

COPY

1 DANIEL E. LUNGREN, Attorney General  
of the State of California  
2 DENNIS ECKHART, Supervising  
Deputy Attorney General  
3 JOSEPH O. EGAN, State Bar No. 53469  
Deputy Attorney General  
4 1515 K Street  
Post Office Box 944255  
5 Sacramento, California 94244-2550  
Telephone: (916) 323-8789

6 Attorneys for Defendants  
7 Russell S. Gould, Andrew M. Mecca  
and Molly Joel Coye, M.D.  
8

9 UNITED STATES DISTRICT COURT  
10 FOR THE EASTERN DISTRICT OF CALIFORNIA  
11

12 REDA Z. SOBKY, M.D., Ph.D., ) No. CIV S-92-613 DFL GGH  
HUMANISTIC ALTERNATIVES TO )  
13 ADDICTION RESEARCH AND TREATMENT, ) PLAN FOR ASSURING THE  
INC., JANE DOE, FRANCES FOE and ) AVAILABILITY OF MEDI-CAL  
14 HENRY HOE, on behalf of ) METHADONE MAINTENANCE  
themselves and all others ) TREATMENT SERVICES  
15 similarly situated, )

16 Plaintiffs, )

17 v. )

18 RUSSELL S. GOULD, in his official )  
capacity as Secretary of the )  
19 California Health and Welfare )  
Agency, ANDREW M. MECCA, in his )  
20 official capacity as Director, )  
California Department of Alcohol )  
21 and Drug Programs, MOLLY JOEL )  
COYE, M.D., in her official )  
22 capacity as Director, California )  
Department of Health Services )

23 Defendants. )  
24

25 ///

26 ///

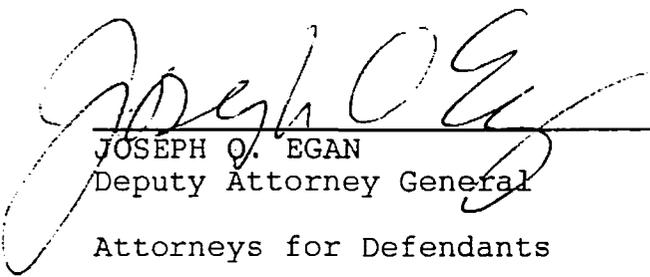
27 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

Defendants' Plan for assuring the availability of methadone treatment services in response to the Order for Permanent Injunction re: 42 U.S.C. section 1396a(a)(8) and (a)(10) filed August 22, 1994, enclosed herewith, is submitted in compliance with the provisions of said Order.

Dated: November 29, 1994

Respectfully Submitted,  
DANIEL E. LUNGREN, Attorney General  
of the State of California  
DENNIS ECKHART  
Supervising Deputy Attorney General

  
\_\_\_\_\_  
JOSEPH O. EGAN  
Deputy Attorney General  
Attorneys for Defendants

PLAN FOR ASSURING THE AVAILABILITY OF  
MEDI-CAL METHADONE MAINTENANCE TREATMENT SERVICES

November 28, 1994

Purpose of Plan:

This plan was developed in response to the "Order for Permanent Injunction Re: 42 U.S.C. Section 1396a(a)(8) and (a)(10)" filed August 22, 1994, in Sobky v. Smoley. The purpose of the plan is to present, to the United States District Court for the Eastern District of California and to the counsel for the plaintiffs, a plan for implementation of paragraph 3 of the Court's order. The plan describes new Drug Medi-Cal (D/MC) administrative and fiscal systems. (While the Court's order is directed to the provision of outpatient methadone maintenance, all D/MC services are being integrated into the new systems.) Because these systems are new, and impact D/MC providers and counties as well as the State, the provisions of the plan which relate to such systems describe the State's goals and means of implementating the permanent injunction, but do not include operational procedures and manuals. The Defendants intend to develop and modify operational procedures and manuals, consistent with the objectives of the plan, as necessary.

Provisions and Implementation Steps of the Plan:

Following is the State's plan for implementing the eight provisions set forth in the August 22, 1994, Order for Permanent Injunction. The responsibility for implementation of this plan is vested with the Deputy Director, Office of Treatment and Recovery, Department of Alcohol and Drug Programs.

**Provision 1.    Written notice of this injunction to all methadone maintenance programs licensed by ADP.**

A copy of the notice to be sent to each outpatient methadone maintenance program licensed by the Department of Alcohol and Drug Programs (hereinafter referred to as "Department") is attached as Exhibit 1.

Additionally, on June 24, 1994, notice of the Court's June 14, 1994, Amended Memorandum of Decision and Order was distributed to all licensed outpatient methadone programs through D/MC #94-05 and is attached as Exhibit 2. DDP #94-15, which is referenced in D/MC #94-05, is attached as Exhibit 3.

**Provision 2. Written notice of this injunction to each Drug Program Administrator for each county of the State.**

A copy of the notice to be sent to each County Drug Program Administrator is attached as Exhibit 4. A declaration of proof of service by mail will be completed for the notice.

**Provision 3. Written notice to all methadone maintenance programs licensed by ADP, directing each such program to prominently post a notice informing methadone patients and persons seeking methadone maintenance of the availability of methadone maintenance under Medi-Cal as set forth in this injunction and the means of applying for methadone maintenance under Medi-Cal, if the person is otherwise eligible for Medi-Cal services.**

A copy of the notice to be sent to each outpatient methadone maintenance program licensed by the Department is attached as Exhibit 1. The notice will be printed in English and in Spanish.

**Provision 4. The method(s) for the distribution of funds, including the role of counties in budgeting for methadone maintenance services, the methods by which defendants**

will monitor waiting lists due to budgetary constraints in those counties where there are licensed and Medi-Cal certified methadone maintenance programs, and the means of increasing budget allocations if necessary to assure that no persons eligible for Medi-Cal funded methadone maintenance treatment services are placed on waiting lists for such services due to budgetary constraints.

In the past, counties received State General Funds and federal Medicaid reimbursements based on "county plans" which, upon approval by the Department, were statutorily deemed contracts. Legislation was enacted which, in Fiscal Year (FY) 1994-95, changed the county planning process by replacing county plans with net negotiated amount (NNA) contracts. The NNA contracts between the Department and each county cover the use of state and federal drug and alcohol program funds. The NNA contracts do not include D/MC services.

The Governor's 1994/95 Budget contained a "Restructuring Proposal" which removed all of the \$62.3 million in State General Funds from the Department's budget, which is the source of match required for claiming the federal Medicaid reimbursements for D/MC treatment services, and gave it directly to the counties. In response to the Court's Order for preliminary injunctive relief, the entire \$62.3 million was placed back into the Department's budget to be made available to meet the State's D/MC obligations mandated under current and future court orders. As a result, the Department will, if necessary, use up to 100% of these State General Funds to fund all D/MC services, including outpatient methadone maintenance.

In implementing the court's order, the Department will use a two phase approach. Phase I extends from July 1, 1994 through June 30, 1995, and consists of two tracks. Track I (county/provider) will allow for contracts between the Department and counties which will, in turn, contract directly with all D/MC providers which desire to participate. Under Track II (State/provider), the Department will extend its current direct contracts with outpatient methadone

maintenance providers in Alameda County and the counties impacted by the preliminary injunction. However, if these counties are able to contract with the outpatient methadone maintenance providers in their county by April 1, 1994, they will be afforded the opportunity to do so. Track II will also allow for contracts between the Department and all D/MC service providers in those counties which elect not to contract with providers themselves. Counties will also be offered the opportunity to contract directly with D/MC providers, other than outpatient methadone maintenance providers. Phase I will also provide for payments to outpatient methadone maintenance beneficiaries and certified D/MC outpatient methadone maintenance providers for methadone maintenance services received on or after July 1, 1994.

Phase II commences July 1, 1995, and will continue the two tracks described in Phase I. It is anticipated that counties contracting directly with D/MC providers will continue to do so. If a county elects not to contract with D/MC providers, the Department will contract directly with D/MC providers or will contract with an broker/intermediary which will, in turn, contract with providers. The Department does not anticipate the use of broker/intermediaries under Phase I. All counties not under Track I will be offered the opportunity to contract directly with D/MC providers, including outpatient methadone maintenance providers, in Phase II.

**A. The Role of Counties in Budgeting for Outpatient Methadone Maintenance Treatment Services.**

PHASE I: July 1, 1994 - June 30, 1995

The following steps will implement Track I.

Track I: Department Contracts with Counties

1. On September 20, 1994, the Department issued a notice, D/MC #94-07, advising counties of the D/MC contract proposal process. D/MC #94-07 is attached as Exhibit 5. D/MC #94-07 directed counties to submit a proposed description of the processes to finance, evaluate, and control the D/MC Program, or a form

indicating the county's decision not to submit a D/MC contract proposal for FY 1994/95. D/MC #94-07 also enclosed a boilerplate State/county contract into which the county proposal will be incorporated.

2. Counties needing additional time were granted extensions until November 8, 1994, to submit their response. If a county proposal is not received by November 14, 1994, the Department will immediately shift to Track II and offer direct contracts to all certified D/MC providers in that county. In order for the Department to finance and administer the D/MC treatment services in that county, the State will utilize State General Funds which had been allocated to the county for D/MC services.
3. Counties submitting a proposal will be directed to expedite the approval process for State/county and county/ provider contracts.
4. If the county decides to contract with the Department, the county must submit a contract proposal, as specifically set forth in D/MC # 94-07, to the Department describing their processes and time frames to finance, monitor, evaluate and control all D/MC substance abuse services. The specifics of the county proposal must include, inter alia:
  - a. a Quality Management Plan which describes the processes to be used to ensure compliance with federal and state statutes, court orders, and policy directives from the State. At a minimum, the management plan must:
    - (1) specify the methods, frequency, and time frames for including certified Medi-Cal providers in the D/MC Program;
    - (2) describe the process for county staff to be informed of, and monitored for, implementing policies, standards and procedures related to the D/MC Program, including but not limited to compliance with monthly and /or quarterly

reporting requirements of the case Sobky v. Smoley, California Alcohol and Drug Abuse Data System (CADDs), Drug and Alcohol Treatment Access Report (DATAR), and D/MC billings; and

- (3) describe the process for systematically examining, evaluating, and monitoring D/MC programs and services, including but not limited to:
  - (a) reviewing mid-year utilization and expenditure data and adjusting programs and resources to meet actual needs;
  - (b) collecting and managing waiting list data; and
  - (c) monitoring and evaluating accessibility of care including a system for addressing problems that develop regarding treatment waiting times and appointments;
- b. the list of services offered and providers currently certified to participate in the D/MC Program, including:
  - (1) the number of Medi-Cal beneficiaries currently receiving treatment; and
  - (2) the total treatment capacity of participating providers.
- c. describe the plan for expanding the D/MC Program by listing the:
  - (1) type and amount of service, treatment capacity, and rates of reimbursement planned to be used;
  - (2) providers interested in becoming certified to participate in the D/MC Program;

- (3) number of and reasons for Medi-Cal beneficiaries on waiting lists and/or currently receiving services; and
    - (4) amount necessary to fund the services.
  - d. describe how the State General Funds and federal Medicaid reimbursements will be distributed. This financial information shall include but not be limited to:
    - (1) submission of form ADP 7895B, Budget of Expenditures and Revenues, for all substance abuse treatment programs certified to participate in the D/MC Program; and
    - (2) a description of the process to be used for increasing budget allocations, if necessary, to assure that no eligible Medi-Cal beneficiaries are placed on waiting lists due to budgetary constraints.
5. The Department has reassigned approximately 15 staff to expedite review of the county D/MC proposals and to address plan deficiencies, if any. If the Department determines that, for any reason, a county cannot execute contracts with all D/MC providers by February 1, 1995, it will promptly determine whether direct contracts between the Department and providers, or allowing the county enough additional time to execute contracts, would be the most expeditious method of assuring the timely provision of necessary services. If the former, the Department will promptly offer direct contracts to D/MC providers. Those contracts will provide for Medi-Cal payments, pursuant to Provision 8, for services provided on or after July 1, 1994.
6. If the county proposal is approved, the Department will promptly issue a letter of intent to contract with the county which specifies the funds allocated for negotiating provider contracts for D/MC treatment services, including outpatient methadone maintenance. (Target date: December 8, 1994 for the last letter

of intent.)

7. The Department will promptly mail the State/county contract to the county for signature. (Target date: within 10 working days of sending the letter of intent.) The county proposal will be incorporated as an exhibit of the State/county contract. The contract will cover D/MC services provided from July 1, 1994, through June 30, 1995, and will require the county to comply with the order for permanent injunction, ensure that D/MC services shall be continuously available, ensure that the accessibility of such services shall not be artificially limited due to budgetary constraints, and that sufficient funds for any actual increase in provider services to Medi-Cal beneficiaries shall be made available. A copy of the Department/county boilerplate contract is attached as Exhibit 6. The contract is attached for reference purposes and is not intended to be part of the plan. The Department may amend the contract, as necessary, to fulfill the objectives of the plan.
8. When the Department receives a signed contract from the county, the Department will follow the contract approval processes described on page 9, paragraphs #4 and #5 herein.
9. Certification as a Drug/Medi-Cal provider is not contingent upon the provider having a contract with the county.

#### Track II: Department Contracts with Providers

1. Effective July 1, 1994, the Department amended existing contracts with all the direct contract providers to continue outpatient methadone maintenance services for Medi-Cal beneficiaries through September 30, 1994 in Alameda County and the counties affected by the preliminary injunction. Amendments are currently being processed through the Department of Health and the Department of Finance which would further extend the contracts to December 31, 1994. The counties have been offered the opportunity to contract directly with providers effective April 1, 1995. Where a county chooses to enter into

provider contracts on April 1, 1995, the Department will extend its contracts with providers through March 31, 1995. If counties determine not to contract directly, the Department will extend its direct provider contracts through June 30, 1995. The Department has forwarded a contract to the outpatient methadone maintenance provider in San Luis Obispo County.

2. The Department will promptly send a letter to each certified D/MC provider in the counties not contracting with the Department. (Target date: November 14, 1994.) The letter will offer the providers the opportunity to contract with the Department to provide D/MC services to eligible Medi-Cal beneficiaries and will include a contract packet. The contract packet will include contract requirements and approval processes, budget forms, utilization review requirements, and rates of reimbursement. The contract will cover payments to certified providers for covered services provided on or after July 1, 1994. The provider will also be required to identify its capacity for, and projected utilization by, Medi-Cal beneficiaries. If the provider has not responded, the Department will call the provider to ascertain the reason and determine if the provider needs assistance. (Target date: 10 days after the contract packet is mailed.)
3. The Department will review the provider information and either offer a contract or send a letter to the provider identifying deficiencies with the information provided. (Target date: 10 working days from date of receiving provider's response.)
4. The Department will hand deliver the contracts to the Department of Health Services for signature and Department of Finance for approval, along with cover letters requesting expedited handling. (Target date: 7 working days of Department's receipt of the signed contract.)
5. The Department will send a copy of the approved document to the provider. (Target date: 5 working days after Department's

receipt of approved contract.)

PHASE II: JULY 1, 1995 ONWARD

Phase II of this plan will continue the two track system established under Phase I for State/county contracts and/or State/broker/provider contracts with the following target dates:

Track I: State Contracts with Counties

1. The Department will distribute to each county a boilerplate contract for D/MC treatment service requirements and a contract proposal package similar to that contained in D/MC #94-07 for the next fiscal year beginning July 1. (Target date: February 1 of each year.)
2. A letter of proposed funding allocations, based upon projected need, for D/MC treatment services will be distributed to each county. (Target date: March 30 of each year.)
3. Counties will be required to submit contract proposals to the Department no later than April 1 of each year. If a proposal is not received by that date, the Department will immediately shift to Track II of this phase and offer direct contracts to all certified D/MC providers or to intermediary/brokers, or both.
4. The Department will distribute notices regarding the levels of approved funding to counties, brokers, and/or providers. Contracts will be submitted for approval through the County Boards of Supervisors and the required State agencies. (Target date: July 31 of each year.)

Track II: State Contracts with Providers

1. The Department will send a letter to each licensed, certified D/MC provider in the counties not contracting with the Department. (Target date: 5 working days from the date that it is determined that the county will not be contracting.) The

letter will offer the providers the opportunity to contract with the Department to provide D/MC services to eligible Medi-Cal beneficiaries and will include the contract packet. The contract packet will include contract requirements and approval processes, budget forms, utilization review requirements, and rates of reimbursement. The effective date of the contract will be July 1, 1995 and July 1 for subsequent years. The provider will also be required to identify its capacity for, and projected utilization by, Medi-Cal beneficiaries. If the provider has not responded, the Department will call the provider to ascertain the reason and determine if the provider needs assistance. (Target date: 10 days after contract packet mailed.)

2. The Department will either offer a contract or send a letter to the provider identifying deficiencies with the response. (Target date: 10 working days from receipt of provider's response.) The Department will work with the provider to obtain acceptable information. (Target date: 3 working days from the date of the letter of deficiency.)
3. For both the State contracts with the counties and the State contracts with treatment providers, the Department will hand deliver the contract to the Department of Health Services for signature and the Department of Finance for approval. (Target date: 7 working days from receipt of signed contract.)
4. The Department will send a copy of the approved document to the provider. (Target date: 5 working days from Department's receipt of an approved contract.)
5. Once final approval of the contract is obtained, the providers will be reimbursed for services provided as of July 1, upon the timely submission of appropriate claims documentation.

## B. Monitoring of Waiting Lists.

Because waiting lists develop only after the service system is unable to meet service demands, the use of waiting lists to monitor service needs is reactive rather than proactive. The Department will proactively estimate patient needs through a service management system. The system includes fiscal and client data bases providing a more accurate estimate of immediate treatment demands. By considering information from monthly projected utilization reports submitted for billings and reimbursements, quarterly adjustments to billings reflecting actual utilization of services, appeals from providers designed to assure services are not denied due to budgetary constraints, as well as requests for licensure of outpatient methadone maintenance programs, the system will adjust to meet anticipated service needs and assure that there will be no gaps in service due to budgetary constraints. The State/county contract will require the county to have a documented system for collecting, maintaining and evaluating accessibility to care and waiting list information. The following steps will be followed to monitor counties and outpatient methadone maintenance programs.

1. The State/county contract will specifically describe the formats, frequency, and time frames for reporting waiting list data. As described in DDP #94-15 (Exhibit 3) and #94-16 (attached as Exhibit 7), all substance abuse treatment programs, and specifically all methadone maintenance treatment programs, must report waiting list information monthly to the Department either directly or through the county.
2. On a quarterly basis, for outpatient methadone maintenance providers, the Department will compare: (a) the level of county funding available for outpatient methadone maintenance services with the level of reimbursements claimed from outpatient methadone maintenance treatment providers; and (b) the treatment capacity of outpatient methadone maintenance treatment providers with the number of persons reported in outpatient methadone maintenance treatment and the number of persons on waiting lists

for methadone maintenance treatment.

3. If the comparison of information in Provision 4.B.2. indicates that outpatient methadone maintenance services are being used at a rate which would exhaust the amount available to outpatient methadone maintenance providers under a county or State contract, and that an augmentation of the State/county and/or direct provider contracts is necessary, the Department will follow the action steps identified in Provision 4.C. below.
4. If the Department determines that eligible Medi-Cal beneficiaries are precluded from treatment due to budgetary constraints, the Department will promptly advise the program and the county to modify their contract to provide for additional funding. During the time the contract is being modified, the program should continue to provide services reimbursable under the D/MC Program, subject to the availability of an opening in the program in which services are sought.

**C. Increasing the Allocation of Particular Counties.**

The Department will implement the following steps to increase county allocations to eliminate any waiting lists for outpatient methadone maintenance services due to budgetary constraints.

1. The State/county contract will require providers and counties to project utilization and expansion of D/MC services. Such planning is intended to ensure that the initial State/county contract will contain sufficient funding and will not need to be increased to meet such provider needs.
2. Claims for reimbursement from the county for D/MC services will be logged monthly by the Department. Total actual expenditures will be reconciled on a quarterly basis. If the county's monthly claims for reimbursement and quarterly reconciliations indicate that the level of need for D/MC services is greater than the amount allocated, funding increases and contract amendments will be promptly processed to address the increased

level of need. The quarterly reconciliations are for the purpose of monitoring utilization so appropriate funding adjustments are made. They are not part of the reimbursement mechanism and will not result in a delay of payments to providers.

3. If a county requests an increase in the State/county contract, and/or if the Department determines that the State/county contract requires additional funding, the Department will issue the county a letter of commitment for increased funding. While contract amendments are being processed and approved, the provider may bill for services rendered and be reimbursed without interruption of the actual service level provided.
4. If a county fails or refuses to increase funding to support the level of need, the Department will redirect State General Funds from the county allocation and/or terminate the State/county contract. The Department would then enter into direct contracts with providers or a contract with a broker/intermediary. During the time the contract is being modified, the program should continue to provide services reimbursable under the D/MC Program, subject to the availability of an opening in the program in which services are sought.

**Provision 5. The amount of funds allocated.**

Outpatient methadone maintenance services for Medi-Cal beneficiaries will be available from any licensed methadone treatment program which is interested in participating in the D/MC Program and has been certified to provide D/MC services by the Department. All providers may request D/MC certification from the Department. Certification will be granted if the provider meets all legal requirements. Licensed outpatient methadone maintenance treatment providers will determine how many treatment slots will be directed toward the provision of services for eligible Medi-Cal beneficiaries.

A distinction must be drawn between D/MC allocations and planned expenditures for D/MC treatment services, including outpatient methadone maintenance. The amount identified for expenditure for the individual D/MC treatment modalities, such as outpatient methadone maintenance, will not be known until the counties submit their proposals. The allocations reflect only the gross State General Fund allocation by county.

As noted above, the \$62.3 million in State General Funds must first be used to fund D/MC treatment services. The Department's allocation of State General Funds to counties is based on the previous year's funding levels, compared to an estimate of potential use of D/MC services in each county utilizing DATAR, CADDS, and waiting list data. The estimates broken down by individual county are attached as Exhibit 8. Using the data identified, \$38.8 million was projected as the total State General Fund needed in FY 1994-95 to provide the non-federal share for D/MC services. The projection of \$38.8 million represents an increase of approximately \$24 million over the \$14.2 million allocated in FY 1993/94 for D/MC treatment services, including outpatient methadone maintenance, an expansion of approximately 180%. The estimates for FY 1994/95 assumed immediate certification and 12-month utilization of all uncertified outpatient methadone maintenance providers, a contingency which is not going to take place. Thus, the estimated D/MC utilization set forth in Exhibit 8 may be overstated.

To ensure that all D/MC obligations are met for FY 1994/95, the State withheld \$5.2 million from the \$62.3 million State General Fund available to be allocated to counties and created a contingency reserve. The reserve was established by projecting the utilization of D/MC services in each county and comparing the calculation with the amount allocated to each county. Sixteen (16) counties had projected expenditures exceeding preliminary allocations, which totaled approximately \$5.2 million. This became the amount withheld for the reserve. Again, because of the assumptions of immediate provider certification and 12-month utilization, the projected expenditures may be overstated.

To access this reserve, counties must first use all of their current State General Fund allocation for D/MC match or have experienced unplanned and unanticipated growth in D/MC services due to a new provider establishing a certified program in their county.

Finally, the funds identified specifically for outpatient methadone maintenance services will not be known until the Department receives program and budget information from the counties. As noted under Provision 4 above, counties will be required to submit a D/MC Services Contract Proposal which will include this information.

**Provision 6.** Forwarding to the court and plaintiffs, no less than quarterly, beginning with the quarter ending December 31, 1994, through the quarter ending December 31, 1997, a written report (each report shall be submitted within 30 days of the end of the preceding quarter) describing the number of persons receiving methadone maintenance under Medi-Cal from each certified provider, the number of treatment slots available to Medi-Cal beneficiaries as determined by each provider, the number of Medi-Cal beneficiaries, if any, on waiting list, and the earliest date on the list.

DDP #94-15 (Exhibit 3) and DDP #94-16 (Exhibit 7) already require all drug treatment providers who receive public funds to report waiting list information. The Capacity/Waiting List Management Program creates a waiting list record on a monthly basis and tracks the capacity of providers to serve all applicants for treatment services.

Quarterly reports will be submitted to the Court and plaintiffs within 30 days of the end of the preceding quarter. The current reports to the Court, pursuant to the preliminary injunction implementation plan, include the number of persons receiving methadone maintenance and this data will continue to be submitted. Information on the number of treatment slots available to Medi-Cal beneficiaries as determined by each provider, and the number of Medi-

Cal beneficiaries, if any, on waiting lists, will be reported for all counties in which outpatient methadone maintenance treatment services are provided. Providers are required to record, but not report the to the Department, the date an individual was placed on a waiting list. The Department will now require providers to report such waiting list data.

**Provision 7.** The means by which defendants will expeditiously resolve any disputes between counties and providers with respect to the adequacy of budget allocations to assure that Medi-Cal beneficiaries are not placed on waiting lists.

The State/county contract requires that the county amend the contract with the Department to provide additional funding for its contracts with providers for any actual increase in treatment services to beneficiaries. The State/county contracts additionally require that each county notify the providers that assistance may be sought from the Department in the event of disputes regarding contract terms and conditions with the county. The Department will develop a grievance/complaint form to be distributed to counties and D/MC providers advising them of their right to file a grievance/complaint with the Department:

- a. if the county is not willing to include enough funding in a provider's contract to support the necessary level of services the provider is interested in, and capable of providing to, Medi-Cal beneficiaries; or
- b. if the county will not contract with a provider after D/MC certification has been granted by the Department.

The provider may submit a written grievance/complaint to the Department. The grievance/complaint must be submitted in the form of a letter on the provider's official stationary and signed by an

authorized representative of the provider. The letter must describe the county's alleged failure to comply with either of the two requirements noted above. The grievance/complaint must be submitted to the Department and should be directed to:

Deputy Director  
Office of Treatment and Recovery  
Department of Alcohol and Drug Programs  
1700 K. Street  
Sacramento, CA 95814

The Department will acknowledge receipt of the grievance/complaint. (Target date: within 15 days of its receipt.) The Department will act on the grievance/complaint and inform the provider of the Department's decision. (Target date: within 45 days from the date the Department received the grievance/complaint.)

A beneficiary may also submit a grievance/complaint with the Department regarding the county's alleged failure to comply with the two requirements noted above.

If the Department determines that the county failed to comply with one or more of the above paragraphs, the Department may redirect the county General Fund allocation and/or terminate the contract. In the case of contract termination, the Department will contract directly with D/MC providers in that county or with a broker/intermediary.

**Provision 8. Provisions for Medi-Cal payments, based on Medi-Cal rates in effect at the time services were provided to:**

(A) Medi-Cal beneficiaries, eligible for methadone maintenance services, who paid a Medi-Cal certified provider for such services on or after July 1, 1994, as a result of placement on a waiting list due to budgetary constraints, or

(B) Medi-Cal certified providers who provided methadone maintenance services to Medi-Cal beneficiaries, eligible for such services, on or after July 1, 1994, as a result of placement on a waiting list due to budgetary constraints, provided that such services were provided consistent with Medicaid laws and regulations and that the provider has not been paid by the beneficiary.

**A. Process for Beneficiaries**

Beneficiaries requesting reimbursement from the State for methadone maintenance services received on or after July 1, 1994, which they paid for, will:

1. Be afforded an informal administrative review of their claim, and the right to a formal administrative hearing if dissatisfied with the resolution at the informal review level.
2. Be given notice, attached as Exhibit 9, by posting with all outpatient methadone maintenance providers, that Medi-Cal beneficiaries who, on or after July 1, 1994, were eligible for outpatient methadone maintenance treatment services at the time services were provided to them, and who paid a certified D/MC provider for such services as a result of placement on a waiting list or denied Drug/Medi-Cal outpatient methadone maintenance services due to budgetary constraints, may be reimbursed for those services based upon the Medi-Cal rates in effect at the time the services were provided. The notice will specify that a claim may be filed, within 90 days of the date of the notice, with the Department of Alcohol and Drug Programs. The Department will notify the claimant in writing of receipt of the request for review.
3. Be required to submit appropriate documentation to support the claim within 60 days from the date the request for review is

submitted to the Department. If the Department does not receive the appropriate documentation within 60 days, the claim will be rejected. The claimant will be advised in writing of the rejection of the claim and of the right to request a formal administrative fair hearing on the denial of the claim.

If appropriate documentation is submitted, the Department will have 30 days from the date of receipt of the documentation to review the claim and make a determination as to the validity of the claim and the amount to be reimbursed, if any. The Department will utilize the following criteria in reviewing claims:

1. the services must have been provided on or after July 1, 1994;
2. the provider must have been a certified Medi-Cal provider at the time the services were provided;
3. the claimant must have been Medi-Cal eligible at the time services were provided;
4. the beneficiary must have paid for the services by virtue of being placed on a waiting list or denied Medi-Cal methadone maintenance treatment services due to budgetary constraints; and
5. only the amount of the claim for which appropriate documentation is received will be reimbursed.

The Department shall notify the claimant of the determination and shall reimburse the claimant for any claim the Department determines is valid. (Target date: 90 days from the date of determination.) The Department shall further advise the claimant of the right to a formal administrative fair hearing if he or she is not satisfied with the proposed resolution of the claim.

#### **B. Process for Providers**

If, on or after July 1, 1994, a provider has not been paid for

authorized treatment services provided to Medi-Cal beneficiaries on or after July 1, 1994, as a result of placement of the beneficiaries on a waiting list due to budgetary constraints, and the provider was certified to provide D/MC treatment services at the time the services were provided, such claims from the provider will be accepted and processed through the normal billing process described in Section 51490 of Title 22, CCR and the Interagency Agency Agreement between the Department of Health Services and the Department of Alcohol and Drug Programs.

Methadone maintenance providers certified to provide D/MC services will be given notice of the right to be reimbursed for services provided to Medi-Cal eligible beneficiaries. A copy of the notice to the providers is attached as Exhibit 10.

Whether providers contract with counties or the State, they will have two months from the date of the notice to submit the billings to the county, for county/provider contracts, and to the Department, for State/provider contracts. Services must have been provided consistent with Medicaid laws and regulations, and the provider cannot have been paid by the beneficiary. If the billing is approved, payment will be made through the regular payment process. If the claim is denied, the provider will be afforded an opportunity to utilize the normal grievance process.