

**State of California
Office of Administrative Law**

In re:
Department of Health Care Services

Regulatory Action:

Title 22, California Code of Regulations

Adopt sections:

Amend sections: 51516.1

Repeal sections:

**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)

The Department of Health Care Services submitted this emergency action to 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 9/26/2016.

Date: March 29, 2016

Original Signature

Richard L. Smith
Senior Attorney

For: Debra M. Cornez
Director

Original: Jennifer Kent
Copy: Kenneisha Moore

NOTICE PUBLICATION/REGULATIONS SUBMISSION

See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATOR ACTION NUMBER	EMERGENCY NUMBER 2016-0322-04E
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2016 MAR 22 P 4: 04
OFFICE OF ADMINISTRATIVE LAW

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAR 29 2016

2:24 PM

NOTICE

REGULATIONS

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	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Drug Medi-Cal Rates (2013-2014)	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 51516.1
	REPEAL
TITLE(S) 22	

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify) _____		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Kenneisha Moore	TELEPHONE NUMBER (916) 440-7695	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Kenneisha.Moore@dhcs.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) 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 Signature	DATE 3/2/16
TYPED NAME AND TITLE OF SIGNATORY Jennifer Kent, Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAR 29 2016

Office of Administrative Law

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, and 2012-2013, and 2013-2014, 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.]

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

<u><i>Service Function</i></u>	<u><i>Maximum Allowance Non-Perinatal Unit of Service</i></u>	<u><i>Maximum Allowance Perinatal Unit of Service</i></u>
<u>Naltrexone services, per face-to-face visit</u>	<u>\$19.07</u>	<u>N/A</u>
<u>Outpatient drug free treatment services,</u>		

face-to-face individual counseling session,

<u>per person</u>	<u>\$72.32</u>	<u>\$103.52</u>
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Outpatient drug free treatment services,face-to-face group counseling session,

<u>per person</u>	<u>\$29.39</u>	<u>\$62.24</u>
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Day Care Rehabilitative, (July 1, 2013 to December 31, 2013)

<u>Per face-to-face visit</u>	<u>\$62.15</u>	<u>\$79.39</u>
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Intensive Outpatient Treatment, (January 1, 2014 to June 30, 2014)

<u>Per face-to-face visit</u>	<u>\$62.15</u>	<u>\$79.39</u>
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Perinatal residential treatment services,

<u>per day</u>	<u>N/A</u>	<u>\$97.72</u>
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(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: $\text{Total Session Time} / (50 \text{ minutes} \times \text{Number of Sessions}) \times \text{SMA} = \text{Prorated SMA}$.

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: $\text{Total Session Time} / (90 \text{ minutes} \times \text{Number of Sessions}) \times \text{SMA} = \text{Prorated SMA}$.

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 the narcotic treatment program services daily dosing service 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.

(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.

(de) The USR rate for the narcotic treatment program daily dosing services 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.

~~(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.~~

(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.

[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.]

~~(g)~~(i) *[continued]*

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

<u>Fiscal Year 2013-2014 Rates for USR Components by Type of Medication with Administrative Costs Shown in Parentheses</u>		
<u>Narcotic Treatment Service Components</u>	<u>Methadone Non-Perinatal</u>	<u>Methadone Perinatal</u>
	<u>Daily</u>	<u>Daily</u>
Core,	\$11.49	\$12.57
Laboratory Work,	(\$1.04)	(\$1.14)
and Dosing		
<u>Narcotic Treatment Counseling</u>	<u>Narcotic Treatment Counseling is delivered in 10 minute increments</u>	
Individual	\$14.46	\$20.70
	(\$1.33)	(\$1.89)

Group	\$3.27	\$6.91
	(\$0.30)	(\$0.63)

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.

(h) For narcotic treatment program services, counseling sessions shall 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 meet the requirements specified in Section 10345, Title 9, CCR, and

(1) Each beneficiary shall be provided a A-minimum of fifty (50) minutes of counseling per calendar month, 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). 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. ~~Counseling shall be individual and/or group counseling which meets the requirements of Section 51341.1(b)(11) and (b)(12).~~

(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.

(34) 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.