



Gavin Newsom, Governor  
State of California  
Health and Human Services Agency  
**DEPARTMENT OF MANAGED HEALTH CARE**  
980 9<sup>th</sup> Street, Suite 500  
Sacramento, CA 95814  
Phone: 916-324-8176 | Fax: 916-255-5241  
[www.HealthHelp.ca.gov](http://www.HealthHelp.ca.gov)

August 5, 2022

**VIA ELECTRONIC MAIL**

Ms. Deborah Espinal- Executive Director of Policy  
Kaiser Foundation Health Plan, Inc. (Kaiser Permanente)  
1800 Harrison Street, 20<sup>th</sup> Floor  
Oakland, CA 94612

Re: Kaiser Foundation Health Plan Northern California Behavioral Health Clinician Strike

Dear Ms. Espinal:

The Department of Managed Health Care (Department) was notified on August 2, 2022, by the National Union Healthcare Workers (NUHW) of its intent to strike on August 15, 2022, on behalf of its members in the Integrated Behavioral Health Services (IBHS) unit at all Northern California Kaiser locations IBHS members are employed. In order to assess Kaiser Foundation Health Plan's (the Plan) compliance with the Knox-Keene Health Care Service Plan Act of 1975, as amended<sup>1</sup> during this strike, the Department requests the Plan respond to the questions contained in this letter.

1. Explain how, during the pendency of the strike, the Plan will ensure all enrollees have access to all covered services in compliance with timely and geographic access requirements set forth in the Act. (Sections 1367 & 1367.03; Rules 1300.67.2 & 1300.67.2.2(c)(7).)
2. Please explain whether enrollees with scheduled mental health visits during the pendency of the strike will have the choice to maintain their existing appointment dates and times with an alternative in-network or an out-of-network provider. If so, please explain how the Plan intends to communicate that option to affected enrollees so that enrollees may exercise that choice. (Sections 1367(d) & (e), 1367.03; Rule 1300.67.2.2.)
3. If enrollees will not have the ability to maintain their existing appointments during the pendency of the strike, please further explain:

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<sup>1</sup> California Health and Safety Code sections 1340 et seq. (Act). References herein to "Section" are to sections of the Act. References to "Rule" refer to the California Code of Regulations, title 28.

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- a. How the plan will ensure that the enrollee will be provided with an initial or follow-up mental health appointment within the time-elapsd standards set forth in Section 1367.03;
  - b. How the Plan will inform enrollees with existing appointments of the availability of alternative appointment times and alternative providers (Section 1367.03; Rule 1300.67.2.2);
  - c. What assistance the Plan will provide to affected enrollees in rescheduling existing appointments, should the enrollee choose to meet with an alternative provider during the pendency of the strike and whether rescheduled appointments will be noted in the enrollee's medical records (Section 1367.03; Rule 1300.67.2.2);
  - d. Whether the strike will impact an enrollee's ability to obtain prescription medications (Sections 1342.71(c), 1367(d) & (e)); and
  - e. Whether enrollees receiving telehealth visits will be able to continue to obtain services via telehealth or whether the modality of the service will be impacted during the pendency of the strike. (Sections 1367(d) & (e), 1374.13.)
4. If in-network mental health care services are not available within the Plan's approved geographic and timely access standards, please explain the Plan's process for arranging for services from an out-of-network provider, including the following:
  - a. How the enrollee is informed of the ability to seek covered mental health services from an out-of-network provider (Sections 1374.72(d) & 1367.03(a)(7); Rule 1300.67.2.2(c)(7));
  - b. What steps an enrollee must take to obtain an appointment with an out-of-network provider (Sections 1367(d), 1367.01, 1367.03(a)(7) & 1374.72(d); Rule 1300.67.2.2(c)(7));
  - c. How existing Kaiser providers, including primary care providers and psychiatrists, are informed of the availability of out-of-network mental health providers to treat Kaiser enrollees and what steps Kaiser providers must take to arrange referrals to out-of-network mental health providers (Sections 1367(d), 1367.01, 1367.03(a)(7) & 1374.72(d); Rule 1300.67.2.2(c)(7)); and
  - d. What steps the Plan is taking to ensure that enrollees who obtain care from out-of-network providers shall pay no more than the same cost sharing that the enrollee would pay for the same covered services received from an in-network provider. (Sections 1367.03(a)(7), 1374.72(d); Rule 1300.67.2.2(c)(7)).
5. To the extent an enrollee must see an alternative in-network or out-of-network mental health provider during the pendency of the strike, please explain what steps the Plan will take to ensure continuity of care and care coordination, including:

- a. Facilitating the exchange of treatment notes between the alternative mental health provider and regular treating mental health provider (Section 1367(d); Rule 1300.67.1);
  - b. Ensuring the alternative mental health provider has access to the enrollee's medical charts (Section 1367(d); Rule 1300.67.1); and
  - c. Promoting communication between the enrollee's existing treating providers, including primary care physicians and psychiatrists, and the alternative mental health provider. (Section 1367(d); Rule 1300.67.1)
6. Explain how the Plan will ensure it has adequate mental health professionals in its emergency rooms and hospitals to provide mental health crisis intervention services during the pendency of the strike. (Section 1374.72(a) & (b); Rule 1300.51, Item H, 1300.67(b) & (g).)
  7. Explain how the Plan will provide post-stabilization mental health services for enrollees who experience a mental health emergency during the pendency of the strike. (Sections 1317.4, 1317.4a, 1371.4)
  8. Please explain whether the Plan will make any changes to its Member Services during the pendency of the strike, including whether the Plan will have extended hours and personnel to address member questions. (Section 1367(d) & (e); Rule 1300.67.2.2(c)(8).)
  9. Please furnish a copy of any talking points provided to the Plan's Member Services so the Department can share this with the Department's Help Center to assist in resolving issues.

Please file the Plan's response as an amendment within the eFiling system by **COB Monday, August 8, 2022**. Include in the Plan's Exhibit E-1 reference to the amendment as a "Response to Department's 8.5.22 Letter."

Please contact me at (916) 738-3396 if you have any questions or concerns.

Sincerely,



Jenny Mae Phillips  
Deputy Director  
Office of Plan Licensing

cc: Mary Watanabe, Director, Department of Managed Health Care  
Dan Southard, Chief Deputy Director, Department of Managed Health Care  
Sarah Ream, Chief Counsel, Department of Managed Health Care