**For Incorporation by Reference in 28 CCR § 1300.67.2(h):**

The following Counseling Non-Physician Mental Health Professionals Accepting New Patients Standards and Methodology is hereby incorporated by reference in 28 CCR § 1300.67.2., sub. (h)(1), pursuant to the exemption to the Administrative Procedures Act (APA) set forth in Health and Safety Code section 1367.03(f).[[1]](#footnote-2)

Amendments from the previous measurement year are shown in **underline** and **strikethrough** format.[[2]](#footnote-3)

**Counseling Non-Physician Mental Health Professionals Accepting New Patients Standards and Methodology**

This document replaces the previous version of the Counseling Non-Physician Mental Health Professionals Accepting New Patients Standards and Methodology for reporting year (RY) 2023 and is effective for RY 2024.[[3]](#footnote-4) The amendments include the addition of an alternative review standard for certain rural county types.

1. Background

As part of its annual review of health care service plan (plan) networks, the Department of Managed Health Care (DMHC) evaluates reported full-service and mental health networks to determine whether the number of counseling non-physician mental health professionals (Counseling MHPs) accepting new patients meets an established compliance threshold.[[4]](#footnote-5) The compliance threshold represents the minimum percentage of Counseling MHPs that are accepting new patients to demonstrate sufficient availability of mental health providers and services within a plan’s network service area.

The availability of in-network Counseling MHPs that are accepting new patients is an essential component of a plan’s duty to provide (or arrange the provision of) covered health care services in a timely manner appropriate for the nature of an individual enrollee’s condition, as required under Section 1367.03(a)(1).[[5]](#footnote-6) This has a direct impact on enrollees who need Counseling MHP services, but do not have an established relationship with a Counseling MHP. It may impact the enrollee’s ability to receive timely services, as well as a health plan’s ability to meet initial and follow-up appointment standards.

1. Stakeholder Feedback and Future Updates

Stakeholders were invited to provide input on the draft version of the amendments to the Counseling Non-Physician Mental Health Professionals Accepting New Patients Standards and Methodology for RY 2024, circulated on June 16, 2023. The DMHC thanks those stakeholders who elected to provide substantive feedback. The DMHC reviewed this feedback in conjunction with developing the final standards and methodology for RY 2024.

For future measurement years, the DMHC is continuing to evaluate potential updates to the standards and methodology to ensure the thresholds are sufficient to ensure adequate patient access to mental health services. The DMHC may modify these standards and methodology in future measurement years under the APA exemption.

1. RY ~~2023~~ 2024: Compliance Threshold Standards and Methodology

~~For RY 2023, t~~TheDMHC will evaluate the ability of ~~health~~ plan networks to demonstrate sufficient availability of counseling non-physician mental health professionals ~~(c~~Counseling MHPs) to ensure compliance with network adequacy standards referenced in Sections 1367.03, 1367.035, 1374.72, and Rules 1300.67.2.2 and 1300.67.2. As part of this review, the DMHC will use compliance thresholds to evaluate Counseling MHPs accepting new patients, based on a plan’s reported annual network data.[[6]](#footnote-7) The compliance threshold takes into consideration the number and geographic distribution of providers within a network and a county, to determine an appropriate minimum level of compliance for ~~c~~Counseling MHPs, or MHP locations within a county and within the network service area.

If a plan’s network is not meeting the standards in one or more counties within the network service area, the plan will be informed of the findings and may be required to submit a corrective action plan or otherwise demonstrate that its network has mental health network providers accepting new patients in sufficient numbers and locations to ensure accessibility of services as required under the Knox-Keene Act and implementing regulations.[[7]](#footnote-8) The DMHC may rely on this standard and methodology as a basis for carrying out and completing enforcement action related to the annual network and timely access compliance review.[[8]](#footnote-9)

1. **Defined Terms**

~~Health p~~Plans will be assessed for compliance with this standard using the defined terms below: [[9]](#footnote-10)

1. “Accepting new patients” shall have the meaning set forth in the “Definitions” section of the Timely Access and Annual Network Submission Instruction Manual (Instruction Manual) incorporated by reference in Rule 1300.67.2.2.
2. “Applicable county” means the county within the ~~health~~ plan’s network service area that is being measured. Where the network service area includes a partial county, it is an applicable county.
3. “Network service area” shall have the definition set forth in Rule 1300.67.2.2(b)(11).
4. “In-person appointments on an outpatient basis” ~~shall have the meaning set forth in the Field Instructions for Report Form No. 40-268 incorporated in Rule 1300.67.2.2.[[10]](#footnote-11)~~ shall have the meaning set forth in the Definitions section of the Annual Network Submission Instruction Manual for RY 2024, as incorporated in 28 CCR § 1300.67.2.2.
5. References to “in-person” network providers shall mean network providers who take in-person appointments on an outpatient basis.
6. “Counseling non-physician mental health professional” or “Counseling MHP” means a Licensed Clinical Social Worker, Licensed Marriage and Family Therapist, Licensed Professional Clinical Counselor, or Psychologist. For purposes of application of this standard, a Counseling MHP must be a network provider.
7. “County Types” means the combination of counties that are similarly situated with regard to population size and density, as defined by the Centers for Medicare and Medicaid Services (CMS) in its published Medicare Advantage Network Adequacy Criteria, set forth in 42 CFR 422.116(c). County types are set forth according to the county designations released by CMS, available at www.cms.gov.[[11]](#footnote-12)
8. “Large Metro Counties” means counties designated as “large metro” by CMS in its published Medicare Advantage Network Adequacy Criteria, set forth in 42 CFR 422.116(c). The following counties are designated Large Metro Counties for the RY 2024 standards: Alameda, Contra Costa, Los Angeles, Orange, Sacramento, San Francisco, San Mateo, and Santa Clara.
9. “Metro Counties” means counties designated as “metro” by CMS in its published Medicare Advantage Network Adequacy Criteria, set forth in 42 CFR 422.116(c). The following counties are designated Metro Counties for the RY 2024 standards: Butte, El Dorado, Fresno, Kern, Kings, Marin, Merced, Monterey, Napa, Nevada, Placer, Riverside, San Bernardino, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tulare, Ventura, Yolo, and Yuba.
10. “Rural Counties” means counties designated as “rural” by CMS in its published Medicare Advantage Network Adequacy Criteria, set forth in 42 CFR 422.116(c). The following counties are designated Rural Counties for the RY 2024 standards: Calaveras, Colusa, Del Norte, Glenn and Mariposa.
11. “Micro Counties” means counties designated as “micro” by CMS in its published Medicare Advantage Network Adequacy Criteria, set forth in 42 CFR 422.116(c). The following counties are designated Micro Counties for the RY 2024 standards: Amador, Humboldt, Imperial, Lake, Madera, Mendocino, San Benito, Shasta, Tehama and Tuolumne.
12. Counties with Extreme Access Consideration (CEAC)” means counties designated as “Counties with Extreme Access Considerations (CEAC)” by CMS in its published Medicare Advantage Network Adequacy Criteria, set forth in 42 CFR 422.116(c). The following counties are designated CEAC Counties for the RY 2024 standards: Alpine, Inyo, Lassen, Modoc, Mono, Plumas, Sierra, Siskiyou, and Trinity.
13. “MHP location” for the purposes of application of this standard means a reported network provider practice address where a counseling MHP is available for in-person appointments on an outpatient basis, as the term is defined ~~above~~. Multiple practice addresses will be combined and treated as a single MHP location when reported at the same, or near-adjacent locations.~~[[12]](#footnote-13)~~
14. “Near-adjacent locations” refers to practice addresses that have the same geocoded longitude and latitude coordinates, when rounded to the second decimal place.
15. “MHP location accepting new patients” for the purposes of application of this standard means the following:
16. For MHP locations with three or fewer counseling MHPs, at least one counseling MHP is accepting new patients.
17. For MHP locations with four or greater counseling MHPs, at least 25% of the counseling MHPs at the location are accepting new patients.
18. “Network” shall have the definition set forth in Rule 1300.67.2.2(b)(5).
19. “Network adequacy” shall have the definition set forth in 28 CCR § 1300.67.2.2(b)(6).
20. “Network provider” shall have the definition set forth in Rule 1300.67.2.2(b)(10).
21. “Network service area” shall have the definition set forth in Rule 1300.67.2.2(b)(11).
22. **Compliance Threshold for RY ~~2023~~ 2024**

Compliance will be measured for each network and for each applicable county, and the ~~health~~ plan must meet compliance for both. For each network and applicable county, a plan must either meet the minimum percent of individual Counseling MHPs that are accepting new patients (75%), or the minimum percent of MHP locations that are accepting new patients (80%), as set forth below. The plan will be considered to meet the compliance threshold if it meets at least one of these calculations for both the entire network and county measures. The DMHC will review network providers that offer in-person appointments on an outpatient basis, as defined.[[13]](#footnote-14) If a ~~health~~ plan reports no counseling MHPs within an applicable county, the ~~health~~ plan will not meet the compliance threshold in that county. Refer to the defined terms above for a description of each of the underlined terms in the DMHC’s compliance threshold evaluation:

**Network Compliance Threshold**:

* Whether at least 75% of counseling MHPs in the network are accepting new patients;

or

* Whether at least 80% of MHP locations in the network are an MHP location accepting new patients.

**County Compliance Threshold**:

* Whether at least 75% of counseling MHPs in the network are accepting new patients in each applicable county;

or

* Whether at least 80% of MHP locations in each applicable county, are an MHP location accepting new patients.

As indicated in the **Definitions** section, an “MHP Location Accepting New Patients” means:

* For MHP locations with three or fewer counseling MHPs, at least one counseling MHP is accepting new patients.
* For MHP locations with four or greater counseling MHPs, at least 25% of the counseling MHPs at the location are accepting new patients.
1. **Alternative Review Methodology for CEAC and Rural Counties – Combined County Threshold**
2. When a plan is not able to meet either county compliance threshold for Counseling MHPs Accepting New Patients in a CEAC or Rural county type, the DMHC shall conduct a further review to determine if the network has sufficient availability in an adjacent county or counties to serve enrollees in the combined counties. If a network meets the criteria described below, the DMHC will automatically apply the alternative review methodology as set forth below when determining compliance with this standard.
3. The Combined County Threshold for CEAC and Rural Counties allows certain adjacent counties to be combined for the purposes of calculating the following component of the county compliance threshold:
4. Whether at least 80% of MHP locations in each applicable county are an MHP location accepting new patients.
5. The DMHC shall use the combined county alternative review methodology to calculate the following:
6. Whether at least 80% of MHP locations in the combined counties are an MHP location accepting new patients.
7. The Combined County Threshold for CEAC and Rural Counties shall be subject to the following requirements:
8. A combined pair or grouping of counties shall consist of one of the following:
9. **Deficient County Anchor - Grouping:** A single Rural or CEAC county that fails to meet the county threshold identified above, combined with one or more adjacent counties which meet the county threshold; or
10. **Sufficient County Anchor - Grouping**: A single county that meets the county threshold, combined with one or more adjacent Rural or CEAC counties which fail to meet the county threshold identified above.
11. No county shall be included in more than one county grouping within the same network for the purposes of meeting the County Threshold for Counseling MHPs, Accepting New Patients.
12. In order to be combined in a grouping, each Rural or CEAC county in the grouping that fails to meet the county threshold (deficient county) must be geographically adjacent to each county in the grouping that meets the county threshold (sufficient county).
13. Counties that fall outside of the network service area may be combined as long as the non-network service area county has more than 80% of MHP locations accepting new patients for the network.
14. The alternative methodology for the combined county threshold is set forth in **Schedule C.**
15. ~~DMHC’s Compliance Review and Health Plan Feedback~~

~~A health plan that does not meet the compliance threshold in RY 2023 in a network or an applicable county will be provided an opportunity to provide feedback or corrective action, through its responses to the RY 2023 Network Findings Report.~~

1. *See* Senate Bill (SB) 221 (Wiener, Chap. 724, Stats 2021), and SB 225 (Wiener, Chap. 601, Stats 2022). [↑](#footnote-ref-2)
2. Section III. of this document is shown in underline and strikethrough to depict updates to the standards and methodology. [↑](#footnote-ref-3)
3. For RY 2023, the document was previously titled “Compliance Threshold for Counseling Mental Health Professionals Accepting New Patients.” It was released on January 12, 2023, after stakeholder circulation on June 2, 2022, and July 26, 2022. [↑](#footnote-ref-4)
4. The DMHC reviews health plan Annual Network Report submissions for compliance with the Knox-Keene Act, pursuant to Health & Safety Code sections 1367.03, 1367.035 and 28 CCR § 1300.67.2.2 (the “Annual Network Review”). [↑](#footnote-ref-5)
5. See also 28 CCR § 1300.67.2. The Knox-Keene Act is set forth in California Health & Safety Code sections 1340 et seq. References to “Section” are to sections of the Act. References to “Rule” refer to the California Code of Regulations, title 28. [↑](#footnote-ref-6)
6. The standards and methodology in this document apply to all reporting plan networks, including Medi-Cal networks. [↑](#footnote-ref-7)
7. *See* Rule 1300.67.2.2(i)(5). [↑](#footnote-ref-8)
8. The previous version of this standards and methodology document issued for RY 2023 indicated that the DMHC may enforce the compliance threshold as part of its network adequacy review in subsequent reporting years. [↑](#footnote-ref-9)
9. Defined terms pertain to the DMHC’s review under the identified standard and methodology, and do not abrogate a plan’s requirements for maintaining a provider directory, or other reporting requirements under the law. [↑](#footnote-ref-10)
10. ~~Please see Section V.D. of the Instruction Manual. Please note, Report Form No. 40- 268 and field instructions have been amended, per APL 22-024 (October 27, 2022) and Section 1367.03(f)(3).~~ [↑](#footnote-ref-11)
11. The DMHC will rely on the counties designated in each category for reporting year 2024. [↑](#footnote-ref-12)
12. ~~“Near-Adjacent Locations” refers to practice addresses that have the same geocoded longitude and latitude coordinates, when rounded to the second decimal place.~~ [↑](#footnote-ref-13)
13. ~~As defined.~~ Network providers that only offer services through the telehealth modality are not included in this review. The DMHC will review the Plan’s network providers reported according to the standardized terminology, in the Plan’s Annual Network Report submission for RY 202~~34~~. [↑](#footnote-ref-14)