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September 28, 2009

ADPA BULLETIN NO. 09-04

TO: Executive Directors
Proposition 36 Contract Treatment Providers
and Interested Others

FROM: John Viernes, Jr., Director 
Alcohol and Drug Program Administration

SUBJECT: **IMPORTANT AND NECESSARY CHANGES TO THE PROPOSITION 36 PROGRAM-
(EFFECTIVE OCTOBER 1, 2009)**

This is to provide you with an update on the Substance Abuse and Crime Prevention Act (SACPA) of 2000, also known as Proposition 36. In recent weeks, communication on the proposed changes to the Proposition 36 program for Fiscal Year (FY) 2009-10, was released to all contracted treatment programs. Subsequent to the release of the aforementioned communication, several meetings and funding changes have occurred; resulting in a significantly different direction and approach to the provision of services under the program than was originally outlined. This bulletin serves to confirm the current funding and its impact on program services.

As a result of the Governor's Final Budget for FY 2009-10, the funding under SACPA was reduced to zero dollars. However, instead of funding the Proposition 36 program, the State legislature approved \$18 million under the Offender Treatment Program (OTP) and a one-time funding allocation of \$45 million in Justice Assistance Grant/American Recovery Resource Act (JAG/ARRA) funds, for a statewide allocation of \$63 million for FY 2009-10. Unfortunately, the California Department of Alcohol and Drug Programs has yet to confirm how and when funds under the JAG/ARRA will be released and available to counties. Due to the uncertainty of the allocation of the JAG/ARRA and the actual time by which Los Angeles County may access those dollars, Los Angeles County Department of Public Health, Alcohol and Drug Program Administration (ADPA) must operate based upon the funding currently available which totals \$5.5 million. This will severely reduce Proposition 36 funding by up to 80 percent countywide.

After several discussions with the California Association of Alcohol and Drug Program Executives and other treatment providers, ADPA is **retracting** the Summary of Treatment and Supervision Services Matrix (Services Matrix) dated October 1, 2009, and eliminating that information. In light of the limited OTP funding, ADPA is providing the following direction:

1. The Services Matrix dated October 12, 2007 remains in effect.
2. Changes effective July 1, 2009, as outlined in ADPA Bulletin 09-01 remain in effect.
3. Prior to utilizing Proposition 36 funding, treatment programs should continue to utilize Drug Medi-Cal as the primary source of treatment billings for eligible participants. In compliance with CCR, Title 9, Division 4, Chapter 2.5, 9533, if a participant referred to treatment services under the Act [Proposition 36] is eligible for Medi-Cal and is referred to a program certified to participate in the Drug Medi-Cal program, the program shall seek Medi-Cal reimbursement for medically necessary services rendered.
4. Treatment programs that do not hold a Drug Medi-Cal contract, and have maximized their Proposition 36 allocations, may place participants in an alternative funding source provided that he/she is eligible for treatment services under the source of funding. Alternative funding sources may include Block Grant funding, Third Party Payer, Private Pay, CalWORKs, General Relief, and Parolee Services Network, if available. Where funding is not available, participants will be placed on the Treatment, Court, Probation eXchange (TCPX) waiting list for treatment services. Absorbing the existing Proposition 36 population, will displace non-criminal justice involved participants, many of whom are dependent on services offered through block grant funding, as their only means of receiving treatment services.
5. Preferential treatment admission must be given to protected categories, which include:
 - a. Women who meet the criteria for Perinatal funded services;
 - b. Youth – between the age of 18 – 21; and
 - c. When needed, Narcotic Treatment Program participants must be provided with humane detoxification services.
6. Treatment programs that have exhausted Proposition 36 funding for FY 2009-10 and have no alternative funding sources available, are directed to work with the Community Assessment Services Centers to refer and place existing participants in an approved treatment program in the Proposition 36 network or on the TCPX waiting list for treatment services.
7. Treatment programs that accept eligible Proposition 36 participants via another funding source may not exceed the time limits as specified in the October 12, 2007, Proposition 36 Services Matrix.
8. Treatment programs should continue to determine participants' ability to pay for Proposition 36 treatment services. In compliance with Health and Safety Code (HSC) 11991.5, ADPA requires all contracted treatment programs have in place a Client Fee Determination System that allows providers to determine the appropriate level or share of cost for alcohol and drug treatment services received. HSC requires the charges: 1) to be equitable; 2) not exceed the actual cost; and 3) should consider a client's income and expenses (please refer to ADPA Bulletin 04-08). Where appropriate, client fees should be collected from participants. Providers shall not deny treatment services because of a client's inability to pay.

Treatment programs are encouraged to step-down participants on a case by case basis. If the treatment program determines, based on clinical judgment that the participant has benefited as much as possible from treatment, the provider should recommend early completion to the Court or Parole. If a participant is found unamenable to treatment, the treatment program should immediately recommend to the Court or Parole termination for non-compliance. The final decision to terminate, complete, or transfer a participant will be determined by the Bench Officer or Parole, in conjunction with information provided by the treatment program. Treatment Programs may also recommend that participants be placed in a Drug Court program. Actual Drug Court program placements will depend upon available treatment slots and eligibility requirements.

Executive Directors and Interested Others

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The ADPA will continue communicating updates and changes to treatment programs as they become available.

If you have any questions or need additional information, please contact your assigned Contract Program Auditor or the Proposition 36 Helpline at (888) 742-7900, Monday to Friday, from 8:00 a.m. to 5:00 p.m.

JV:yl

c: Jonathan E. Freedman
Proposition 36 Executive Steering Committee
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