FINDING OF EMERGENCY

This emergency regulatory action amends California Code of Regulations (CCR), Title 22, Section 51516.1, by updating Medi-Cal reimbursement rates for Drug Medi-Cal substance use disorder services for Fiscal Year (FY) 2012-2013, in accordance with Welfare and Institutions Code (WIC) Sections 14021.5, 14021.51, 14021.6, 14021.9, 14105, and 14124.24.

Pursuant to WIC Section 14021.5, the Department of Health Care Services (Department) shall promulgate emergency regulations to establish rates to determine reimbursement of substance use disorder services allowable under the Drug Medi-Cal Program. WIC Section 14105 states that the Department shall adopt Medi-Cal rate regulations on an emergency basis and that the adoption of such regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. The deeming of the regulations as an emergency by the Legislature implies the need for immediate action to effectuate the statutes being implemented through this action. WIC Section 14021.6 states that the Department may adopt Drug Medi-Cal rate regulations on an emergency basis.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This regulatory action amends Title 22, CCR, Section 51516.1, by updating Medi-Cal reimbursement rates for Drug Medi-Cal (DMC) substance use disorder services for Fiscal Year (FY) 2012-2013. This action implements, interprets, and makes specific the provisions of WIC Sections 14021.5, 14021.51, 14021.6, 14021.9, and 14124.24. These provisions require the Department to establish rates for DMC substance use disorder services, and establish a per capita uniform statewide reimbursement (USR) rate for ancillary services.

Assembly Bill 106 (Chapter 32, Statutes of 2011) transferred California's DMC substance use disorder program from the Department of Alcohol and Drug Programs (ADP) to the Department, effective July 1, 2012. Senate Bill 1014 (Chapter 36, Statutes of 2012) facilitated the transfer by providing the statutory authority necessary for the Department to administer the program.

Anticipated Benefits or Goals of the Regulations

This regulatory action benefits DMC substance use disorder service providers through the provision of the recent FY 2012-2013 reimbursement rates, which in turn facilitates the continued delivery of these services. These regulations not only meet the goals of the authorizing statutes, as specified above, but the regulations ensure the proper and efficient administration of the Medi-Cal Program, in accordance with the federal and state laws that govern the program's rules of participation and funding.

Consistency and Compatibility with Existing State Regulations

The Department has conducted an evaluation of the related existing state regulations in CCR, Title 22, Division 3 and Title 9, Division 4 and has determined that the regulations are consistent and compatible with those regulations. An automated search of Title 22, Division 3 and Title 9, Division 4 using the following keywords "Drug Medi-Cal," "Substance Use Disorder Services," and "rates" was conducted via Westlaw and yielded no conflicting state regulations.

This regulatory action is necessary to implement WIC Sections 14021.5, 14021.51 14021.6, 14021.9 and 14124.24, as specified below.

- WIC Section 14021.5(e) specifies that rates for DMC substance use disorder services shall be effective July 1 through June 30 of the fiscal year in which the rates are established.
- WIC Sections 14021.51 and 14021.6 specify how the Department shall determine rates for DMC substance use disorder services.
- WIC Section 14021.51 requires the Department to establish rates for the use of the narcotic replacement drugs Methadone and LAAM.
- WIC Section 14124.24(a) specifies DMC substance use disorder services that are reimbursable through the Medi-Cal program.
- WIC Section 14021.9(c) states that for FY 2012-2013 and each fiscal year thereafter, rates for DMC substance use disorder services shall be the lower of the following:
  1. The rates developed pursuant to WIC Sections 14021.35, 14021.51, and 14021.6; or
  2. The rates applicable in FY 2009-2010 pursuant to subdivision (a), adjusted for the cumulative growth in the Implicit Price Deflator for the Costs of Goods and Services to Governmental Agencies, as reported by the Department of Finance.

Regulatory Sections

Proposed changes to Section 51516.1 include the following:

Throughout the regulation text "ADP" references are changed to "Department," meaning the Department of Health Care Services.

Subsection (a)(2):

- Revised to update the reference to Health and Safety Code (HSC) Section 11818, which is the accurate citation.

Subsection (a)(3):

- Revised to update the WIC Section 14021.9(b) reference to the accurate citation, which is 14021.9(c); and to add the statewide maximum allowances (SMAs) for DMC substance use disorder services for FY 2012-2013. The specific methodology used to calculate the SMAs is described in the document entitled "Drug Medi-Cal Rate Setting Methodology for Non-Narcotic Treatment Programs for Fiscal Year 2012-2013." This document is included in the rulemaking file, which is maintained by the Department's Office of Regulations.

Subsection (b)(2):

- A non-substantive change to be consistent with use of the term in Subsection (a)(1).

Subsection (g):

- Revised to include the per capita USR rates for narcotic treatment program services for FY 2012-2013. The specific methodology used to calculate these rates is described in the document entitled "Drug Medi-Cal - Narcotic Treatment Program - Uniform Statewide Reimbursement Rates and Methodology, Fiscal Year (FY) 2012-2013." This document is included in the rulemaking file, which is maintained by the Department's Office of Regulations.

Subsection (h):

- A non-substantive change in Paragraphs (1) and (2) to update cross references.

AUTHORITY: Sections 10725, 14021.5, 14021.6, 14021.30, 14105 and 14124.5, WIC; and Section 20, HSC.

REFERENCE: Sections 14021.5, 14021.51, 14021.6, 14021.9, 14021.30, 14121.24 and 14132.90, WIC; and Section 11818, HSC.

FISCAL IMPACT ESTIMATE

A. Costs to any Local Agency or School District that is not reimbursable by the State: The fiscal impact of updating DMC rates to FY 2012-2013 has no current impact. The costs related to this regulation update were funded in the May 2012 Medi-Cal Estimate.

   Costs to any Local Agency or School District that is required to be reimbursed Under Part 7 (commencing with Section 17500), Division 4 of the Government Code: The fiscal impact of updating DMC rates to FY 2012-2013 has no current impact. The costs related to this regulation update were funded in the May 2012 Medi-Cal Estimate.

B. Costs or Savings to any State Agency: None.

C. Costs or Savings in Federal Funding to the State: The fiscal impact of updating DMC rates to FY 2012-2013 has no current impact. The costs related to this regulation update were funded in the May 2012 Medi-Cal Estimate.

D. Other Nondiscretionary Costs or Savings Including Revenue Changes Imposed on State or Local Governments: None.

Cost Impacts on a Representative Private Person or Business:
All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

DETERMINATIONS

The Department has determined that the regulations will not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Government Code, Division 4, Part 7, (commencing with Section 17500).

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The Medi-Cal reimbursement rates for DMC substance use disorder services for FY 2012-2013 are slightly higher than the rates from the prior fiscal year, so there is a benefit for DMC substance use disorder service providers from the increase in payment.

The Department has determined that the regulations would not significantly affect the following:

1. The creation or elimination of jobs within the State of California.

2. The creation of new businesses or the elimination of existing businesses within the State of California.

3. The expansion of businesses currently doing business within the State of California.

Impact on Jobs and Business

These regulations affect DMC substance use disorder service providers and beneficiaries who receive these services through Medi-Cal. There is a benefit for providers from the increased rates for FY 2012-2013. However, it is not anticipated that this rate increase would have an impact on the creation or elimination of jobs, the creation of new business, the elimination of existing business or the expansion of businesses in California.

Benefits of the Regulation

The Department has determined that the regulations would not affect worker safety or the state's environment. However, the regulations will benefit the health and welfare of California residents by maintaining the continuity of substance use disorder services in the DMC Program and implementing the FY 2012-2013 reimbursement rates for these services. Furthermore, these regulations ensure the proper and efficient administration of the Medi-Cal Program, in accordance with the federal and state laws that govern the Program's rules of participation and funding.

The Department has determined that the regulations would only affect small businesses that choose to provide DMC services.

The Department has determined that the regulations would have no impact on housing costs.