

**CMS 11/19/13 Comments on California CMAA Implementation Plan Backcasting  
Methodology Proposal Submitted 10/23/13**

*Disclaimer: Please note that these comments are intended merely to facilitate further discussion and should not be construed as comprehensive or final. CMS reserves the right to request additional changes in order to meet federal Medicaid claiming requirements. Please include a track changes version of the Plan and the responses to CMS questions and concerns. In addition to providing a Q/A document, all of the State responses in the Q/A need to be included in the Implementation Plan in the appropriate sections in a track changes version.*

- 1) **TCM Program Backcasting Methodology Proposal-** In the 10/23/13 email, the State said it no longer would provide a singular Backcasting Methodology Proposal. Instead, the State has proposed to have two backcasting methodology proposals: one submitted for CMAA Program on 10/23/13 and the other to be submitted at a later date for TCM Program in a separate Backcasting Methodology. The State indicated that the TCM Program methodology will be forthcoming after negotiations between TCM staff and A&I staff. When does the State anticipate the submission of the TCM Program Backcasting Methodology Proposal to CMS for review and approval?

The TCM Program submitted its Backcasting Methodology Proposal to CMS on March 10, 2014, under separate cover.

- 2) **Documentation-**The State's methodology does not describe the documentation requirements for the counties. Please explain how the State will meet the requirements for record retention (45 CFR 74.21) and source documentation of claims. Can the State demonstrate that all costs that result from the backcasting methodology are proper and efficient as necessary and reasonable to the MAA program and require reconciliation?

During site visits and invoice reviews, the State will substantiate that the costs used in FYs 10/11, 11/12, and 12/13 were necessary and reasonable to the MAA program; the State will continue to substantiate costs moving forward through focused site visits and invoice reviews. The costs in the backcasting invoices will be the same costs previously submitted during the Interim Claiming Period. The only new data will be the results of the Time Survey.

The only non-salary costs that have not been reviewed by DHCS are by Claiming Units that were created during the interim period, but had no way of replicating Time Survey Data and have not yet submitted a claim to DHCS. All of the non-salary costs in the invoice will be reviewed and must be necessary and reasonable to the MAA Program before payment will be made.

The backcasting methodology operates under the same record retention guidelines approved in the May 2013 Implementation Plan, page 40 which states:

LGAs are required to substantiate all time surveyed for MAA/TCM claims for Federal Financial Participation. LGAs are responsible for the documentation of all costs claimed, including those associated with personnel time. The nature and amount of all activities time-surveyed must be supported with sufficient documentation. Each LGA is responsible to determine what specific documentation it can provide to demonstrate the validity of its costs. A clear audit trail must exist from time survey to documentation.

Existing regulations and agreements continue to require documentation that demonstrates compliance with all MAA and TCM program requirements. These regulations and agreements include, but are not limited to: MAA Contracts and TCM Participation Agreements; OMB Circular A-87; and 42 CFR Sections 413.20, 413.24, 433.32, and 433.51.

Additionally, Centers for Medicare and Medicaid Services (CMS) Publication 15-1, Sections 2300 and 2304, require that the LGA provides adequate cost data based on financial and statistical records to support all of their reimbursable costs. This data must be correct, accurate, and in sufficient detail to support payments made for services (or administrative activities) rendered to beneficiaries. This documentation must be retained in the program's audit files and be available for review throughout the required retention period which is three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report. Costs not substantiated by source documents may be disallowed by DHCS, CMS, or any other auditing agencies. Documentation may include, but is not limited to, a detailed description of the time survey activity performed, file notes, copies of calendar pages with notations, announcements of events the staff member participated in, or event sign-in logs.

In accordance with the May 2013 Implementation Plan, DHCS will recover any costs that the LGA cannot substantiate or prove necessary and reasonable to the MAA Program.

- 3) **Comparability of Periods-** How can the State demonstrate that the circumstances in the sampled period are not substantially different from those in the retroactive claiming period? The CMAA program time survey methodology has changed significantly, for instance. Also, claiming units that completed time surveys in FY 2009/2010 are no longer participating in this CMAA Program.

As outlined in pages 3-4 under “Backcasting Compliance Assurances” (see below) of the proposal, DHCS addresses all the concerns of backcasting and follows the guidelines given by CMS.

- As approved by CMS, during the prior time periods (FY 10/11, 11/12, and 12/13), the CMAA program participants utilized a 30 day aggregate sample of CMAA time survey data collected in FY 09/10 to account for an entire fiscal years’ worth of claiming. **During the current time period, the CMAA program participants will utilize an entire fiscal years’ worth of CMAA time survey data collected in FY 13/14** (collected in accordance with the CMS approved CMAA/TCM Implementation Plan) **to account for an entire fiscal years’ worth of claiming.**
- As approved by CMS, during the prior time periods (FY 10/11, 11/12, and 12/13), the CMAA program participants utilized the 30 day aggregate sample of CMAA time survey data collected in FY 09/10 to submit quarterly ‘interim claim’ invoices to receive FFP reimbursement for their CMAA program related costs. **During the current time period, the CMAA program participants will utilize the entire fiscal years’ worth of CMAA time survey data collected in FY 13/14** (collected in accordance with the CMS approved CMAA/TCM Implementation Plan) **to submit quarterly ‘backcasting claim’ invoices to adjust the amount of FFP reimbursement they receive for their CMAA program related costs.**

- DHCS confirms that the circumstances between the two time periods are not ‘substantially’ different. The change in the CMAA program time survey data methodology is the only significant difference between the prior time periods and the current time period. **All other circumstances such as: The program guidelines, the activities performed, the settings, the situations and environment in which MAA is provided have remained essentially unchanged.**

As outlined in Attachment A, PPL 11-011 bulletin 2, on page 2, “The Claiming Units that completed time surveys in FY 2009/10, but will discontinue participation in the CMAA Program before a permanent claiming methodology is approved by CMS, will submit interim claims for the period of time they participated using the 2009/10 survey data. However, since these claiming units will not be in existence once the new time survey methodology is approved, these interim claims will not be adjusted to meet the requirements of the approved claiming methodology.”

- 4) **Increasing claims** -Why does the State anticipate an increase in the claims submitted with the new methodology by the LGAs. The MER rates for 2011, 2012 will need to be utilized and explained in the methodology and resubmission.

Currently LGAs do not have an approved methodology to claim FFP for Medi-Cal Administrative Activities (MAA). An interim claim submission process has been approved by CMS in lieu of an approved MAA claiming methodology; however, there are several claims that have not been submitted and several others that will require modification when the State’s proposed MAA claiming methodology is approved by CMS. Therefore, a ‘lump sum’ early claim is required to cover the cost of fiscal years 10/11, 11/12, 12/13 claims that will be submitted and/or modified based on the impending approval of a methodology for MAA claiming.

Since the effect the approved MAA claiming methodology will have on individual LGA claiming is unknown, we are unable to determine what portion of this ‘lump sum’ amount will be distributed to each claiming LGA.

The State came up with the figures based on the claims that have already been paid out to the LGAs in the same fiscal year and quarters, and included an additional inflationary factor of 3%. In addition, a 20% factor was added to this amount to account for: (1) claiming units that have not already submitted an invoice, (2) new claiming units, and (3) the possibility that the LGAs will have more allowable costs using the new time survey included in the State’s proposed MAA claiming methodology than the one from FY 09/10.

- 5) **Direct Charge counties**- Please provide a list of the direct charge counties not requiring reconciliation and the list of counties requiring reconciliation.

Every LGA currently participating in the CMAA program will reconcile, as there is no LGA that has solely direct charge claiming units.

- 6) **Approved CMAA/TCM time survey methodology** -Is the State currently using the new methodology approved by CMS as there is a reference to the continuation of the interim claiming until 06/30/14?

The LGAs have been using the approved new Time Survey Methodology starting FY 13/14-1. The data collected during this FY which ends 06/30/14 will then be used to backcast for the interim claiming dates; no data collected after 06/30/14 will be used for backcasting purposes.

- 7) **Number of quarters**- Please list the number of quarters for each FY that the State is requesting to backcast and will reconcile at a later date. When will the State have available four quarters of data using the new methodology to use as the basis of the backcast for LGAs? Why will it take so long to have this data submitted for reconciliation – January 31, 2015 being the earliest date?

As described on page 1 of the backcasting proposal, DHCS is requesting approval for FY 10/11, 11/12 and 12/13 which would cover backcasting for 12 quarters. The LGAs are currently collecting the data using the new Time Survey Methodology and will be finished on the last day of FY 13/14-4, June 30, 2014. A due date of January 31, 2015 only allows each LGA 6 months to backcast for the 10/11 FY. This is already a cumbersome task for the LGAs to meet the timeframe, as well as continuing to work on the current new claims.

The TCM Program Cost Reports are submitted annually, not quarterly. Thus, Backcasting for FY 10/11, 11/12, and 12/13 would require three separate years of reconciliation. Therefore, the TCM Program will reconcile the LGAs' annually submitted and accepted Cost Report for the aforementioned fiscal years.

- 8) **Backcasting invoice and instructions** -The State needs to provide an example of the CMAA program backcasting invoice with instructions how to complete for the LGAs. This applies to the TCM program backcasting invoice as well.

The TCM program does not have a backcasting invoice. However, when applicable, an all-inclusive invoice will be generated once DHCS Audits and Investigations (A&I) issues the reconciliation and audit report.

- 9) **MAC language** - Please remove each of the related paragraphs pertaining to the 1995 MAC settlement agreement from this backcasting proposal.

The backcasting proposal references the MAC agreement for the purpose of showing the 'comparability of periods' between the two sample periods. DHCS is intending to show that the LGA's sample time survey taken in 13/14 is valid to represent the FY 10/11, 11/12 and 12/13 time period, during which we were operating under the MAC agreement.

- 10) **Additional description required** – Please provide more details of the methodology for the backcast. Please refer to the CMS backcast criteria provided to CA and how/why the State believes they meet the criteria for backcasting in each of the proposals.

The current proposal has referenced comparability of periods, conditions, contiguous sample periods, and has included a reference to record retention guidelines that were previously approved in the Implementation Plan.

- 11) **SPMP** - CMS will require the State to aggregate the data for SPMPs to demonstrate how much time these staff are providing their knowledge and expertise and how much time is spent as non-SPMPs performing their duties/responsibilities. A summary of the data for each of the categories identified on page 2 of the proposal will need to be submitted for each county.

When the LGAs complete the time survey, and input the time survey data into the invoice, DHCS will be able to view how much SPMP and Non-SPMP time each claiming unit is using. If DHCS determines a claiming unit has too much SPMP time, DHCS then may take appropriate action and request further documentation to substantiate the claim before paying the invoice.

The backcasting methodology follows the same program guidelines approved in the May 2013 Implementation Plan. The five (5) categories utilized to differentiate the total amount of reimbursable MAA time are documented on each individual's Time Study. As outlined on page 64 of the Implementation Plan, DHCS will review this documentation on Site Visits to each LGA.

During the Site Visit, DHCS will review among other documentation, the Time Survey Documentation to ensure proper claiming of the codes, and secondary documentation for the 5, 10 and 20 day time survey budget units. DHCS will also request substantiation that clinical expertise is required to perform the activity for which SPMP was claimed.

- 12) **Interim vs. placeholders claiming** – DHCS has been submitting placeholder claims for both CMAA and TCM. Please explain how these placeholder claims relate to the approved interim rate methodologies

Currently LGAs do not have an approved methodology to claim FFP for Medi-Cal Administrative Activities (MAA). An interim claim submission process has been approved by CMS in lieu of an approved MAA claiming methodology; however, there are several claims that have not been submitted and several others that will require modification when the State's proposed MAA claiming methodology is approved by CMS. Therefore, a 'lump sum' early claim is required to cover the cost of fiscal years 10/11, 11/12, and 12/13 claims that will be submitted and/or modified based on the impending approval of a methodology for MAA claiming.

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The TCM Program has been submitting early claim requests to CMS to ensure that federal reimbursement funds are available for TCM interim claiming in the event that SPA 10-010 creates an increase in payments to LGAs. Early Claims are based on SPA 10-010 to remove the CAP for the actual cost of reimbursement.

13) **Reconciliation**-CMS recommends that the State move up the reconciliation time frame.

DHCS is only allowing 6 months from the date of the close of the sample time survey, which is needed to reconcile the interim claiming invoices, to the due date of said invoices. DHCS is asking LGAs to submit the 10/11 backcasting invoices 6 months after the close of the end of the Time Survey. This creates a huge workload not only for the LGAs but DHCS as well. DHCS cannot adequately handle the extra workload along with the regular duties required to maintain the ongoing program if the reconciliation timeframe is moved up.

**July 1, 2010 start date** – In the CMS conditional approval letter of May 3, 2013, condition #15, the State agreed “*to submit a separate backcasting methodology for CMS review and approval to reconcile the interim claims filed to actual costs for the time period between July 1, 2010 and the CA County MAA/TCM Time Study implementation date referenced in this approval letter.*” Please confirm the July 1, 2010 start date for this time period to begin reconciling the interim claims.

As outlined on page 1 of the proposal, DHCS is requesting approval of the reconciliation for fiscal years 10/11, 11/12 and 12/13 which would make July 1, 2010 the start date for this time period.