



December 12, 2024

Mary Watanabe, Director
Dan Southard, Chief Deputy Director
Sarah Ream, General Counsel
Sonia Fernandes, Deputy Director, Office of Enforcement
Department of Managed Health Care
980 9th Street, Suite 500
Sacramento, CA 95814-2725

Dear Ms. Watanabe, Mr. Southard, Ms. Ream and Ms. Fernandes:

On behalf of the National Union of Healthcare Workers (NUHW), I am submitting a complaint regarding Kaiser Foundation Health Plan's mass cancellation of psychotherapy groups across its Southern California region.

I. Summary

Since October 21, 2024, Kaiser has systematically canceled psychotherapy groups for thousands of enrollees across its Southern California region. The cancelled psychotherapy groups, which normally provide treatment to enrollees with conditions such as depression, anxiety, PTSD, eating disorders and psychosis, are treatment modalities prescribed by enrollees' licensed providers. In some cases, they represent the only treatment enrollees receive for their disorders while waiting for individual psychotherapy with licensed non-physician behavioral health therapists (therapists).¹ In other cases, the psychotherapy groups are adjunctive to individual psychotherapy and pharmacotherapy.

Group psychotherapy is a well recognized, widely used treatment modality.² The American Psychological Association dedicates an entire division, "Division 49," to advancing group psychotherapy and group psychology through research, education and

¹ In the case of patients with postpartum psychiatric disorders, some rely entirely on postpartum psychotherapy groups for their care for a period of time until they have established care with individual therapists.

² Psychotherapy groups are effective for many, but not all, patients when used in conjunction with individual psychotherapy and other therapeutic modalities. The DMHC-Kaiser settlement agreement of October 11, 2023 notes a long-standing criticism of Kaiser's behavioral health services – namely, Kaiser's attempt to substantially replace individual psychotherapy and higher levels of care with psychotherapy groups and classes, which are cheaper for Kaiser to provide. The settlement agreement states: "The Department's review of enrollee medical records indicated a heavy reliance on outpatient group programs and classes to treat enrollees' behavioral health conditions as opposed to individual therapy or higher levels of care... Enrollees have expressed discomfort with receiving treatment primarily in a group setting, and the Enforcement Investigation's review of enrollee medical records indicated that many enrollees chose not to engage in group therapy settings but were not offered alternative treatments or more frequent individual therapy." Paragraph 50.

clinical practice. The American Group Psychotherapy Association, founded in 1942, establishes “Practice Guidelines for Group Psychotherapy” and publishes a scientific journal dedicated to group psychotherapy, “International Journal of Group Psychotherapy.” Randomized clinical trials and other research are used to establish evidence-based practices for group psychotherapy.

On October 30, 2024, NUHW reported Kaiser’s unlawful, mass cancellation of psychotherapy groups to DMHC and requested that it address the matter. Notably, the October 11, 2023 DMHC-Kaiser settlement agreement cited Kaiser for cancelling psychotherapy groups, in violation of Health & Safety Code, § 1367.03, subd, (a)(3) and California Code of Regulations, tit. 28. 1300.67.2.2, subd. (c)(3). The settlement agreement states:

...outpatient group therapy can be an effective mode of therapy when clinically appropriate...

During the NUHW Strike in Northern California, the Plan reported that 111,803 behavioral health appointments (individual and **group**) were cancelled, affecting a total of 63,808 enrollees. Paragraphs 50 and 66. (emphasis added)

Today, more than one month after NUHW requested action by DMHC, Kaiser continues to systematically cancel psychotherapy groups without deterrence.

Kaiser’s mass cancellation of group psychotherapy constitutes an illegal withholding of covered services from enrollees. By doing so, Kaiser delays enrollees’ recovery, extends suffering, and places enrollees’ health and safety at risk – all while continuing to collect monthly premiums. Kaiser even canceled psychotherapy groups for high risk patients with severe conditions who recently were discharged from acute psychiatric hospital stays and intensive outpatient programs. These enrollees are particularly likely to engage in harm to self or others and require clinical consistency to regain function. Kaiser also cancelled psychotherapy groups for women with postpartum depression and other perinatal psychiatric conditions. This is a high risk population given the rapidity with which their mental health can decline in the absence of proper care and the reality that maternal mental health significantly impacts the safety and health of newborns.

While Kaiser has not canceled all of its Intensive Outpatient Programs (IOPs), it has drastically reduced them. For example, in its Woodland Hills Service Area, Kaiser cancelled three of the four IOP groups that provided care to enrollees prior to October 21, 2024. It placed some enrollees on wait lists and also boosted the size of its sole remaining IOP group to a group size that violates generally accepted standards of care. It also referred some enrollees to external IOP providers, although Kaiser’s managers specifically instructed staff to refrain from such referrals in order to reduce Kaiser’s expenditures. Kaiser carried out similar actions in other areas of Southern California.³

³ IOP is a higher level of care for patients unable to function in everyday life or who are a danger to themselves or others. Each IOP group typically treats 8 to 13 patients and is facilitated by two licensed

NUHW has confirmed Kaiser’s mass cancellation of psychotherapy groups through documentary evidence as well as direct reports from Kaiser enrollees and staff. Kaiser’s cancellation of psychotherapy groups is not disputed by the health plan.

NUHW requests that DMHC fulfill its responsibility to enforce our state’s laws and to protect the rights of enrollees to receive timely and appropriate care for their mental health and substance use disorders. DMHC’s apparent inaction signals acceptance of Kaiser’s illegal practices that are directly affecting thousands of our state’s residents. We request that DMHC order Kaiser to cease and desist from violating California law and to impose significant financial penalties on Kaiser for withholding prescribed care from its enrollees. This is especially crucial given that Kaiser’s actions represent repeat violations for which DMHC cited it one year ago. Furthermore, we request that DMHC order Kaiser to reimburse a portion of the monthly premiums to enrollees from whom it has illegally withheld covered services since October 2024.

II. Evidence

NUHW has received verbal reports and documentary evidence (including Teams Chat messages, internal email messages, and excerpts from charting notes) confirming Kaiser’s mass cancellation of psychotherapy groups. The reports were provided by Kaiser enrollees and staff.

By way of background, prior to October 21, 2024, Kaiser provided multiple psychotherapy groups to its enrollees across Southern California, including but not limited to the following:

PSYCHOTHERAPY GROUP	POPULATION	STATUS SINCE 10-21-2024
Intensive Postpartum Group	Patients with severe perinatal psychiatric disorders including depression, anxiety, OCD, psychosis, PTSD related to birth trauma.	Canceled
Positive Motherhood	Patients with mild to moderate perinatal psychiatric disorders.	Canceled
Dialectical Behavior Therapy (DBT)	Adult patients with serious mental illness and highly symptomatic. Includes patients stepped down from IOP Group.	Canceled in most service areas
Eating Disorder Groups	Adolescent (??) and adult patients with disorders including anorexia nervosa (AN), bulimia nervosa (BN), and binge-eating disorder (BED).	Canceled

therapists trained in this treatment modality. Since October 21, 2024 in the Woodland Hills Service Area, Kaiser has boosted the size of its sole remaining IOP to 20 patients, which violates generally accepted standards of care and impedes the provision of individualized treatment to patients. Currently, the IOP is facilitated by temporary therapists.

Depression Stabilization Group	Adult patients with Major Depressive Disorder, Adjustment Disorder with depressed mood.	Canceled
Trauma Grounding Skills	Adult patients with Acute Stress Disorder, Posttraumatic Stress Disorder, Complex Posttraumatic Stress Disorder.	Canceled
Teen Groups	Adolescent patients with severe mental health and behavioral concerns.	Canceled
Cognitive Behavioral Therapy for Anxiety Group	Adults patients with General Anxiety Disorder, Panic Disorder, Social Anxiety, Adjustment Disorder with anxiety.	Canceled
Grief Group	Adults experiencing complex grief symptoms.	Canceled in some service areas
Senior Group	Adults older than 65 with depression, phase of life stressors, and anxiety related to aging.	Canceled
Life Skills Group	Adults with schizophrenia and other mental health conditions with psychotic features.	Canceled in many service areas
Reality Acceptance Group	Adults with schizophrenia and other mental health conditions with psychotic features.	Canceled in many service areas
Intensive Case Management Program (ICMP)	Adult patients with chronic severe mental health diagnoses, stepping down from IOP, and moderate/severe symptoms.	Consolidated in some service areas (e.g., from two to one groups)
Intensive Outpatient Program (IOP)	Adolescent and adult patients who recently were discharged from, or at risk for admission to, an acute psychiatric hospital.	Consolidated in some service areas (e.g., from four to one groups)

The groups, each of which was led by one or more licensed therapists, ranged in size from 8 to 15 patients, met at least once per week for 1 to 2 hours, and continued from two to 10 weeks for each cohort of patients. Group psychotherapy is prescribed by treating therapists, recorded in enrollees’ treatment plans, and typically accompanies individual psychotherapy.

Kaiser’s Dialectical Behavior Therapy (DBT) groups treat enrollees’ with severe conditions who recently were stepped down from acute psychiatric hospital stays and Intensive Outpatient Programs (IOPs). Specifically, upon discharge from acute-care psychiatric hospital stays, most enrollees participate in 2-6 weeks of IOP programs and concurrently receive individual psychotherapy. They are then stepped down to DBT groups. According to therapists who lead DBT groups, on October 18, 2024 Kaiser cancelled all DBT Groups for the subsequent weeks and beyond.

One therapist who leads DBT groups reported that, “Patients in DBT groups are typically patients who require additional support, and are stepping down from Intensive Outpatient Programs (IOPs). Some are patients without an assigned therapist, which means the group was their only form of treatment alongside any medications prescribed by a psychiatrist.”

Documentary evidence confirms reports from enrollees and therapists.

Exhibit A is excerpted from an enrollee’s medical record. The two names printed in the excerpt are those of Kaiser employees. According to the record, dated November 1, 2024, a licensed provider referred the unnamed enrollee for treatment in the DBT group at Kaiser’s Vista Psychiatry Clinic. A Kaiser employee phoned the enrollee, “informing her that we had received her referral for DBT but due to the work stoppage, all Group appointments including DBT are postponed and we will contact her once groups resume.”

It is important to note that Kaiser has not “postponed” its psychotherapy groups, but rather canceled them altogether. This cancellation is not caused by a work stoppage but by Kaiser’s failure to hire sufficient, licensed replacement staff who are trained to facilitate this type of treatment. Kaiser also can refer enrollees to external and/or out-of-network providers of group psychotherapy, as is required by California law. Instead, Kaiser has chosen the cheapest option – namely, canceling prescribed care for its enrollees. According to Kaiser staff, managers are pushing therapists to only refer patients to the few internal groups that are available rather than to external programs that can better meet their needs. Today, some six weeks after the date noted in Exhibit A, Kaiser’s Vista Psychiatry Clinic continues to cancel its DBT group along with its other groups.

Exhibit A: Vista Psychiatry Clinic – Cancellation of DBT Group

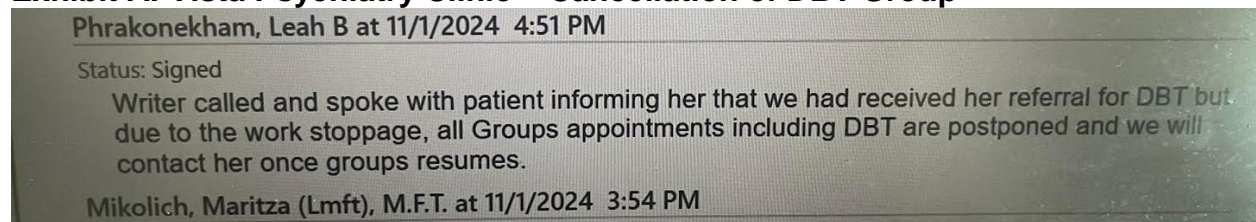
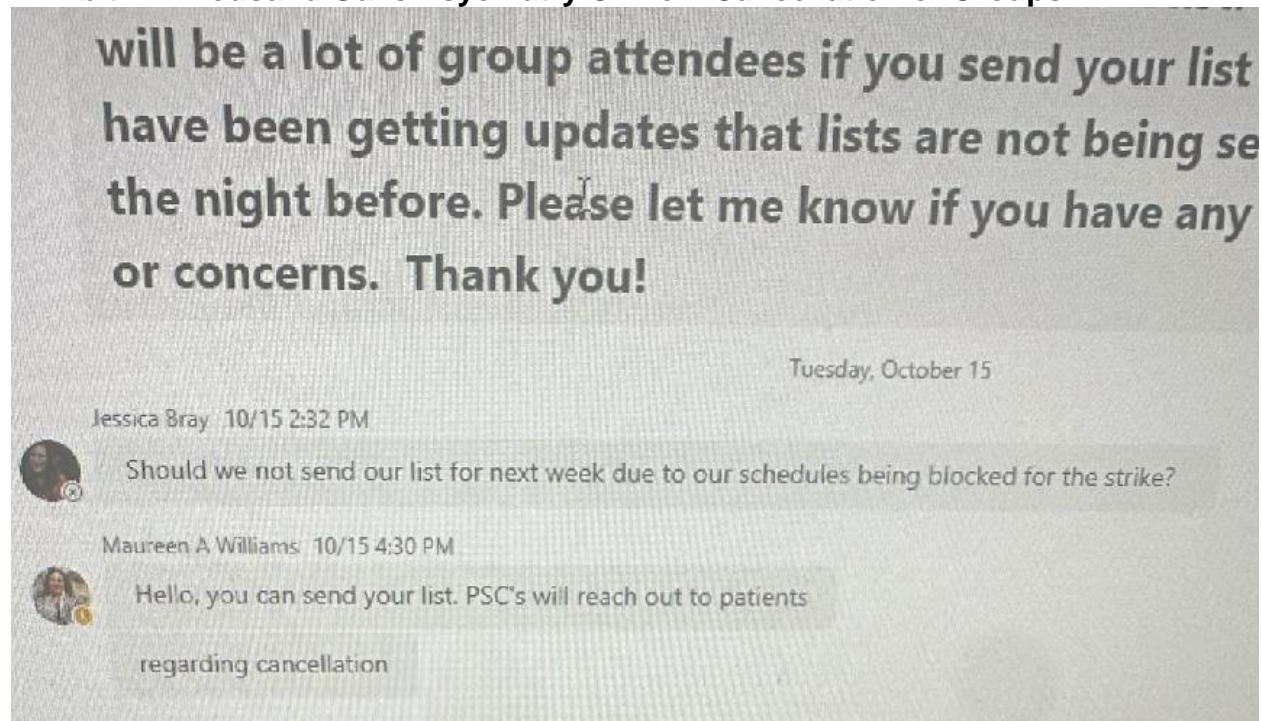


Exhibit B is a Microsoft Teams Chat message from Kaiser’s Woodland Hills Service Area. Maureen Williams is a Clinical Program Manager II in the Psychiatry Department at Kaiser’s Thousand Oaks Clinic. On October 15, 2024 (some 6 days before the strike began), Maureen Williams was asked whether therapists should schedule enrollees into the following week’s psychotherapy groups, as is the clinic’s usual practice. Ms. Williams instructed staff to go forward with the clinic’s routine communications to enrollees, stating: “you can send your list. PSCs will reach out to patients regarding cancellation.” The term “PSC” refers to unlicensed clerical staff.

Exhibit B: Thousand Oaks Psychiatry Clinic – Cancellation of Groups



Prior to October 21, 2024, Kaiser's Woodland Hills Service Area provided four psychotherapy groups each week to 60 enrollees with postpartum psychiatric disorders. All of these postpartum groups have been canceled since October 21, 2024 and continue to be canceled today. Specifically, the canceled groups are the following:

1. **Intensive Postpartum Group** – this group met two days per week and provided care to enrollees with severe postpartum psychiatric disorders. Group size was 15 enrollees. The majority of enrollees in this group are on disability for severe symptoms and impairments in functioning.
2. **Positive Motherhood Groups** – Due to the volume of demand, three Positive Motherhood Groups (each with 15 enrollees) were provided simultaneously in this service area. Each group met one day per week and provided care to enrollees with mild to moderate postpartum psychiatric disorders. Group size was 15 enrollees.

Prior to October 21, 2024, enrollees referred to the Woodland Hills Service Area's postpartum groups were placed on wait lists prior to commencing postpartum group treatment due to understaffing at the clinic. This is a longstanding problem. For the Positive Motherhood Groups, the wait list typically averaged 25-30 enrollees at any given time, with enrollees waiting 4-8 weeks before they could begin group therapy. For the Intensive Postpartum Group, the wait list typically averaged 6 patients at any given time, requiring enrollees to wait two weeks before they could begin group therapy.

After canceling Intensive Postpartum groups for enrollees with severe postpartum psychiatric disorders, some of Kaiser's Southern California service areas have offered these enrollees to receive treatment in general IOPs. This practice is inappropriate for several reasons.

First, general IOPs treat individuals with a wide range of diagnoses, including PTSD, Obsessive-Compulsive Disorder, Bipolar Disorder, Acute Stress Disorder, Substance Use Disorders, Chronic Depression, Psychosis and passive suicidal ideation. Additionally, general IOPs do not provide the specialized treatment available in Intensive Postpartum Groups, where much of the treatment is focused on psychoeducation regarding typical symptoms, experiences, thoughts, and adjustments that come during the postpartum period.

Second, general IOPs are more time intensive than Intensive Postpartum Groups, thereby creating a burden for enrollees with postpartum conditions that causes many to refuse to participate in, or to drop out of, general IOPs. While the Intensive Postpartum Groups meet two days per week for 2.0-2.5 hours each day, a general IOP requires enrollees to meet three days per week for three hours each session. For example, in Woodland Hills, patients are only able to attend IOPs if they can come in person from 9 AM to 12 PM Monday, Wednesday and Friday for three weeks. If they are not able to meet this requirement consistently, they are typically removed from the group. The Intensive Postpartum groups were virtual, which allowed patients to attend to their newborns during the group. The curriculum allowed for flexibility and breaks for the patients to ensure the group was manageable for this population. The increased time requirements of general IOPs can be disqualifying for mothers caring for newborns.

Third, many general IOPs prevent mothers with newborns from joining the groups due to concerns about the disruption caused by crying babies to other participants. In recent weeks, an enrollee with a severe postpartum psychiatric disorder in the Woodland Hills service area had no other option than to bring her baby to a general IOP group due to the child's caregiver being sick. This was allowed for one session, but the patient was told she would have to start the IOP over once she was able to find childcare. This action delayed the enrollee's care by over a week. Intensive Postpartum Groups have no such rules.

Lastly, because of the diverse range of diagnoses among enrollees in general IOPs, these groups are less effective in fostering group learning, positive dynamics, and mutual support for those with postpartum psychiatric disorders, compared to Intensive Postpartum Groups.

II. Laws and Analysis

Health plans shall ensure that enrollees are provided with timely behavioral health care services that are consistent with each enrollee's treatment plan, individualized behavioral health care needs, good professional practice, and timely access standards. Health & Saf. Code, §§ 1367.03, 1374.72; Cal. Code Regs., tit. 28, §§ 1300.70, subds. (a)(3), (b)(1), (b)(2)(G), (b)(2)(H).

California law requires that when it is necessary for a provider or enrollee to reschedule an appointment, the appointment shall be promptly rescheduled in a manner that is appropriate for the enrollee's health care needs and ensures continuity of care consistent with good professional practice. Additionally, health plans are required to arrange for care from out-of-network providers if timely and geographically accessible care is unavailable from in-network providers. Health and Safety Code §1367.03, subd. (a)(3); 1374.72, subd. (d); California Code of Regulations title 28 sections 1300.67.2.2 (c)(3) and 1300.74.72(c) and (d).

Health plans shall ensure that enrollees do not face barriers to scheduling behavioral health appointments that do not exist for non-behavioral health appointments. Health & Saf. Code, § 1374.72, subd. (a). The same statute requires health plans to cover mental health treatment consistent with generally accepted standards of care.

Health care service plans are required to have procedures in place for continuous review of the quality of care, performance of medical personnel, utilization of services and facilities, and costs. (Health & Saf. Code, § 1370.) To meet DMHC's requirements for a Quality Assurance program, the program must, in part, continuously review the quality of care provided to ensure that the level of care meets professionally recognized standards of practice, quality of care problems are identified and corrected, and appropriate care which is consistent with professionally recognized standards of practice is not withheld or delayed for any reason. (Cal. Code Regs., tit. 28, § 1300.70, subd. (b)(1)(A)-(E).)

- § 1300.70(b)(1)(D): Health plans cannot withhold or delay appropriate care from their patients for any reason, "including a potential financial gain and/or incentive."
- § 1300.70(b)(1)(A): Health plans are required to ensure that patients receive "a level of care which meets professionally recognized standards of practice."
- § 1300.70(b)(2)(H)(2): Health plans are required to "detect and correct under-service" by its providers, "including under-utilization of specialist services."
- § 1300.70(a)(1): Health plans must monitor the quality of care provided to its members, identify problems, and take effective action to improve care where deficiencies are identified, including accessibility, availability, and continuity of care. See also § 1300.70(a)(3), § 1300.70(b)(1)(D), § 1300.70(b)(2)(G)(3), §1300.70(c)(1), § 1300.70(c)(5), and § 1300.70(d)(3).
- §1300.74.72 (California Mental Health Parity Act): Health plans that offer coverage for mental health or substance use disorders are required to provide the same level of benefits that they do for general medical treatment.

Prior to October 21, 2024, each of Kaiser's 13 service areas in Southern California provided dozens of psychotherapy groups each week, each of which treated between 8-20 enrollees. In other words, Kaiser provided psychotherapy groups to thousands of enrollees each week across its Southern California region. Since then, it has cancelled virtually all of these groups even as enrollees continue to pay Kaiser the same monthly premiums as before the strike. Kaiser's cancellation of its psychotherapy groups is not disputed by Kaiser. These cancellations, which are ongoing today, violate California law and deprive enrollees of care prescribed in their treatment plans. They also deprive enrollees of a covered benefit.

In Kaiser's strike contingency plan submitted to DMHC on October 18, 2024, Kaiser stated it would ensure "prompt appointment rescheduling and availability." With respect to psychotherapy groups, it has done neither. In the contingency plan, Kaiser also stated:

The Plan has comprehensive plans in place to minimize potential disruptions should an NUHW strike occur... KP will continue to provide mental health care during the work stoppage as our goal is to ensure timely mental health care for all our members who need it.

Kaiser's contingency plan contains no specific references to psychotherapy groups.

III. Request

NUHW requests that DMHC take urgent action to enforce California law and to protect the rights of Kaiser enrollees to obtain timely and appropriate behavioral health services.

NUHW requests that DMHC fulfill its responsibility to enforce our state's laws and to protect the rights of enrollees to receive timely and appropriate care for their mental health and substance use disorders. DMHC's apparent inaction signals its apparent acceptance of Kaiser's illegal practices affecting thousands of our state's residents. Specifically, we request that DMHC order Kaiser to cease and desist from violating California law and to impose significant financial penalties on Kaiser for withholding prescribed care from its enrollees, especially given that Kaiser's actions represent repeat violations for which DMHC cited it one year ago. Furthermore, we request that DMHC order Kaiser to reimburse a portion of the monthly premiums to enrollees from whom it has illegally withheld covered services for since October 2024.

Please contact me with any questions or requests.

Sincerely,



Fred Seavey

cc: Rob Bonta, Attorney General
Mike McGuire, Senate President Pro Tempore
Robert Rivas, Speaker of the Assembly
Kim Johnson, Secretary, California Health and Human Services Agency
Kimberly Chen, Acting Deputy Secretary for Program and Fiscal Affairs, CalHHS
Sen. Scott Wiener
Assemblymember Mia Bonta
Sen. Caroline Menjivar
Don Moulds, CalPERS
Dr. Julia Logan, CalPERS