INITIAL STATEMENT OF REASONS

Background

The purpose of the Department of Health Care Services (Department) is to provide equitable access to quality health care leading to a healthy California for all. In support of this purpose, the Department administers many health care programs, including California's State Medicaid program, which is known as the Medi-Cal program.

The Benefits Division is responsible for managing and ensuring the uniform application of federal and state laws and regulations governing Medi-Cal covered services and policies, which includes the development and promulgation of regulations for psychology services. The Department reimburses Medi-Cal providers (providers) for delivering covered psychology services to Medi-Cal beneficiaries (beneficiaries). These providers submit claims for reimbursement using standardized procedure codes specific to psychology services.

Related Federal and State Laws

Federal and state law govern the Medi-Cal program. Federal Medicaid law is provided under Title 42 United States Code (U.S.C.) section 1396a et seq. State Medicaid law is provided under Welfare and Institutions (W&I) Code division 9, part 3, chapters 7 and 8.

W&I Code sections 10725 and 14124.5 authorize the Director of the Department to adopt, amend or repeal regulations as necessary and proper to carry out the purposes and intent of the statutes governing the Medi-Cal program. These include regulations that specify covered benefits and rates for reimbursement under the Medi-Cal program.

W&I Code section 14105.05 authorizes the Department to update procedure-coding systems required for compliance with federal Medicaid requirements or the federal Health Insurance Portability and Accountability Act (HIPAA). This statute also authorizes the Department to establish corresponding reimbursement rates for these updated procedure codes. The Department may adopt these procedure codes and reimbursement rates without taking regulatory action. Further, the Department may publish these updated procedure codes and corresponding reimbursement rates in the Medi-Cal Provider Manual or a similar publication.

W&I Code section 14131 et seq. sets forth the uniform schedule of health care benefits under the Medi-Cal program. Psychology services are covered outpatient benefits as provided under W&I Code section 14132(a).

California Code of Regulations division 3, subdivision 1, chapter 3 provides for the regulations that govern the Medi-Cal program and includes section 51505.3, which specifies the Medi-Cal rates, corresponding procedure codes, and other related requirements for the reimbursement of covered psychology services.

Statement of Purpose/Problem to Be Addressed

The purpose of this regulatory proposal is to update California Code of Regulations, title 22, section 51505.3 to provide the most current benefits information for psychology services. This proposal addresses the issue of the outdated information in regulations

regarding reimbursement rates, procedure codes and covered benefits for psychology services. Updating covered benefits information and removing references to outdated rates and inactive billing codes serves to avoid confusion and potential administrative inefficiencies associated with denied claims. These amendments will remove obsolete information and direct providers to the Department's Medi-Cal Provider website where they can readily access up-to-date information.

Anticipated Benefits or Goals of the Regulations
This proposed regulatory action updates information related to the provision of and payment for psychology services. These amendments directly benefit providers of psychology services through the adoption of current benefit information, requirements for payment and readily accessible reimbursement rates. Another anticipated benefit of these amendments is enhanced communication and flow of accurate information between the Department and the provider community, which facilitates the delivery of psychology services to beneficiaries.

This regulatory proposal supports the purpose and intent of the Medi-Cal program, as specified under W&I Code section 14000 et seq. (chapter 7, Basic Health Care) to afford qualifying individuals covered health care services in a manner equitable to the general public and without duplication of benefits available under other federal or state laws.

W&I Code section 14124.5 further specifies that the Director may establish regulations as are necessary or proper to carry out the purpose and intent of this chapter. This includes the implementation of the uniform schedule of health care benefits under the Medi-Cal program, as described under section 14131 et seq. and section 14132, which includes psychology services.

Additionally, this regulatory proposal supports the intent of section 14105.05, which authorizes the Department to provide a timely and efficient means for the Director to communicate updated reimbursement rates and procedure codes to providers of psychology services and the regulated public.

In addition to meeting the goals of the authorizing statutes as described above, these proposed 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.

Detailed Statement of Reasons: Purpose and Rationale
The proposed amendments to Section 51505.3 are as follows:

Subsection (a)
This subsection is amended to delete the phrase "allowances listed in this section." and replace it with "rates published on the Department's Medi-Cal Provider website for the procedure codes that apply to psychology services." This amendment is necessary to remove reference to reimbursement rates within this section since these outdated rates are proposed to be deleted.

The proposed language is added to specify the new location where providers may access the updated reimbursement rates and corresponding procedure codes. This addition is necessary to direct providers of psychology services to the Department's Medi-Cal Provider website. The Department developed this website specifically as a resource to enable providers timely access to useful program information, including current Medi-Cal reimbursement rates and procedure codes. The Department is authorized to adopt and publish updated rates and procedure codes without taking regulatory action as provided in W&I Code section 14105.05. The proposed amendments to this section pertaining to the deletion of reimbursement rates and procedure codes are based on the exemption under W&I Code section 14105.05(a) and are considered changes without regulatory effect.

This subsection is also amended to add a sentence that includes a non-exhaustive list of services that are included as part of psychology services. These services include, but are not limited to, group therapy, family therapy, individual therapy, psychodiagnostic services and case conferences, which are described within the existing provisions. This is necessary to clarify the psychology services on the Department's Medi-Cal Provider website for which there will be corresponding procedure codes and reimbursement rates.

Subsection (b)

This subsection is amended to delete the phrase "be counseling" and replace it with "include." The punctuation in this subsection is also amended to add a comma. These amendments are necessary for clarity and grammatical consistency with subsection (c).

This subsection is also amended to increase the group size for group therapy from a maximum of eight persons to a maximum of 10 persons per session. This amendment is necessary to allow for greater access to services, especially in cases involving a larger number of individuals who would benefit from group therapy. The increase in group size is supported by medical literature[1, 2, 3] and the practice guidelines of the

[1] Brugha TS, *Pragmatic Randomized Trial of Antenatal Intervention to Prevent Post-natal Depression by Reducing Psychosocial Risk Factors, Psychol Med*. (2000) vol. 30 p.1273-1281.

[2] Tandon SD, *6-Month Outcomes From a Randomized Controlled Trial to Prevent Perinatal Depression in Low-income Home Visiting Clients,* Matern. and Child Health J. (2014); vol.18(4) p.873-881.

[3] Galassi F, *Cognitive-behavioral Group Treatment for Panic Disorder with Agoraphobia*. J Clin. Psychol. (2007) vol.63(4) p.409–416.

American Group Psychotherapy Association, which recommends a group size of seven to 10 persons.[4]

This subsection is further amended to specify that "A group therapy session shall be a minimum of one hour." This amendment is necessary to ensure the billed time is not so short as to be ineffective for the individuals participating in the group therapy session. Reducing the therapy session to a minimum of one hour still provides effective treatment to the beneficiaries while also enabling a greater access to services through the provision of more group therapy sessions. The reduction of a group therapy session to a minimum of one hour is supported by medical literature.[5, 6, 7]

The sentence structure is also amended for clarity and grammatical consistency with other subsections.

Subsection (c)
This subsection is amended to add the phrase ", at any session" for clarity and grammatical consistency with subsection (b).

This subsection is also amended to delete the local procedure codes specifying, "The oldest family member in attendance shall be billed under procedure codes X9508 or X9510. All other family members in attendance shall be billed under procedure code X9512." This deletion is necessary because these local procedure codes are now obsolete. HIPAA mandates the use of national standard procedure code sets and has eliminated the use of these local procedure codes for billing. As part of HIPAA implementation, these local codes were converted to standardized Current Procedural Terminology (CPT) codes. When billing for these services, providers shall use the CPT codes for family therapy as published on the Department's Medi-Cal Provider website. The Department is authorized to adopt and publish updated rates and procedure codes without taking regulatory action as provided in W&I Code section 14105.05. The proposed deletion of these procedure codes is based on the exemption under W&I Code Section 14105.05(a) and is considered a change without regulatory effect.

The language "For Medi-Cal clients" is also proposed for deletion. This lead-in phrase is no longer necessary since the following subsections (c)(1) through (3) are proposed for deletion as discussed below.

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[4] The American Group Psychotherapy Association Science to Service Task Force, Practice Guidelines for Group Psychotherapy (2007).

[5] Penckofer SM, *A Psychoeducational Intervention (SWEEP) for Depressed Women with Diabetes, Annals Behav Med* (2012) vol. 44 p. 192-206.

[6] Zlotnick C, *Postpartum Depression in Women Receiving Public Assistance: pilot study of an interpersonal-therapy-oriented group intervention,* Am J Psychiatry, (2001), vol.158(4) p. 638-640.

[7] Zlotnick C, *A Preventive Intervention for Pregnant Women on Public Assistance at Risk for Postpartum Depression*, Am J Psychiatry, (2006) vol. 163(8) p. 1443-1445.

Subsection (c)(1)
This subsection is amended to delete the requirement that "A MEDI label and Medi-Cal claim form shall be submitted for each Medi-Cal eligible family member in attendance at the family therapy session." This deletion is necessary because psychology services are no longer limited by the Medi-reservation system, which has been discontinued. When the Medi-reservation system was in place, each beneficiary was given two MEDI labels per month, allowing the beneficiary access to a total of two psychology services without prior authorization per month. MEDI labels were discontinued in 2014, when the Medi-reservation system was discontinued.

Subsection (c)(2)
This subsection is amended to delete the requirement that "At least two Medi-Cal eligible family members shall be in attendance at the family therapy session." This deletion is necessary to address a potential barrier to accessing family therapy. The Department has determined that if family therapy is medically necessary for a beneficiary, the other family members in attendance need not be Medi-Cal eligible, as these family members participate in support of the beneficiary. Eliminating this requirement enables greater access to family therapy services.

Subsection (c)(3)
This subsection is amended to delete the requirement that "At least one Medi-Cal eligible family member shall be billed under procedure code X9512 for each family therapy session." This deletion is necessary because this local procedure code is now obsolete. HIPAA mandates the use of national standard procedure code sets and has eliminated the use of these local procedure codes for billing. As part of HIPAA implementation, these local codes were converted to standardized CPT codes. When billing for these services, providers shall use the CPT codes for family therapy as published on the Department's Medi-Cal Provider website. The Department is authorized to adopt and publish updated rates and procedure codes without taking regulatory action as provided in W&I Code section 14105.05. The proposed deletion of this procedure code is based on the exemption under W&I Code Section 14105.05(a) and is considered a change without regulatory effect.

Subsection (d)
This subsection is amended to read "The following requirements shall apply to psychodiagnostic services:" This is necessary to more generally refer to the provisions under subsections (d)(1) through (4) that are requirements applicable to psychodiagnostic services.

Subsection (d)(1)
The last sentence of this subsection is amended to read "Psychodiagnostic time allowances shall only apply to the actual time the psychologist is involved in rendering a given service." This is a minor editorial change without regulatory effect to improve clarity.

Subsection (d)(2)
This subsection is amended to add the phrase "at least" and to add a comma. These amendments are necessary for clarity and grammatical consistency with other

subsections.

This subsection is also amended to increase the group size for group psychodiagnostic testing from a maximum of eight persons to a maximum of 10 persons per session. This amendment is necessary to allow for greater access to services and is consistent with the proposed group size amendment discussed in subsection (b).

Subsection (d)(3)
This subsection is amended to delete the requirement that "Atypical test sessions, where the time allowance for test administration exceeds three hours, shall be fully explained." This is necessary because the standardized CPT codes (implemented by HIPAA) for psychodiagnostic testing also include scoring as a component of work and it is now typical for these services to require more than three hours. Therefore, this additional explanation is no longer necessary as test sessions that exceed three hours are now the norm.

Subsection (d)(4)
Existing subsection (d)(4) is re-designated to (d)(3) due to the proposed deletion of existing subsection (d)(3). This is a change without regulatory effect.

Subsection (d)(5)
This subsection is amended to delete the requirement that "Partial hour allowances shall be used whenever a procedure involves a fraction of an hour." This deletion is necessary since the local procedure codes previously used to bill for partial hour allowances are obsolete. HIPAA mandates the use of national standard procedure code sets and has eliminated the use of these local procedure codes for billing. Additionally, the standardized CPT codes (implemented by HIPAA) for psychodiagnostic services already account for partial hour billing. Therefore, this requirement is no longer necessary.

Subsection (d)(6)
Existing subsection (d)(6) is re-designated to (d)(4) due to the proposed deletion of subsections (d)(3) and (d)(5). This is a change without regulatory effect.

This subsection is also amended to delete the phrase "allowance listed under procedure code X9536" and replace it with "reimbursement rate for this test, published on the Department's Medi-Cal Provider website for the procedure codes that apply to psychology services." This deletion is necessary to remove reference to local procedure code X9536 and its corresponding reimbursement rate since this information is outdated.

The proposed language is added to specify the new location where providers may access the updated reimbursement rate and corresponding procedure code for the computer scored test. This addition is necessary to direct providers of psychology services to the Department's Medi-Cal Provider website that enables timely access to useful program information including current Medi-Cal reimbursement rates and procedure codes. The Department is authorized to adopt and publish updated rates and

procedure codes without taking regulatory action as provided in W&I Code section 14105.05. The proposed deletion of this procedure code is based on this exemption under W&I Code Section 14105.05(a) and is considered a change without regulatory effect.

This subsection is also amended to delete the requirement that “Additional time required to administer the test or to evaluate the computerized report may be billed as a part of test administration or test scoring, respectively.” This deletion is necessary since the local procedure codes previously used to bill for this additional time are obsolete. HIPAA mandates the use of national standard procedure code sets and has eliminated the use of these local procedure codes for billing. Additionally, the standardized CPT codes already factor in additional time for test administration and evaluation of a computerized test report. Therefore, this additional time can no longer be billed separately.

Subsection (e)
This subsection is amended to delete the word “allowances” for clarity and consistency with other amendments proposed in this regulatory action. The plural term “case conferences” is amended to the singular term “case conference” for grammatical consistency. Additional non-substantive amendments are included to accommodate this grammatical change. This subsection is also amended to delete the outdated requirement that “Case conferences shall be limited to one per patient per month.” This amendment is necessary to allow for greater access to these psychology services.

Subsection (f)
This subsection is amended to delete the requirement that “The maximum allowance for out-of-office call is payable only for visits to the first client receiving services at any given location on the same day. It shall not apply to services rendered by a hospital outpatient department nor an organized outpatient clinic.” This deletion is necessary since the local procedure code previously used to bill for an out of office call is obsolete and this service can no longer be billed. HIPAA mandates the use of national standard procedure code sets and has eliminated the use of local procedure codes for billing.

Subsection (g)
This subsection is amended to delete the maximum allowances (reimbursement rates) and procedure codes that are specified for psychology services. This amendment is necessary since this information is outdated. These local procedure codes were either converted to HIPAA compliant CPT codes or terminated for use and the maximum allowances have been superseded by the information that is published on the Department’s Medi-Cal Provider website. The Department is authorized to adopt and publish updated rates and procedure codes without taking regulatory action as provided in W&I Code section 14105.05. This proposed amendment to delete the outdated procedure codes and reimbursement rates is based on this exemption under W&I Code section 14105.05(a) and is considered a change without regulatory effect.

Statements of Determination

A. Alternatives Considered

The Department must determine that no reasonable alternatives considered by the

Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purposes for which this regulatory action was taken, would be as effective and less burdensome to affected private persons than the regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Regulations related to Medi-Cal benefits, including those pertaining to psychology services are located in California Code of Regulations division 3, subdivision 1, chapter 3. Using this regulatory proposal to make amendments related to psychology services, including reimbursement rates and procedure codes is the most effective method to provide current information to those affected by the regulations in a convenient location. This regulatory action specifically directs providers of psychology services to the most recent and updated reimbursement rates on the Department's Medi-Cal Provider website and is necessary to remove outdated rates and inactive procedure codes from regulations in order to avoid confusion and the potential for denial of claims.

B. Local Mandate Determination

The Department has determined that the proposed regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by part 7 (commencing with section 17500) of division 4 of the Government Code.

C. Economic Impact Analysis/Assessment

The Department has made an initial determination that the proposed 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.

In accordance with Government Code section 11346.3(b)(1), the Department has determined that the proposed regulations would not significantly affect the following:

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

These proposed regulations will only impact providers who choose to participate in the Medi-Cal program and provide psychology services. The regulations will clarify covered psychology services for beneficiaries and providers; delete outdated reimbursement rates and billing procedure codes for these services to avoid potential confusion and reliance on obsolete information; and specify the new location where providers may access updated reimbursement rates and corresponding procedure codes. This regulatory proposal is not anticipated to have

an impact on the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in California.

Benefits of the Regulations
The Department has determined that the proposed regulations will not specifically affect worker safety or the state's environment. However, the regulations will benefit providers of psychology services administratively by offering clear and current psychology services benefit information, procedure codes and reimbursement rates. The regulations will support these providers, which in turn will benefit the health and welfare of California's residents by facilitating the continued delivery of these critical mental health services. Increasing the maximum number of beneficiaries per group psychotherapy session to 10 and decreasing the minimum duration of group psychotherapy sessions to one hour will increase access to this form of psychotherapy and is consistent with medical literature showing these thresholds to be beneficial. This regulatory proposal supports the proper and efficient administration of Medi-Cal, in accordance with federal and state laws.

D. Effect on Small Businesses
The Department has made the determination that the proposed regulations would only affect small businesses (providers) that voluntarily participate in the Medi-Cal program and provide psychology services.

E. Housing Costs Determination
The Department has determined that the proposed regulations would have no impact on housing costs.

Documents Relied Upon

1. Brugha TS, *Pragmatic Randomized Trial of Antenatal Intervention to Prevent Post-natal Depression by Reducing Psychosocial Risk Factors, Psychol Med*. (2000) vol. 30 p.1273-1281.

2. Tandon SD, *6-Month Outcomes from a Randomized Controlled Trial to Prevent Perinatal Depression in Low-income Home Visiting Clients,* Matern. and Child Health J. (2014); vol.18(4) p.873-881.

3. Galassi F, *Cognitive-behavioral Group Treatment for Panic Disorder with Agoraphobia*. J Clin. Psychol. (2007) vol.63(4) p.409–416.

4. The American Group Psychotherapy Association Science to Service Task Force, Practice Guidelines for Group Psychotherapy (2007).

5. Penckofer SM, *A Psychoeducational Intervention (SWEEP) for Depressed Women with Diabetes, Annals Behav Med* (2012) vol. 44 p. 192-206.

6. Zlotnick C, *Postpartum Depression in Women Receiving Public Assistance: pilot study of an interpersonal-therapy-oriented group intervention,* Am J Psychiatry, (2001), vol.158(4) p. 638-640.

7. Zlotnick C, *A Preventive Intervention for Pregnant Women on Public Assistance at Risk for Postpartum Depression*, Am J Psychiatry, (2006) vol. 163(8) p. 1443-1445.