State of California
Office of Administrative Law

NOTICE OF APPROVAL OF EMERGENCY REGULATORY ACTION
Government Code Sections 11346.1 and 11349.6
OAL Matter Number: 2016-0322-04
OAL Matter Type: Emergency (E)

In re:
Department of Health Care Services
Regulatory Action:
Title 22, California Code of Regulations

Adopt sections: [Blank]
Amend sections: 51516.1
Repeal sections: [Blank]

The Department of Health Care Services submitted this emergency action tot amend title 22, California Code of Regulations, section 51516.1. The proposed amendments update Medi-Cal reimbursement rates for Drug Medi-Cal substance abuse disorder services for Fiscal Year 2013-2014, include a monthly limit to the allowable amount counseling services unless additional time is deemed medically necessary, and make nonsubstantive changes.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 3/29/2016 and will expire on 9/27/2016. The Certificate of Compliance for this action is due no later than 9/2/2016.

Date: June 24, 2015

[Original Signed]
Richard L. Smith, Senior Attorney

For: DEBRA M. CORNEZ, Director

Original: Jennifer Kent
Copy: Kenneisha Moore

[Stamp]
EMERGENCY

STATE OF CALIFORNIA – OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 01-2013)
OAL FILE NUMBERS
NOTICE FILE NUMBER: **Z-** [Blank]
REGULATORY ACTION NUMBER: [Blank]
EMERGENCY NUMBER: 2016-0322-04E

For use by Office of Administrative Law (OAL) only
NOTICE: [Blank]

REGULATIONS: [Date Stamp]
2016 MAR 22 PM 4:04
OFFICE OF ADMINISTRATIVE LAW

For Use by Secretary of State Only
[Date Stamp]
Endorsed Filed in the office of the Secretary of State of the State of California
MAR 29 2016
2:24 pm

AGENCY WITH RULEMAKING AUTHORITY: Department of Health Care Services
AGENCY FILE NUMBER (if any): DHCS-14-013E

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE: [Blank]
   TITLES: [Blank]
   FIRST SECTION AFFECTED: [Blank]
2. REQUESTED PUBLICATION DATE: [Blank]
3. NOTICE TYPE
   Notice re Proposed Regulatory Action: [Blank]
   Other: [Blank]
4. AGENCY CONTACT PERSON: [Blank]
   TELEPHONE NUMBER: [Blank]
   FAX NUMBER (Optional): [Blank]

OAL USE ONLY
ACTION ON PROPOSED NOTICE
Approved as Submitted: [Blank]
Approved as Modified: [Blank]
Disapproved/Withdrawn: [Blank]
NOTICE REGISTER NUMBER: [Blank]
PUBLICATION DATE: [Blank]

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)
1a. SUBJECT OF REGULATIONS: Drug Medi-Cal Rates (2013-2014)
1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBERS:
[Blank]
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLES AND SECTIONS **(Including Title 26, if toxics related)**
SECTIONS AFFECTED **(List all section numbers individually. Attach additional sheet if needed.)**
ADOPT: [Blank]
AMEND: 51516.1
REPEAL: [Blank]
TITLES: 22

3. TYPE OF FILING
Regular Rulemaking (Gov. Code Section 11346): [Blank]
Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code Sections 11349.3, 11349.4): [Blank]
Emergency (Gov. Code, Section 11346.1(b)): [Checked]
Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code Sections 11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute: [Blank]
Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, Section 11346.1): [Blank]
Emergency Readopt (Gov. Code, Section 11346.1(h)): [Blank]
File & Print: [Blank]
Changes Without Regulatory Effect (Cal. Code Regs., Title 1, Section 100): [Blank]
Print Only: [Blank]
Other (Specify): [Blank]

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs, Title 1, Section 44 and Gov. Code Section 11347.1): [Blank]

5. EFFECTIVE DATE OF CHANGES (Gov. Code, Sections 11343.4, 11346.1(d)); Cal. Code Regs, Title 1, Section 100):
Effective January 1, April 1, July 1, or October 1 (Gov. Code Section 11343.4(a)): [Blank]
Effective on filing with Secretary of State: [Checked]
Section 100 Changes Without Regulatory Effect: [Blank]
Effective other (Specify): [Blank]

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY.
Department of Finance (Form STD. 399) (SAM Section 6660): [Checked]
Fair Political Practices Commission: [Blank]
State Fire Marshal: [Blank]

Other (Specify): [Blank]

7. CONTACT PERSON: Kenneisha Moore
TELEPHONE NUMBER: 916-440-7695
FAX NUMBER (Optional): [Blank]
EMAIL ADDRESS (Optional): kenneisha.moore@dhcs.ca.gov

8. I certify that the attached copy of the regulations is a true and correct copy of the regulations identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.
SIGNATURE OF AGENCY HEAD OR DESIGNEE: [Original Signed]
TYPED NAME AND TITLE OF SIGNATORY: Jennifer Kent, Director
DATE: 3/2/16

For use by Office of Administrative Law (OAL) only

[Date Stamp]
Endorsed Approved
MAR 29 2016
Office of Administrative Law

METHOD OF INDICATING CHANGES

This Accessible PDF version of the approved emergency regulation text includes the phrase [begin underline] at the beginning of each addition, [end underline] at the end of each addition, [begin strikeout] at the beginning of each deletion, and [end strikeout] at the end of each deletion.

A standard PDF version of this approved emergency regulation text is also available on the Department's Office of Regulations Internet site.

Amend Section 51516.1 to read:

§ 51516.1. Reimbursement Rates for Drug Medi-Cal Substance Abuse Program Services.

(a) Reimbursement for Naltrexone treatment, outpatient drug free treatment, day care rehabilitative, and perinatal residential treatment services shall be based on the lowest of the following:

(1) The provider's usual and customary charge to the general public for the same or similar services;

(2) The provider's allowable cost of providing the services, as specified in Section 11818 of the Health and Safety Code; or

(3) The statewide maximum allowances (SMAs) for Fiscal Year 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, [begin strikeout] ~~and~~ [end strikeout] 2012-2013, [begin underline] and 2013-2014, [end underline] which the Department shall establish in accordance with Sections 14021.6 and 14021.9(c) of the Welfare and Institutions Code.

[The SMA Rate Tables in Subsection (a)(3) for Fiscal Years 2003-2004 through 2012-2013 are unchanged.]

[begin underline] The SMAs for the following Drug Medi-Cal substance use disorder services for Fiscal Year 2013-2014 are:

Service Function
Naltrexone services, per face-to-face visit
Maximum Allowance Non-Perinatal Unit of Service
$19.07
Maximum Allowance Perinatal Unit of Service
N/A

Service Function
Outpatient drug free treatment services, face-to-face individual counseling session, per person

Maximum Allowance Non-Perinatal Unit of Service
$72.32
Maximum Allowance Perinatal Unit of Service
$103.52

Service Function
Outpatient drug free treatment services, face-to-face group counseling session, per person
Maximum Allowance Non-Perinatal Unit of Service
$29.39
Maximum Allowance Perinatal Unit of Service
$62.24

Service Function
Day Care Rehabilitative, (July 1, 2013 to December 31, 2013)
Per face-to-face visit
Maximum Allowance Non-Perinatal Unit of Service
$62.15
Maximum Allowance Perinatal Unit of Service
$79.39

Service Function
Intensive Outpatient Treatment, (January 1, 2014 to June 30, 2014)
Per face-to-face visit
Maximum Allowance Non-Perinatal Unit of Service
$62.15
Maximum Allowance Perinatal Unit of Service
$79.39

Service Function
Perinatal residential treatment services,
per day
Maximum Allowance Non-Perinatal Unit of Service
N/A
Maximum Allowance Perinatal Unit of Service
$97.72 [end underline]

(A) The SMA for counseling sessions for outpatient drug free treatment services shall be prorated annually as follows:

1. The SMA for an individual counseling session shall be prorated annually using the percentage computed by dividing the total actual time for all counseling sessions by the total time which would have been spent if all counseling sessions were 50

minutes in duration. This percentage (not to exceed 100 percent) shall be applied to the SMA to determine the maximum reimbursement rate.

For example: Total Session Time / (50 minutes x Number of Sessions) x SMA = Prorated SMA.

2. The SMA for a group counseling session shall be prorated annually using the percentage computed by dividing the total actual time for all counseling sessions by the total time which would have been spent if all counseling sessions were 90 minutes in duration. This percentage (not to exceed 100 percent) shall be applied to the SMA per person to determine the maximum reimbursement rate.

For example: Total Session Time / (90 minutes x Number of Sessions) x SMA = Prorated SMA.

3. To qualify as a group counseling session there shall be at least one Medi-Cal beneficiary in a group of no less than four and no more than ten individuals.

(b) Reimbursement for narcotic treatment program services shall be limited to the lower of the following:

(1) A uniform statewide reimbursement (USR) rate; or

(2) The provider's usual and customary charge to the general public for the same or similar services.

(c) The USR rate for [begin underline] the [end underline] narcotic treatment program [begin strikeout] ~~services~~ [end strikeout] [begin underline] daily dosing service [end underline] shall be based on the following:

(1) A per capita rate for each beneficiary receiving narcotic replacement therapy dosing, core, and lab work services:

(A) The narcotic replacement therapy dosing fee for methadone or LAAM shall

include ingredient costs for an average daily dose of methadone or an average dose of LAAM dispensed to Medi-Cal beneficiaries;

(B) Where available, core and lab work services shall be based on and not exceed, for individual services or in the aggregate, outpatient rates for the same or similar service under the Medi-Cal fee-for-service program.

[begin underline] (d) For the narcotic treatment program daily dosing service, the USR rate shall consist of Core, laboratory work, and dosing which are described below:

(1) Core consists of a physical exam, a test/analysis for drug determination, intake assessment, initial treatment plan, and physician supervision.

(2) Laboratory work consists of a tuberculin skin test, a serological test for syphilis, drug screening (urinalysis), and pregnancy tests for female LAAM beneficiaries.

(3) Dosing consists of an ingredient and dosing fee. [end underline]

([begin strikeout] ~~d~~ [end strikeout] [begin underline] e [end underline]) The USR rate for [begin underline] the [end underline] narcotic treatment program [begin underline] daily dosing [end underline] service [begin strikeout] ~~s~~ [end strikeout] shall be prorated to a daily rate per beneficiary if the beneficiary receives less than a full month of services. The daily rate shall be based on:

(1) The annual rate per beneficiary; and

(2) A 365-day year.

[begin strikeout] ~~(e) Reimbursement for narcotic treatment program services shall not be provided for services not rendered to or received by a beneficiary.~~

~~(f) For narcotic treatment program services, the USR rate shall consist of the following service components:~~

~~(1) Core; laboratory work; and dosing which are described below:~~

~~(A) Core consists of a physical exam, a test/analysis for drug determination, intake assessment, initial treatment plan, and physician supervision.~~

~~(B) Laboratory work consists of a tuberculin skin test, a serological test for syphilis, drug screening (urinalysis), and pregnancy tests for female LAAM beneficiaries.~~

~~(C) Dosing consists of an ingredient and dosing fee.~~

~~(2) Counseling services.~~ [end strikeout]

[begin underline] (f) The USR rate for the narcotic treatment program Individual Counseling service shall be based on the Outpatient Drug Free Individual Counseling service SMA, and is billable per ten-minute increment of counseling.

(g) The USR rate for the narcotic treatment program Group Counseling service shall be based on the Outpatient Drug Free Group Counseling service SMA, and is billable per ten-minute increment of counseling.

(h) Reimbursement for narcotic treatment program daily dosing services shall not be provided for services not rendered to or received by a beneficiary. [end underline]

[Former Subsection (g) has been redesignated to Subsection (i). The USR Rate Tables in redesignated Subsection (i) for Fiscal Years 2003-2004 through 2012-2013 are unchanged.]

[begin strikeout] ~~(g)~~ [end strikeout] [begin underline] (i) [end underline] *[continued]*

[begin underline] For narcotic treatment program services, the Fiscal Year 2013-2014 USR rate for each service component shall be as follows:

Fiscal Year 2013-2014 Rates for USR Components by Type of Medication with

Administrative Costs Shown in Parentheses

Narcotic Treatment Service Components
Core,
Methadone Non-Perinatal Daily
$11.49
Methadone Perinatal Daily
$12.57

Narcotic Treatment Service Components
Laboratory Work, and Dosing
Methadone Non-Perinatal Daily
($1.04)
Methadone Perinatal Daily
($1.14)

Narcotic Treatment Counseling

Narcotic Treatment Counseling is delivered in 10 minute increments

Narcotic Treatment Service Components
Individual
Methadone Non-Perinatal Daily
$14.46
Methadone Perinatal Daily
$20.70

Narcotic Treatment Service Components
Individual
Methadone Non-Perinatal Daily
($1.33)
Methadone Perinatal Daily
($1.89)

Narcotic Treatment Service Components
Group
Methadone Non-Perinatal Daily
$3.27
Methadone Perinatal Daily
$6.91

Narcotic Treatment Service Components
Group
Methadone Non-Perinatal Daily
($0.30)
Methadone Perinatal Daily
($0.63) [end underline]

The USR rates include administrative costs for the county or the Department when the Department assumes the role of the county as described in Section 51341.1(f). Provider reimbursement shall be adjusted to reimburse the county or the Department for administrative costs.

([begin strikeout] ~~h~~ [end strikeout] [begin underline] i [end underline]) For narcotic treatment program services, counseling sessions shall [begin underline] be individual and/or group counseling that meets the requirements of Section 10345, Title 9, CCR, and Section 51341.1(b)(11) and/or (b)(12), Title 22, CCR, and [end underline] [begin strikeout] ~~meet the requirements specified in Section 10345, Title 9, CCR, and~~ [end strikeout]

(1) [begin underline] Each beneficiary shall be provided a [end underline] [begin strikeout] ~~A~~ [end strikeout] minimum of fifty (50) minutes of counseling per calendar month [begin underline] . [end underline] [begin strikeout] ~~shall be provided to each beneficiary. Counseling shall be individual and/or group counseling which meets the requirements of Section 51341.1(b)(11) and/or (b)(12).~~ [end strikeout] Any waiver of the fifty (50) minute minimum for counseling shall be in accordance with Section 10345, Title 9, CCR.

(2) The Department shall reimburse a provider for up to a maximum of 200 minutes of counseling per calendar month, per beneficiary. [begin strikeout] ~~Counseling shall be individual and/or group counseling which meets the requirements of Section~~

~~51341.1(b)(11) and (b)(12).~~ [end strikeout]

[begin underline] (3) Notwithstanding paragraph (2), and effective for a date of service on or after January 1, 2014, the Department shall reimburse a provider for up to a maximum of 200 minutes of counseling per calendar month, per beneficiary. The Department shall reimburse a provider for additional counseling exceeding the maximum 200 minutes in a calendar month, per beneficiary, when such level of service is deemed medically necessary in accordance with Section 51341.1. [end underline] ([begin strikeout] ~~3~~ [end strikeout] [begin underline] 4 [end underline]) A provider shall claim reimbursement for counseling in 10-minute increments.

NOTE: Authority cited: Sections 10725, 14021.5, 14021.6, 14021.30, 14105, and 14124.5, Welfare and Institutions Code; and Section 20, Health and Safety Code. Reference: Sections 14021.5, 14021.51, 14021.6, 14021.9, 14021.30, 14121.24, and 14132.90, Welfare and Institutions Code; and Section 11818, Health and Safety Code.