

SECTION 16: INSURANCE AND OTHER REQUIREMENTS

The Fresno County Mental Health Plan (FCMHP) requires all contracted individual, group, and organizational providers to maintain certain levels of insurance coverage. This section will go into some detail on the most common insurance requirements. It is not intended as an exhaustive list of insurance requirements. It will also cover some other common requirements that are specified in most FCMHP provider agreements.

16.0 Insurance Requirements

Individual providers contracted with the County of Fresno to provide Specialty Mental Health Services (SMHS) are required to have four types of insurance – Professional Liability, Commercial General Liability, Comprehensive Automobile Liability, and Child Abuse/Molestation and Social Services Coverage. **Group** providers contracted with the County of Fresno have the same requirements as Individual providers, with the caveat that they may be required to have Worker's Compensation Insurance, per the California Labor Code, depending on the structure of the Group provider. All questions regarding Individual and Group provider insurance can be answered by the assigned contract analyst.

Organizational providers contracted with the County of Fresno to provide Specialty Mental Health Services (SMHS) are generally required to have at least four types of insurance – Professional Liability, Commercial General Liability, Comprehensive Automobile Liability, and Worker's Compensation. Your organization may be required to have additional insurance coverage; please refer to your Agreement with the FCMHP for more details. If you have any questions about your agreement with the FCMHP or about your specific insurance requirements, please contact your assigned contract analyst.

16.0.1 Professional Liability Insurance

Professional Liability insurance (also commonly known as 'Malpractice Insurance') is insurance to cover claims resulting from malpractice, negligence, misrepresentation, violations of good faith, or error or failure to render an opinion or offer a service. Providers are required to have Professional Liability insurance with limits of not less than \$1,000,000 per occurrence, with a \$3,000,000 annual aggregate. The annual aggregate means that the insurance can pay up to that dollar amount of claims per year.

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Individual providers are required to have and maintain their own personal Professional Liability insurance. Group providers can opt to have Professional Liability insurance that covers all clinicians in the group or require their clinicians to be individually insured.

Both Individual and Group providers must maintain, at their sole expense, in full force and effect, the same level of Professional Liability insurance for a full three years after terminating their Agreement with the County of Fresno. This is to ensure that old claims that might arise even after you have terminated your Agreement with the County will still be covered.

16.0.2 Commercial General Liability Insurance

Commercial General Liability insurance (CGL) is general business liability coverage. This insurance would be used to cover claims involving property damage, bodily harm, and criminal acts that may have occurred at or involve your practice/office site. CGL insurance must have a minimum of \$1,000,000 of coverage per occurrence, with an annual aggregate of \$2,000,000. The policy shall be issued on a per occurrence basis.

Additionally, an endorsement to the CGL insurance policy must be obtained, naming the County of Fresno, its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are concerned. County employees will occasionally be present at your practice/office site on official business, so this endorsement is crucial. This insurance shall not be cancelled or changed without a minimum of thirty (30) days advance written notice given to the County.

Per the Agreement, your CGL policy (with the County as additional insured) shall be the primary insurance for any bodily injury or property damage claims made by County officers / agents / employees etc. present at your practice/office site while on official business. This means that any insurance maintained by the County, its officers, agents, and employees shall be excess only and not be used to pay for claims that would be covered by your policy.

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16.0.3 Comprehensive Automobile Liability Insurance

Comprehensive Automobile Liability insurance is insurance to cover claims involving bodily harm and/or property damage that are the result of an auto accident. All Individual and Group providers are required to have this insurance. The County of Fresno cannot authorize any exemptions to this requirement. As before, Group providers may opt to obtain insurance that will cover the entire group or require that each individual maintain their own insurance.

Providers are required to have Comprehensive Automobile Liability insurance with a bodily injury limit of no less than \$250,000 per person, \$500,000 per accident, and for property damages of no less than \$50,000. Providers may also opt for a combined single limit of \$1,000,000. This insurance should cover both the use of owned and non-owned autos that may be used in connection with the Agreement.

This insurance would provide coverage in the event that you are injured in an automobile accident while travelling between your practice/site and a Medi-Cal beneficiary's home for a treatment session. It would also provide coverage for any travel you may undertake between your practice/site and the Managed Care Office.

16.0.4 Worker's Compensation Insurance (Group Providers and Some Organizational Providers Only)

Group providers that employ multiple clinicians as well as support staff may be required by the California Labor Code (Section 3700) to have a Worker's Compensation Insurance policy. Per the Individual and Group Agreement, a Group provider is solely liable and responsible for providing to, or on behalf of, its employees all-legally required employee benefits, which may include Worker's Compensation insurance.

If a Group provider employs one or more employees, then it must satisfy the requirement of the law. California Labor Code 3351 defines who is an employee, and therefore who can be covered under a Worker's Compensation policy. Group providers should consult with a reliable, competent insurance broker/agent who can explain coverage eligibility issues and present options based on the organization of the Group.

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16.0.5 Child Abuse/Molestation and Social Services Coverage

Individual and Group providers are required to have Child Abuse/Molestation and Social Services Coverage (CAMSS) because many Professional Liability policies specifically exclude and do not cover Sexual misconduct or other such situations. CAMSS coverage must have a limit of no less than \$1,000,000 per occurrence, with a \$2,000,000 annual aggregate. The policy is to be on a per occurrence basis. This insurance may be obtained as a separate policy or as an endorsement on the Commercial General Liability insurance.

Individual providers *may* be able to use their Professional Liability insurance coverage to meet this requirement, if their policy does not exclude Molestation / Sexual Abuse / Misconduct from coverage. The Contract Analyst for the Individual and Group Master Agreement will require a copy of the policy in question and will need to forward it to the appropriate Department in order to have the policy reviewed for compliance with this requirement.

Group providers are required to maintain separate Child Abuse/Molestation and Social Services coverage (whether as a separate policy or as an endorsement to Commercial General Liability coverage.) This would provide coverage for the entire Group against damages caused by the actions of an individual clinician or staff member.

16.0.6 Wrap-Up

Individual and Group providers are required to provide verification of all required insurance within 30 days of signing the Agreement with the County of Fresno. Providers must maintain these insurance policies at the given standards at all times while contracted with the County. For any questions or inquiries regarding the Insurance requirements, please refer to your agreement with the FCMHP and determine who your insurance contact is. In many cases, this will be your contract analyst.

16.1 Termination of Agreement Requirements

Any individual or group provider wishing to terminate their Agreement with the FCMHP may do so by requesting a Termination Request Letter from their Provider Relations Specialist (PRS). The letter must be signed

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and dated correctly, with the following information in order to be considered valid:

- Termination Effective Date (Termination requires 60-day advance notice.)
- **(Optional)** You may list your reason(s) for termination.
- Caseload Status (Please provide the number of Fresno County Medical beneficiaries you are currently seeing. List names as follows to comply with HIPAA regulations: C. Johnson, B. Simpson, J. Winger, Q. Mallory, etc.)
- Signature
- Date
- Your printed name
- Tax ID (For verification purposes)

16.1.1 Provider Transition Plan

Should an individual or group provider choose to terminate their contract with the FCMHP, have their contract with the FCMHP plan terminated, or not have their contract renewed, the provider involved is responsible to assist in the transition of a beneficiary under their care. The provider may contact a Utilization Review Specialist at Managed Care (600-4645) for assistance with transitioning beneficiaries. The FCMHP will ensure that the beneficiary receives the same level of service from a provider of their choice during the transition.

16.2 Disclosure Requirements - Criminal History and Civil Actions

All providers contracted with the FCMHP are required to disclose if any of the following conditions apply to them, their owners, officers, corporate managers, and partners:

- Within the three-year period preceding the Agreement award, they have been convicted of, or had a civil judgment rendered against them for:
 - Fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction.
 - Violation of a federal or state antitrust statute.

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- Embezzlement, theft, forgery, bribery, falsification, or destruction of records.
- False statements or receipt of stolen property.
- Within a three-year period preceding their Agreement award, they have had a public transaction (federal, state, or local) terminated for cause or default.

Disclosure of the above information will not automatically eliminate a provider from further business consideration. It will, however, be considered as part of the determination of whether to continue and/or renew the provider's agreement. Any additional information or explanation that a provider elects to submit with the disclosed information will be considered.

A failure by any provider to disclose required information as listed above may result in immediate termination of a provider's agreement with the FCMHP due to failure to comply with the terms and conditions of the Agreement.

Contracted providers must immediately advise the FCMHP in writing if at any point they become suspended, debarred, excluded, or ineligible for participation in federal or state funded programs, or from receiving federal funds as listed in the excluded parties' list system (<http://www.sam.gov>), or if any of the above listed conditions become applicable to the provider.

16.3 Screening for Excluded/Ineligible Persons and Entities (Organizational Providers Only)

All organizational providers contracted with the FCMHP are required to screen for excluded persons and entities by accessing or querying the applicable licensing board(s), the National Practitioner Data Bank (NPDB), Office of Inspector General's List of Excluded Individuals/Entities (LEIE), System for Award Management Excluded Parties List (SAM-EPLS), and Medi-Cal Suspended and Ineligible List prior to hire and monthly thereafter.

All staff should be recorded onto the "Ineligible Persons Screening Monthly Report", which captures information about staff, such as Names, Discipline/Degree, Title/Position, Date of Search, whether or not they have any exclusions, and the name of the person performing the search. This report, along with an Ineligible Screening Guide, is available online at Managed Care's website at the following address: <https://www.co.fresno.ca.us/departments/behavioral-health/managed-care/ineligible-persons-screening>

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The report must be completed and submitted to Managed Care by the 15th of each month, in PDF format, to the Managed Care Mailbox at: mcare@fresnocountyca.gov

16.3.1 Discovery of Excluded/Ineligible Persons

Should an organizational provider discover that one of their practitioners, employees, contractors, or subcontractors matches an excluded person or entity during a review of the SAM-EPLS, OIG LEIE, or Medi-Cal Suspended and Ineligible Person List, the provider must notify Managed Care immediately. If there is any doubt about whether a person screened matches an excluded person/entity on any of these lists, the provider should still contact Managed Care immediately. Managed Care staff will work with the provider to confirm any potential discoveries.

Once a discovery is made, and the person/entity is positively identified as being excluded, Managed Care will require evidence that demonstrates the excluded person/entity is no longer employed/contracted by the organizational provider. Organizational providers are not permitted to employ or contract with any excluded individual or entity.

Reporting of excluded persons/entities must be made immediately, because the FCMHP is required to notify the state Department of Health Care Services of the discovery of any excluded person or entity working for a FCMHP contracted provider. All payments or overpayments made to an excluded person/entity need to be identified, along with evidence of termination of employment/contract, so that these can be provided to DHCS in a timely manner.

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Forms and Attachments

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Mandated Insurance Coverage for Individual and Group Providers - Quick Reference Guide

As an Individual or Group Provider contracted with the Fresno County Mental Health Plan to provide specialty mental health services, you are required to have certain insurance coverage in order to operate a practice and treat Fresno County Medi-Cal beneficiaries. This quick reference guide will break down and explain the various types of insurance coverage you will need, as well as the dollar amounts of coverage required.

Commercial General Liability Insurance

Commercial General Liability insurance (CGL) is general business liability coverage, which could cover claims involving property damage, bodily harm that might occur on the premises, and coverage against criminal acts targeting the business or its employees. As a contracted provider with the Fresno County Mental Health Plan, your Commercial General Liability coverage must meet the standards listed below:

- CGL must have a **minimum** of \$1,000,000 of coverage per occurrence, with an annual aggregate of \$2,000,000. The policy shall be issued on a per occurrence basis. This means that your insurance policy must cover at least \$1,000,000 of damages per potential accident, and it must be able to pay for at least two such instances in a given year (thus the annual *aggregate* of \$2,000,000.)
- The County may require specific coverage including completed operations, product liability, contractual liability, Explosion, Collapse, and Underground (XCU), fire legal liability or any other liability insurance deemed necessary because of the nature of the Agreement.
- An endorsement to the CGL insurance policy must be obtained, naming the County of Fresno, its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are concerned. County employees will occasionally be present onsite at your site(s), for purpose of auditing and review per the Agreement, and occasionally for other official purposes, so this endorsement is crucial.
 - You may also designate the County of Fresno as your Insurance Certificate Holder (with the mailing address: P.O. Box 45003, Fresno, CA 93718), and designate the Certificate Holder as additional insured in order to meet this requirement.

- Such coverage for additional insured shall be the primary insurance for any claims, meaning that any insurance maintained by the County, its officers, agents, and employees, shall be excess only and not be used to pay for claims that would be covered by your policy.

Comprehensive Automobile Liability Insurance

Comprehensive Automobile Liability Insurance is insurance to cover claims stemming from bodily injury and property damage costs that are the result of a car accident. As a contracted provider with the Fresno County Mental Health Plan, you may occasionally need to use a vehicle to travel to a client's home or residence during your workday. There may also be other travel required as part of the Agreement, so you must have Comprehensive Automobile Liability Insurance. The County of Fresno cannot authorize any exemptions to the Comprehensive Automobile Liability insurance requirement. Your Comprehensive Automobile Liability Insurance must meet the standards listed below:

- A bodily injury limit of no less than \$250,000 per person, \$500,000 per accident, and for property damages of no less than \$50,000, or coverage with a combined single limit of \$1,000,000. Your insurance should cover the use of both vehicles you own, and non-owned vehicles used in connection with this Agreement.

Professional Liability Insurance

A Provider is required to have Professional Liability Insurance if they are a licensed professional clinician, or employ licensed professional clinicians (Psychiatrist, Ph.D., R.N., L.C.S.W., L.M.F.T., etc.) Professional Liability Insurance is insurance to cover claims resulting from negligence, misrepresentation, violations of good faith, or error or failure to render an opinion or offer a service. Professionals are expected to have a certain level of competence in their disciplines. Mistakes by professionals, while rare, do happen, and can be costly. Professional Liability Insurance policies, when properly customized to the profession, can reduce or eliminate much of this risk. Your Professional Liability Insurance must meet the standards listed below:

- Professional Liability Insurance with limits of not less than \$1,000,000 per occurrence, \$3,000,000 annual aggregate. It must be able to pay for at least three such instances in a given year (thus the annual aggregate of \$3,000,000.)

- A provider must also maintain, at its sole expense, in full force and effect, the same level of Professional Liability Insurance for a full three years following termination of the Agreement. This is to ensure that old claims are covered that might arise even after you have terminated/withdrawn from the Agreement with Fresno County.

Worker's Compensation Insurance

For group providers that may employ several clinicians as well as support staff, a policy of Worker's Compensation Insurance may be required by the California Labor Code. Per the Individual and Group Master Agreement with the Fresno County Mental Health Plan, a group provider is solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits, which may include Worker's Compensation insurance. All California employers must provide workers' compensation benefits to their employees under California Labor Code Section 3700. If a business employs one or more employees, then it must satisfy the requirement of the law. California Labor Code Section 3351 defines who is an employee, and therefore who can be covered under a workers' compensation policy. Whether a business is a sole proprietorship, a partnership, or a corporation, it is beneficial to develop a working relationship with a reliable, competent broker-agent who can explain coverage eligibility issues and present options based on the organization model of a business.

Child Abuse/Molestation and Social Services Coverage

As a contracted provider with the Fresno County Mental Health Plan, who will often provide treatment and other services to vulnerable clients, such as children, elderly adults, and those with intellectual and developmental difficulties, you are required to maintain Child Abuse/Molestation and Social Services Coverage. The coverage could be separate policies (both Child Abuse/Molestation and Social Services coverage), combined, or you could also acquire General Commercial Liability insurance with a specific endorsement covering Child Abuse/Molestation and Social Services Liability. These policies must meet the standards below:

- The policies must have a limit of not less than \$1,000,000 per occurrence, with a \$2,000,000 annual aggregate. The policies are to be on a per occurrence basis.

- Individual Providers *may* be able to use their Professional Liability insurance coverage to meet this requirement, if it **does not exclude** Molestation/Sexual Abuse from coverage. A copy of your full Professional Liability policy would be required to verify this.
- **Group** providers are required to maintain separate Child Abuse/Molestation and Social Services coverage (whether as a separate policy or as an endorsement to Commercial General Liability coverage.) This would provide coverage for the entire group against damages caused by the actions of an individual.

Wrap-Up

You must provide proof of all above listed insurance within 30 days from the date that you sign the Agreement with Fresno County. You must maintain your insurance policies at the above given standards at all times while you are a contracted provider with the Fresno County Mental Health Plan. You are not allowed to cancel or change your insurance coverage without a minimum of thirty (30) days advance written notice given to the County.