of Action (NOAs)

As indicated in Section VIII above, the MHP shall issue NOAs regarding therapeutic behavioral services consistent with the requirements of CCR, Title 9, Chapter 11, Section 1850.210. Within one month of being issued, copies of these NOAs shall be submitted to DMH.

D. Submission of Information

All the MHP reports should be faxed or sent to:

Nancy Mengebier
Department of Mental Health
1600 9th Street, Room 100
Sacramento, CA 95814.
Fax (916) 653-9194

DMH with DHS intends to use the information obtained as the basis for refining this policy letter as needed.

X. SUPPORT FOR DEVELOPMENT AND IMPLEMENTATION

The Cathie Wright Technical Assistance Center will provide support and training to assist in the development and implementation of this service to MHPs. Specific information about the availability of this support will be provided directly by the Center. For more information, call Bill Carter, Deputy Director, California Institute for Mental Health, Cathie Wright Technical Assistance Center, at (916) 566-3480.

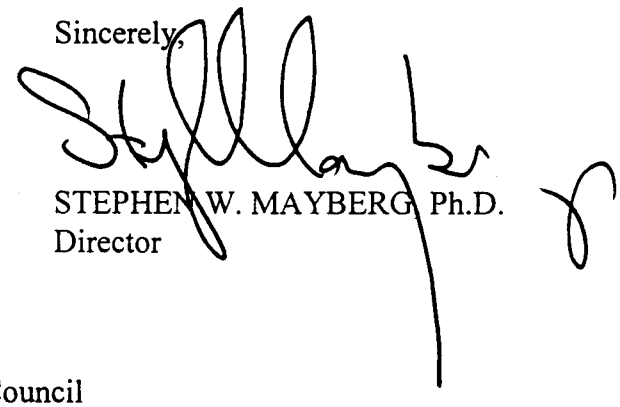
XI. STATE OVERSIGHT

Since this is a new service, DMH will closely monitor implementation for budget forecasting and to identify areas where there is a lack of clarity in policy or where technical assistance may be needed.

DMH will arrange for interviews of each MHP to determine if they have implemented or are ready to implement therapeutic behavioral services should the need arise. This interview will also ask the MHP if they have any technical assistance needs. The requests for technical assistance will be forwarded to the Cathie Wright Technical Assistance Center to establish priorities for the support and development of this program. DMH will follow-up with the MHP on any areas of potential non-compliance with this Policy Letter.

DHS, in collaboration with DMH, will ensure effective oversight of this service. Individual chart reviews and case audits to monitor compliance with the requirements of this letter may be performed. Based on these chart reviews and case audits, the state shall recoup payment of state and federal funds to the MHP of state and federal funds for therapeutic behavioral services if the requirements of this policy letter are not met.

Sincerely,



STEPHEN W. MAYBERG, Ph.D.
Director

Enclosures

cc: California Mental Health Planning Council
Chief, Technical Assistance and Training

Attachment 1

RELATIONSHIP OF THE WRAPAROUND PROCESS TO THERAPEUTIC BEHAVIORAL SERVICES

Therapeutic Behavioral Services are one type of a broad variety of individualized services that may be used in a "wraparound" process. The wraparound process is not a program or a type of services. It represents a fundamental change in the way services are designed and delivered, which is based on the individualized needs of the child and family rather than making available an array of services which should meet the needs of most individuals needing assistance. The guiding principle of the wraparound process is to do what you need to do when you need to do it to achieve the child/youth's treatment goals. Therefore, the wraparound process can include any combination of services and supports that may or may not be a Medi-Cal benefit under EPSDT. Health care, diagnostic services, treatment, and other measures, which are identified as eligible under federal Medicaid regulations, are services that are EPSDT benefits. Under a Mental Health Plan, the service must be necessary to correct or ameliorate mental illnesses and conditions to qualify as an EPSDT benefit. Intensive in-home treatment, crisis intervention, and family counseling to meet the child/youth's treatment goals can be components of a wraparound process that could be eligible as EPSDT benefits.

Attachment 2

EXAMPLES OF STRATEGIES/ACTIVITIES/INTERVENTIONS

The therapeutic behavioral services staff person provides behavioral modeling, structure and support, and immediate, frequent one-to-one behavioral interventions which assist the child/youth in engaging in appropriate activities, minimizing impulsivity, and increase social and community competencies by building or reinstating those daily living skills that will assist the child to live successfully in the community. The therapeutic behavioral services provider also serves as a positive role model and assists in developing the child/youth's ability to sustain self-directed appropriate behavior, internalize a sense of social responsibility, and/or enable participation proactively in community activities.

Individualized behavioral interventions that could be provided include but are not limited to: immediate behavioral reinforcements; time-structuring activities; inappropriate response prevention; positive reinforcement; appropriate time-out strategies and cognitive behavioral approaches, such as cognitive restructuring, use of hierarchies, and graduated exposure. The interventions also may include support for the family or foster family/support system's efforts to provide a positive environment for the child/youth and collaboration with other members of the mental health treatment team.

Examples of activities/interventions may include but are not limited to:

- Assisting the child/youth to engage in, or remain engaged in, appropriate activities
- Helping to minimize the child/youth's impulsive behavior
- Helping to increase the child/youth's social and community competencies by building or reinforcing those daily living skills that will assist the child/youth in living successfully at home and in the community
- Providing immediate behavioral reinforcements
- Providing time-structuring activities
- Preventing inappropriate responses
- Providing appropriate time-out strategies
- Providing cognitive behavioral approaches, such as cognitive restructuring, use of hierarchies, and graduated exposure
- Collaboration with and support for the family caregivers' efforts to provide a positive environment for the child

Attachment 3

THERAPEUTIC BEHAVIORAL SERVICES
IMPLEMENTATION PLAN SUGGESTED FORMAT

Mental Health Plan_____Date_____

1) Which providers will determine the need for therapeutic behavioral services? (Check all that apply)
   County Clinics _____
   Current Contract Providers _____
   New Contract Providers _____

2) Which providers will deliver therapeutic behavioral services? (Check all that apply)
   County Clinics _____
   Current Contract Providers _____
   New Contract Providers _____

3) How and when will providers be informed of their new responsibilities with regards to therapeutic behavioral services? (Complete information for all that apply)
   County Clinics

   Current Contract Providers

   New Contract Providers

4) Estimated Hourly Rate of Staff Persons Providing TBS _____

5) Training or Technical Assistance Requests (optional)

For more information about this plan, call

Name_____Phone_____

SUBMIT THIS FORM by September 1, 1999 to:

Nancy Mengebier
Department of Mental Health
1600 9th Street, Room 100
Sacramento, CA 95814
Phone (916) 654-3486 FAX (916) 653-9194

*If form is handwritten, please make sure the handwriting is legible.

Attachment 4

NOTIFICATION TO DMH

REGARDING PROVISION OF THERAPEUTIC BEHAVIORAL SERVICES

Child/Youth's Name_____

Social Security Number or Beneficiary Identification Number _____

Beginning Date of Therapeutic Behavioral Services_____

County/MHP Code or Name_____Date_____

Form Completed by (Name)_____ Phone_____

Primary Residences for Child/Youth While Receiving TBS (Check All That Apply)

Family Home_____,
Foster Home_____,
Foster Family Agency_____
Children's Shelter_____
Group Home_____specify RCL_____
Other Specify_____

Class Membership (Check One)

In RCL 12 or above_____
Being Considered for RCL 12 or above_____
One Psychiatric Hospitalization in Preceding 24 months_____
Previously received TBS while Class Member_____

Service Need (Check One)

To Prevent Placement in a Higher Level of Care_____
To Enable Transition to a Lower Level of Care_____

TBS Service Plan

Planned Average Hours of TBS per Week _____
Estimated # Weeks of TBS_____

Initial Information_____ OR Quarterly Update_____

SUBMIT THIS FORM within the first thirty days of service and every quarter thereafter to:

Nancy Mengebier
Department of Mental Health
1600 9th Street, Room 100
Sacramento, CA 95814
Phone (916) 654-3486

If form is handwritten, please make sure the handwriting is legible.