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December 13, 2011

TO: Executive Directors, Penal Code 1210 Program and Interested Others

FROM: John Viernes, Jr., Director 
Substance Abuse Prevention and Control

SUBJECT: **OCTOBER 25, 2011 – PENAL CODE 1210 REGIONAL COORDINATING COUNCIL MEETING – RESPONSE TO QUESTIONS**

This letter transmits the Substance Abuse Prevention and Control's (SAPC) responses to the questions from the Penal Code 1210 (PC 1210) Regional Coordinating Council Meeting on October 25, 2011, and from the California Association of Alcohol and Drug Program Executives (CADPE). The questions are divided into three categories: Treatment-Related, Treatment-Fee related questions, and Treatment, Court, Probation eXchange (TCPX).

In an effort to assist in the transitioning through the multitude of changes under the PC 1210 program, we encourage you to give this information wide distribution among your staff and other impacted groups. Additionally, this information will be available on SAPC's website. The SAPC trusts that the responses will serve as a useful point of reference for you and your staff. The questions are as follows:

TREATMENT RELATED QUESTIONS

- QUESTION #1:** If a client is sentenced to PC 1210, and needs residential services, after residential (is completed), are they required to do outpatient services, even though they would not complete it under 180 days?
- ANSWER:** No. Under the PC 1210 Revised Services Matrix, after completing residential services, the participant is not required to complete outpatient treatment services.
- QUESTION #2:** Are re-referrals for the Community Assessment Services Centers (CASC) after October 1, 2011 (to be considered) under the new Matrix?
- ANSWER:** Yes. If a terminated participant is re-referred back to CASC after October 1, 2011, but was admitted into the program prior to this policy change, the participant will come under the PC 1210 Revised Services Matrix (2011).

QUESTION #3: Where can we get information on the standard definition for "indigent" (federal)?

ANSWER: The definition of the term "indigent" according to the federal government can be found at the website for the federal Department of Health and Human Services (HHS) at: aspe.hhs.gov/poverty/11fedreg.shtml and is entitled, "The 2011 HHS Poverty Guidelines." In the PC 1210 Standards and Practices the term "indigent" refers to annual income at or below 100 percent of the Federal Poverty Level. (Please see attached guide).

QUESTION #4: Which SAPC Bulletin contains information on the "sliding fee scale?"

ANSWER: SAPC Bulletin 04-08 is the document entitled, "Client Fee Determination System."

QUESTION #5: Can a client do a group, and an individual session on the same day?

ANSWER: Yes.

QUESTION #6: How were four unexecuted absences determined? This seems excessive given the short length of stay in the program.

ANSWER: The basis for "four" unexcused absences was based on the standard for other programs operated by SAPC.

QUESTION #7: On page 12, item 4, it states if a participant is unable to pay for services rendered in the treatment program, the treatment program may determine what alternative funding sources are available and notify the CASC about another appropriate funding source. In the event this should occur, we assume billing for the alternative source can be dated back to the effective date, so long as proper documentation and service requirements of the alternative source are met. Is this correct?

ANSWER: Yes. This is correct.

QUESTION #8: On page 12 item 7, it states a participant transferring into a treatment program shall be charged a prorated fee for the remaining services, how this is determined? Who is providing the data? There is no such system to share provider information with other providers about service details of this nature today. Additionally, there is no provision in this document for patients who have relapsed or have been discharged for other non-complaint issues or have had unsatisfactory progress in other prior services they may have attended. If there is to be any consideration for prior paid care to another provider there must be a detailed protocol for how this would occur and under what limited circumstances.

ANSWER: At intake, the program would calculate a pro-rated amount based on the total cost of the complete program, and what portion (percentage) of the program the participant will be involved in. PC 1210 has established maximum length of treatment, if the court orders that the client return to complete the original program, and the program chooses not to reinstate the client, who is transferred to another program, the receiving program must take into account the prorated time completed in the previous program, therefore the participant would be credited the treatment time completed at the referring program. TCPX will show the number of days left from each treatment episode.

QUESTION #9: All individuals referred for PC 1210 are in fact eligible for other SAPC funded services to include Outpatient, Day Care, Residential and Detoxification services on the ability to pay basis. As such the whole rationale for creating the PC 1210 self-pay program seems to be lacking.

ANSWER: The pre-existing system was based on categorical funding that was specifically allocated for this offender population. With that funding no longer available, the program needed to shift into a fee-based participant self-pay counseling program.

FEE RELATED QUESTIONS

QUESTION #10: The Revised Services Matrix 2011, states it is the "role of Probation to collect administrative fees." Does this mean the treatment provider does not (need to) collect this fee which is forwarded to the County?

ANSWER: No. The "SAPC Administrative Fee" (\$50.00 per participant) is a different fee and is to be collected by each program. The Services Matrix refers to court ordered fees.

QUESTION #11: Do "ancillary fees" have to be on a sliding-fee-scale and/or waived?

ANSWER: No. The sliding-fee scale does not apply to ancillary service cost. Please note that programs can waive or reduce the cost of these fees as they see fit. The ancillary fees as listed in the PC 1210 Standards and Practices, are provided as benchmarks or guidelines and "maximums." Since the PC 1210 program is a participant self-pay program, programs will need to reconcile the various fees with the participant's financial conditions.

QUESTION #12: How do we go about getting SAPC approval for our sliding-fee-scale?

ANSWER: Submit a copy of your sliding-fee-scale to the Director of SAPC, with a request for approval letter. This should be mailed to:

Los Angeles County- Department of Public Health
Substance Abuse Prevention and Control
1000 So. Fremont Avenue, Bldg. A-9 East, Third Floor
Alhambra, California 91803
Attention: John Viernes, Jr., Director

QUESTION #13: Would the \$50.00 fees be due to SAPC on the 20th "working day" of the following month as is done with the Driving Under the Influence (DUI) payments? Can it be done the same way in order to facilitate the same DUI present system?

ANSWER: Administrative Fees submitted to SAPC are due within 45 days after the close of the month in which the intake occurred, and shall be submitted to SAPC no later than the 20th day of each month. The first administration fee remittance report is due by December 20, 2011

Yes, SAPC will collect administrative fees using the same process currently in place for the DUI and PC 1000 programs, with the exception of the due date of re-remittance report.

QUESTION #14: What forms do we complete in order to report clients, and pay the \$50.00 fee?

ANSWER: The form is called the "Administrative Fee Remittance Form," which is being prepared for approval and distribution to the programs.

QUESTION #15: The fees to be charged for services have now been established in the draft. However, there is no explanation on how fees were arrived at. The fees stated are currently lower than many fees now established by Substance Abuse Prevention and Control (SAPC) with various providers.

ANSWER: The rates are provided as guidelines (maximums), what SAPC refers to as Base Rates.

Please refer to the footnote in the SAPC Questions and Responses number 1 which states, Base Rate is the average reimbursement rate of outpatient counseling contracted services (individual/group under the Proposition 36/Offender Treatment Program network. For NTP services, SAPC utilized the standard Drug Medi-Cal reimbursement rate."

Note: The rate for individual and group services is higher than the Drug Medi-Cal established reimbursement rates.

QUESTION #16: Questions #3 in the Q & A response, refers to capping the number of indigent clients. We understand that SAPC is unable to restrict the number of indigents referred as a county entity. However, private providers are not county entities and the PC 1210 proposed program is not supported with any public funds. We therefore question this response. This aside, even if providers do not deny services based on the inability to pay, providers must be able to refer back to the CASC or create a waiting list if available service slots are full. This is consistent with all other county SUD program practices. The waiting list practice should be made clear for PC 1210 services.

Has SAPC reviewed prior Prop 36 data to understand the percentage of Prop 36 participants which were determined to be indigent? Such data will help inform these proposed standards for a self-pay program.

ANSWER: Yes. A program can establish a wait-list or refer back to the CASC. However, programs should not deny services based on the inability to pay. Participants cannot be passed on or referred back to the CASC due to inability-to-pay alone.

QUESTION #17: Since the CASC will be assessing and referring with no knowledge of the individual's ability to pay, providers will be receiving many referrals which are likely to exceed their program capacity. Only after an assessment of the ability to pay, will a provider know if there are income resources to support the cost of the provider in expanding capacity. Providers will have to invest their own resources in staffing the PC 1210 program. This will include not only staff who provide direct services but also administrative support services. These costs have to be covered by the revenues generated from the participant's ability to pay. If there is an insufficient number of paying participants, the program and services will fail.

ANSWER: Point acknowledged. SAPC trusts the programs that have been contracted for Proposition 36 services for many years, have historically established business practices to remain solvent. Programs having multiple alternative funding sources, and years of experience in benefits-management should be able to manage their business practices appropriately.

QUESTION #18: Can a provider refer back to the CASC if they are unable to accommodate the referral and have no other treatment slots available under alternative funding sources?

ANSWER: Yes. A program can refer back to the CASC. However, programs should not deny services based on the inability to pay. Participants cannot be passed on or referred back to the CASC due to inability-to-pay alone.

QUESTION #19: If the provider has identified a participant's ability to pay either partial or full fee, will the courts support these assessments and order the participants to pay?

ANSWER: SAPC has conveyed this need to the Court's representatives and actions may vary from Court to Court. Programs should develop a good working relationship with the referring Court and establish open, on-going communication channels.

QUESTION #20: Please clarify to providers have the right to charge late fees or interest for payments not made on time.

ANSWER: The only approved program fees are stated on page 11 of the PC 1210 Standards and Procedures.

QUESTION #21: There remains a significant concern over this proposed fee based program. We completely agree that any individual with the ability to pay should do so. However, our experience with the population in question informs us, that an insufficient number of individuals referred by the courts under Prop 36 services have such ability to pay. This presents a significant risk and hardship to any provider who would opt to participate in the PC 1210 program should that historical inability to pay continue for those referred by the courts under PC 1210. Providers will lack the income to support the required costs for treatment and administrative services provided.

ANSWER: Statement Acknowledged.

QUESTION #22: Will Assembly Bill (AB 109) early releasees (3 N's) be eligible for PC 1210? Will there be any funding for treatment of AB 109 participants?

ANSWER: These are two separate programs. There are no PC 1210 funds to cover clinical services for AB 109 program participants. Limited funding was assigned to categorical programs.

TREATMENT, COURT, PROBATION, eXCHANGE (TCPX)

QUESTION #23: Do positive urinalysis drug test results still need to be reported via the TCPX (Treatment, Court, Probation, eXchange)?

ANSWER: Yes. Drug-testing results must be entered into the TCPX and reported on the participants program report.

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If you have any questions or need additional information, please contact SAPC Helpline at (888) 742-7900, available Monday to Friday, from 8:00 a.m. to 5:00 p.m.

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