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TO: Executive Directors
Offender Treatment Program/Proposition 36 Treatment Providers
And Interested Others

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

SUBJECT: QUESTIONS AND RESPONSES - PENAL CODE 1210 STANDARDS & PRACTICES (FORMERLY PROPOSITION 36/OFFENDER TREATMENT PROGRAM)

This letter transmits the Substance Abuse Prevention and Control's (SAPC) responses to the questions and recommended considerations to the proposed Penal Code 1210 Standard and Practices, as received from the California Association of Alcohol and Drug Program Executives and the existing Proposition 36/OTP Treatment Network.

SAPC reviewed the questions and recommendations submitted and incorporated as appropriate revisions in to the final version of the Penal Code 1210 Standard and Practices.

In an effort to assist the transitioning of the multitude of changes under the Penal Code 1210 program, treatment programs are encouraged 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 serve as a useful point of reference for you and your staff.

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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COUNTY OF LOS ANGELES - DEPARTMENT OF PUBLIC HEALTH
SUBSTANCE ABUSE PREVENTION AND CONTROL

STANDARDS AND PRACTICES - PENAL CODE 1210
QUESTIONS AND RESPONSES

QUESTION #1: What fees are to be charged of these clients? Is there a maximum fee?

RESPONSE: **The maximum rates established for the Penal Code 1210 (PC 1210) program, according to the Base Rate [1] is as follows:**

- **Individual Counseling $62.72;**
- **Group Counseling $32.94; and**
- **Narcotic Treatment Program (NTP)– Methadone Dose – $10.46.**

QUESTION #2: Is there a standard sliding-fee scale for fees per Section XII (2) of The Standards?

RESPONSE: **If your program does not have a Substance Abuse Prevention and Control (SAPC), approved sliding fee scale as requested in Bulletin 04-08 (2004) entitled, "Client Fee Determination System," (document may be found on SAPC's website under the bulletins section), SAPC recommends the use of the sliding fee scale developed in the 1985 ADPA memorandum.**

Upon approval, SAPC intends to incorporate the Rate Study published through MGT of America, Inc., - Public Consulting Group, and provide further guidance on developing a sliding fee that is equitable, not to exceed actual cost, and approved by SAPC.

QUESTION #3: Many of the clients we receive are indigent. Can a cap be set on the number of indigent clients our agency will be sent?

RESPONSE: **Treatment programs should not deny services due to the participant's inability to pay. It is against County and State regulations to cap the number of indigent participants. The County cannot enforce a cap on the number of indigent participants that are sent to a treatment program.**

QUESTION #4: Can our agency still bill the third payor if a client has billable insurance?

RESPONSE: **Yes. If the participant has insurance, then that is the funding source.**

QUESTION #5: Our calculated up-front costs to be collected from the client during the intake amounts to a barrier to entering treatment, when you factor in our regular costs and the additional SAPC Administrative Fee. We cannot remain solvent as a business if we incur the portion of that up-front cost where it's not at all certain whether the client will ever pay their balance.

RESPONSE: **It is suggested to explore the practice of collecting fees throughout the treatment episode, as treatment progresses.**

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1 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.

QUESTION #6: Indigent clients will not be turned away from receiving services in this program. Who is it that makes the determination whether an individual is indigent?

RESPONSE: **This determination in the Penal Code 1210 (PC 1210) system, is made by the treatment program, and is to be based upon a documented determination and reviewed at regular intervals.**

QUESTION #7: The new Level I is the previous Level A.

RESPONSE: **The new Level I consists of one to three counseling sessions per week for 90 days, with a combination of individual, group and educational sessions and is not eight weeks as the previous Level A.**

QUESTION #8: The existing system for serving these clients is currently handling them. Why establish a new separate service structure now?

RESPONSE: **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.**

QUESTION #9: The proposed treatment structure completely ignores the idea of client-need in determining the treatment plan. Our hopes are that there may be a better situation in future years.

RESPONSE: **Participant need is taken into account during the Community Assessment Services Centers (CASC) assessment/referral process.**

QUESTION #10: We would like to recommend (placement) language that prohibits provider self-referral or level-of care determination."

RESPONSE: **CASC standards have built-in precautions to ensure even distribution of referrals to treatment programs by utilizing the CASC Tracking and Referral Forms and reporting participant referrals on the CASC Tracking Report which is disseminated to programs at CASC Provider Area Meetings. Programs are encouraged to participate in these meetings and voice any concerns.**

QUESTION #11: For our agency, many of these Prop 36 (PC 1210) referrals will be put under Block Grant funding.

RESPONSE: **The use of alternative funding is largely for participants deemed to be indigent. Participants that have the ability-to-pay the fees should be charged as fee-based participants.**

QUESTION #12: Thirteen (13) weeks seems too short of duration. Penal Code 1000 is 20 weeks, and we thought this PC 1210 was supposed to be a higher level of care.

RESPONSE: **The revised Summary of Treatment and Supervision Services Matrix was restructured and remains similar to the current established Services Matrix. However, several changes in reference to intensity and duration have been made as follows, please refer to Attachment 1:**

Level I (Maximum of 90 days), with one to three counseling sessions per week.
Level II (Minimum of 4 months to a maximum of 6 months), with three to four counseling sessions per week for outpatient counseling, and one to two counseling sessions per week for Narcotic Treatment Program services.

These are basic program requirements not intended to prevent programs from exercising clinical judgment in meeting individual needs. Programs are encouraged to maintain evidence based practices and employ new treatment models in serving this population (Prime for Life, etc).

QUESTION #13: We suggest that each agency have a ceiling or maximum number of clients that they must work with on a sliding fee scale.

RESPONSE: **As you manage your internal business affairs, it is understood that your treatment program will need to closely monitor this situation and work closely with your CASC.**

QUESTION #14: Structure Missed Appointments - For both Level I and II...suggest that there should be a provision to limit the number of misses...such as two consecutive unexcused misses (or three)...will result in termination from the program.

RESPONSE: **The Standards and Practices have been revised as follows: A participant may be terminated by the treatment program if they have more than four (4) unexcused absences. Please refer to page 7 of the Standards and Practices.**

QUESTION #15: Is it possible...to delay the payment to SAPC by one additional month and pay SAPC by the 25th of the following month? Please see added new language on page 13 Section XIII (B) of the PC 1210 Standards.

RESPONSE: **The Standards and Practices have been revised as follows: Each treatment program shall submit a County Administrative Fee for each participant enrolled, no later than 45 days after the close of the month in which intake occurred, and shall submit payment by the 20th day of each month.**

No SAPC Administrative Fee is to be charged for a person who is deemed indigent.

Please refer to page 13 of the Standards and Practices.

QUESTION #16: We were told not to use General Relief (GR) for these clients. What if they are already on GR?

RESPONSE: **The Standards and Practices as outlined pertain to and are effective as of October 1, 2011. If a participant is on General Relief as an alternative funding source option, prior to October 1, 2011, the revised changes do not apply.**

QUESTION #17: The Courts need to be involved. Some Courts provide wrong information to referrals. The Courts often times inform the clients that the program is already funded.

RESPONSE: **The Courts continue to be involved and may undergo Court training addressing the re-design of the Penal Code 1210 program.**

QUESTION #18: How do you handle PC1210 referrals that have a Court paper and are on GR?

RESPONSE: **The CASC will assess PC 1210 participants and based on clinical judgment, make the appropriate reference to treatment. Eligibility for alternative funding sources such as GR is to be made by the treatment program.**

QUESTION #19: Strongly recommend no completions be given out until all payments are paid-in-full.

RESPONSE: **A treatment program may withhold a Completion Certificate until all payments are made in full.**

QUESTION #20: Our agency is NOT in favor of any payment plans.

RESPONSE: **It is the program's option to not employ the use of payment plans. SAPC understands that this program may not be suitable for some of the treatment programs and they may consider opting-out and discontinue their involvement with PC 1210 (Proposition 36).**

QUESTION #21: The treatment structure proposed sets arbitrary maximum limits on the length and intensity of treatment, including what kind of services are to be provided. This completely moves us away from applying evidenced-based treatment.

RESPONSE: **Please refer to question 12.**

QUESTION #22: Many of the clients need more than 3 individual sessions in a 120 day period, in a program that involves treatment. These clients have issues that cannot be addressed in a group setting.

RESPONSE: **Please refer to question 12.**

QUESTION #23: $50.00 SAPC Administration Fee - How does SAPC justify this monthly fee? If participants are to be charged off to GR etc. what additional costs are incurred by SAPC? Those contracts are already audited and administered. (Also pay for those deemed indigent?) SAPC should be reimbursing providers for the additional staff time required to service this population.

RESPONSE **The Administration Fee will be the main source of funding to support the Treatment Court Probation Exchange (TCPX) system for data collection, which generates TCPX management reports for SAPC. Additional costs are under the category of contract management, finance, and auditing costs. Although participants may be placed under 'alternative-sources of funding, the TCPX system must still be utilized.**

QUESTION #24: This new (proposed) Matrix does not adhere to professional standards and best-practices. The Standards as proposed will not lend themselves to the clinical service needs of a client population that has on-average 10 years of abuse history. The length of treatment, modality, etc. all should be dictated by the treating agency.

RESPONSE **Please refer to question 12.**

QUESTION #25: Best-practices seem to have been abandoned in favor of a system that seems to better serve the supervision needs of the Courts, and Probation. The proposed level system ignores best practices for treatment. It totally ignores treatment being determined by an appropriate clinic assessment. It ignores any clinically based treatment placement criteria, and UCLA's research and evaluation on this population over the past five years.

RESPONSE **The assessment and referral process under the PC 1210 will not change under the redesigned program. After the CASC assessment and referral, treatment programs should generally continue to conduct their own intake appointment, to further determine participant needs, cover the program guidelines and develop a treatment and discharge plan as appropriate to the participant's needs.**

QUESTION #26: Participant fees will not be sufficient to pay for the services rendered by the provider.

RESPONSE **Treatment programs can elect to opt-out of this program and decide not to serve these Court referrals if they feel it is not feasible.**

QUESTION #27: Using alternative funding sources will displace other non PC 1210.

RESPONSE **True treatment programs are cautioned that absorbing all the existing PC 1210 population on block grant or other alternative funding source, may cause non-criminal justice involved participants to be displaced. Many persons voluntarily seeking treatment are indigent and dependent on services offered through block grant funding, as their only means of receiving substance use disorder treatment services.**

QUESTION #28: Who is responsible for deeming the participant as indigent? In PC 1000 too often, the Judge ends up making this determination without proper financial assessment and providers are expected to cover the costs.

RESPONSE: **Please refer to question 16.**

QUESTION #29: TCPX Reporting - PC 1210 carries with it additional requirements around reporting to the Courts and TCPX data entry that is not separately reimbursed, and is not required in other cases.

RESPONSE **Reporting to the Courts, Probation or Parole is a standard practice when a treatment program takes a Court-referred case. The PC 1210 program should not be viewed any differently.**

QUESTION #30: Participants to Pay for Residential Level III. There are very few participants in a position to pay for even the equivalent of the current County reimbursement rates for services.

RESPONSE **All references to residential treatment and Level III have been removed from the Standards and Practices. The Standards and Practices have been revised as follows:**

Based on the CASC assessment, if a participant will need a higher level of service, beyond Levels I and II, the CASC may refer to an appropriate treatment program where the following services can meet the participant's treatment needs: residential treatment; or detoxification services.

Please refer to page 7 of the Standards and Practices.

QUESTION #31: Medication – Assisted Treatment. There is no reference to the use of medication-assisted treatment, other than NTP and nothing which addresses cost.

RESPONSE: **NTP services will remain in the Services Matrix as an allowable referral source. Due to the high cost and various approaches to treatment under medication assisted treatment, it was difficult for SAPC to incorporate other proven approaches into the revised Services Matrix.**

The Standards and Practices now include the cost of methadone dosing.

QUESTION #32: The current matrix was brought about as an essentially cost-saving measure. The fact there is NO public funding available for treating this population, makes the current matrix irrelevant.

RESPONSE: **As in other California counties, SAPC developed a fee based participant self-pay counseling program to handle this offender population. Although not ideal, this program remains an unfunded State mandate.**

QUESTION #33: Fees for Level I and II are marked: To be determined. This needs to be spelled out.

RESPONSE: **Please refer to question 1.**

QUESTION #34: "What protections will be in-place to insure the $50 administration cost isn't pushed to providers" for the large number of participants not able to pay this.

RESPONSE: **Please refer to question 15.**

QUESTION #35: Several questions arise regarding what if anything happens if the participant is unable or refuse to pay these (ancillary) fees. Does the program suspend the required UA testing if a participant refuses to pay? Does the program have the right to suspend services for non-payment of fees? What does SAPC recommend?

RESPONSE: **Once the ability-to-pay has been established between the participant and the treatment program and the agreement has been developed, any violation of this agreement is to be seen as non-compliance, and decisions are then based upon the treatment programs stated Policies and Practices as stated during the intake. Participants who do not have the ability-to-pay are in a different category.**