



**Status Report of the Department of Health  
Care Services Activities for Implementing  
Legislation and Status of Regulations**

Semi-Annual Report to the Legislature

**August 2021**

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## EXECUTIVE SUMMARY

This report provides a summary of the Department of Health Care Services (DHCS) legislation from 2013 to 2019 that requires the promulgation of regulations within a specified timeframe. There were no reporting requirements for 2020. As required by specific statutes in this report, DHCS is to adopt regulations, and beginning six months after the effective date of these statutes, DHCS is to provide a status report to the Legislature on a semiannual basis, in compliance with Section 9795 of the Government Code, until regulations have been adopted. The summary of the legislation presented in this report is provided each January and July to update the Legislature on the status of regulations and the implementation of legislation.

This reporting requirement is required by the following code sections cited in the authorizing statutes for this report:

Government Code (GC) Sections:

GC 26605.6, 26605.7

Welfare and Institutions Code (WIC) Sections:

WIC 10003, 10950, 14000.7, 14007.5, 14007.8, 14005, 14005.4, 14005.22, 14005.225, 14005.28, 14005.30, 14005.31, 14005.32, 14005.36, 14005.37, 14005.39, 14005.40, 14005.60, 14005.63, 14005.64, 14005.65, 14007.1, 14007.6, 14007.15, 14013.3, 14011.6, 14011.66, 14015.5, 14015.7, 14015.8, 14021.6, 14102, 14102.5, 14105.33, 14005.401, 14132, 14132.02, 14132.56, 14132.968, 14148.65, 14149.8, 14149.9, 14154, 14094.20

This report will list the legislative bills by the year of enactment with the following information: bill number and author, the subject, a brief summary of the bill's requirements and the statutory language, the actions taken and the issue date of the regulations or the anticipated issue date. ***Italicized bold*** text with an **asterisk** indicates updated information since the January 2021 report.

The Appendix at the end of this report provides links to lists of:

- All County Welfare Director's Letters (ACWDL)
- Medi-Cal Eligibility Division Information Letters (MEDIL)
- Dental All Plan Letters (APL)
- All Plan Letters (APL)
- State Plan Amendments (SPA)
- California Children's Services (CCS) Numbered Letter (NL)

## 2013 REQUIREMENTS

AB 82 (Committee on Budget, Ch. 23, Statutes of 2013)

**Subject:** Compassionate release and medical probation program

### Statutory Language:

SEC. 3-5. These sections clarify the requirements that counties must follow to notify DHCS when an inmate is released under the medical probation or compassionate release programs. To the extent the released individual is Medi-Cal eligible, the county is required to pay the nonfederal share of the Medi-Cal costs for these individuals. These sections also specify that individuals released under the compassionate release or medical probation programs may be exempt from enrollment into managed care.

SEC 3 – Government Code (GC) Section 26605.6

SEC 4 – GC Section 26605.7

SEC 5 – GC Section 26605.8

GC Section 26605.6 (h) and GC Section 26605.7 (g) require DHCS to adopt regulations and submit an annual report to the Legislature until those regulations are adopted.

### Action Taken:

***\*Status of Regulations: The Office of Regulations placed package ON HOLD 3/23/21 until DHCS completed updates to the Initial Statement of Reasons (ISOR) and regulation language due to a statutory code change. The ISOR and edited regulations were re-submitted to the Office of Regulations for review/approval on June 22, 2021. An All County Welfare Director's Letter (ACWDL) 20-08, providing directions to counties on the required notification process was released on April 13, 2020. Additional time is needed to obtain input from internal and external partners/stakeholders. Anticipated June 2022. This date reflects when DHCS anticipates that these regulations will be submitted to OAL for review.***

ABx1 1 (Perez, Ch. 3, Statutes of 2013)

**Subject:** Medi-Cal Eligibility

### Statutory Language:

ABX1 1 implements a variety of the Affordable Care Act (ACA) provisions, including implementation of the new “adult group,” streamlining and simplification of the annual renewal and change in circumstance process, and implementation of the Modified Adjusted Gross Income (MAGI) income methodology for selected individuals, including the newly eligible population. ABX1 1 also requires DHCS to seek any necessary federal approvals for services and activities subject to federal financial participation (FFP).

The following sections provide authority for all-county letters, plan letters, plan or provider bulletins, or similar instructions until the time regulations are adopted. Thereafter, DHCS is required to adopt regulations, and beginning six months after the effective date of the

section, DHCS is required to provide a status report to the Legislature on a semiannual basis until regulations have been adopted.

SEC. 4 - WIC Section 14005.4 – Provides eligibility for the Section 1931 program – (including coverage of parents and caretaker relatives (WIC Section 14005.30) and eliminates deprivation as an eligibility factor (WIC Section 14005.30(b)(2).

SEC 5 – Welfare & Institutions Code (WIC) Section 14005.36 (e) – Managed Care Information Sharing Regulations.

SEC 9 – WIC Section 14005.60 (d) – New Adult Group Regulations.

SEC 11 – WIC Section 14005.64 (f) – Use of MAGI income methodology.

Note: Section 14005.64 was amended by Chapter 931 Statutes of 2014 to specify the income thresholds for pregnant women and specified groups of children under age 19.

SEC 15 – WIC Section 14013.3 (g) – Agency Eligibility Information Sharing and Verification Regulations.

SEC 16 – WIC Section 14015.5 (e) – Eligibility Functions to Exchange Regulations.

SEC 17 – WIC Section 14015.7 (d) – Quick Transfer Protocol Regulations.

SEC 23 – WIC Section 14005 – Defines caretaker relative.

SEC 24 – WIC Section 14102.5 (d) – Enrollment Process Quarterly Report Regulations.

#### **Action Taken:**

Issued All County Welfare Director's Letters (ACWDLs):

14-01 issued 01-09-14  
 14-03 issued 02-10-14  
 14-03E issued 03-04-19  
 14-05 issued 02-20-14  
 14-11 issued 03-19-14  
 14-15 issued 03-28-14  
 14-16 issued 04-01-14  
 14-18 issued 04-08-14  
 14-21 issued 04-25-14  
 14-27 issued 06-16-14  
 14-29 issued 08-08-14  
 14-29E issued 08-21-14  
 14-32 issued 09-19-14  
 14-33 issued 09-19-14  
 14-35 issued 09-29-14  
 14-38 issued 10-23-14  
 16-08 issued 04-21-16  
 16-14 issued 06-15-16  
 16-16 issued 07-05-16  
 16-19 issued 10-05-16

Issued Medi-Cal Eligibility Division Information Letters (MEDILs):

14-06 issued 01-17-14  
 14-08 issued 01-21-14

14-09 issued 01-23-14  
 14-10 issued 01-24-14  
 14-11 issued 01-31-14  
 14-13 issued 02-07-14  
 14-14 issued 02-18-14  
 14-16 issued 02-26-14  
 14-17 issued 03-03-14  
 14-18 issued 03-06-14  
 14-19 issued 03-17-14  
 14-20 issued 03-18-14  
 14-21 issued 03-25-14  
 14-23 issued 04-24-14  
 14-25 issued 05-07-14  
 14-26 issued 05-07-14  
 14-27 issued 05-15-14  
 14-29 issued 05-16-14  
 14-30 issued 05-22-14  
 14-31 issued 06-04-14  
 14-33 issued 06-12-14  
 14-33E issued 06-28-14  
 14-36 issued 07-08-14  
 14-41 issued 07-21-14  
 14-42 issued 07-25-14  
 14-44 issued 08-01-14  
 14-45 issued 08-06-14  
 14-54 issued 11-05-14  
 14-55 issued 11-14-14  
 14-55E issued 11-18-14  
 14-56 issued 11-21-14  
 14-58 issued 11-26-14  
 16-17 issued 09-21-16

Sections 4, 9, 11 and 23 are included in the DHCS 15-017 (ACA Medi-Cal Eligibility and Enrollment) recombined regulation package which is pending internal review and approval. Due to the complexity and size of the packet, additional time is needed to complete this process. Progress on this regulations package has been significantly delayed due to workload priorities and impacts associated with the COVID-19 Public Health Emergency. These regulations have been drafted but have not been sent out for public comment. ***\*Since the last report, the following progress has been made on the regulations: The package is under review by the Office of Regulations. Anticipated December 2022. This date reflects when DHCS anticipates the regulations will be resubmitted to our internal Office of Regulations for final processing. DHCS anticipates that these regulations will be submitted to OAL for review by December 2023.***

Section 5: Emergency regulations regarding Managed Care Information Sharing made permanent. Issued 04-21-16.

Sections 15, 16, 17, and 24: Regulations package DHCS 15-010 is under development. Additional time is needed to obtain input from internal and external partners/stakeholders. Progress on this regulations package has been significantly delayed due to staff turnover, workload priorities and impacts associated with the COVID-19 Public Health Emergency. DHCS is currently working on completing the Initial Statement of Reasons (ISOR).

Anticipated **\*July 2022. This reflects when DHCS anticipates the regulations will be submitted to our internal Office of Regulations for review. DHCS anticipates that these regulations will be submitted to OAL for review by July 2023.**

[SB 28 \(Steinberg & Hernandez, Ch. 442, Statutes of 2013\)](#)

**Subject:** Medi-Cal Eligibility

**Statutory Language:**

SB 28 requires the Managed Risk Medical Insurance Board (MRMIB) to provide California's Health Insurance Exchange (Covered California) with contact information for MRMIB subscribers, so Covered California can provide outreach to these individuals regarding their potential eligibility for Covered California products or the Medi-Cal program. SB 28 also includes cleanup language to SB x1 1 and Assembly Bill (AB) x1 1, including provisions to: 1) permit DHCS to implement various provisions of the Affordable Care Act (ACA) using ACWDL until regulations are developed no later than July 1, 2017; and 2) development and implementing a new budgeting methodology no sooner than the 2015-16 fiscal year for Medi-Cal county administrative costs for conducting Medi-Cal eligibility determinations and case maintenance activities.

The following sections provide authority for all-county letters, plan letters, plan or provider bulletins, or similar instructions until the time regulations are adopted. Thereafter, DHCS is required to adopt regulations by July 1, 2017, and beginning six months after the effective date of the section, DHCS is required to provide a status report to the Legislature on a semi-annual basis until regulations have been adopted.

SEC 3 – WIC Section 14005.28 (b) – Former Foster Youth Regulations.

SEC 4 – WIC Section 14005.30 (b)(2) eliminates assets and deprivation as eligibility factors for Section 1931 (b) program and WIC Section 14005.30 (e)(2) addresses MAGI Income.

SEC 5 – WIC 14005.36 (e) – Managed Care Information Sharing Regulations.

SEC 6 - WIC Section 14005.37 (v) – Redetermination Regulations.

SEC 7 – WIC Section 14005.39 (c) – Redetermination Regulations.

SEC 9 – WIC Section 14011.66 (f) – Hospital Presumptive Eligibility (PE) Regulations.

SEC 10 – WIC Section 14015.8 (b) – Information Verification and Eligibility Information Sharing Regulations.

SEC 12 - WIC Section 14102 (f) – NQI Wrap Regulations.

SEC 13 – WIC Section 14132.02 (e) – Alternative Benefit Package Regulations.  
 SEC 14 – WIC Section 14154 (a)(6)(G) County Administrative Cost Control Plan Regulations.

**Action Taken:**

ACWDL 14-14. Issue Date: 03-27-14  
 ACWDL 14-22. Issue Date: 04-25-14  
 ACWDL 14-27. Issue Date: 06-16-14  
 ACWDL 14-28. Issue Date: 07-07-14  
 ACWDL 14-31. Issue Date: 09-11-14  
 ACWDL 14-35. Issue Date: 09-29-14

SPA 13-035 approved effective as of January 1, 2014. Issue Date: 03-28-14

Sections 3 and 4 are included in the DHCS 15-017 (ACA Medi-Cal Eligibility and Enrollment) recombined regulation package, which is pending internal approval. Due to the complexity and size of this packet, additional time is needed to complete this process. Progress on this regulations package has been significantly delayed due to workload priorities and impacts associated with the COVID-19 Public Health Emergency.

These regulations have been drafted but have not been sent out for public comment.

**\*Since the last report, the following progress has been made on the regulations: The package is under review by the Office of Regulations. Anticipated December 2022. This reflects when DHCS anticipates the regulations will be resubmitted to our internal Office of Regulations for final processing. DHCS anticipates that these regulations will be submitted to OAL for review by December 2023.**

Section 5: Emergency regulations made permanent. Anticipated **\*June 2022.**

Section 9 is included in the DHCS 16-010 PE regulation package. This regulations package is highly complex and covers many different policy areas. Progress on this regulations package has been significantly delayed due to workload priorities and impacts associated with the COVID-19 Public Health Emergency.

**\*Since the last report, the following progress has been made on the regulations: The package was submitted to Office of Regulations in March 2021 and placed in their queue for review. Anticipated February \*2022. This reflects when DHCS anticipates the regulations will be resubmitted to our internal Office of Regulations for final processing. DHCS anticipates that these regulations will be submitted to OAL for review by February 2023.**

Sections 6 and 7 (DHCS 14-027 (Redeterminations)) is under DHCS review. Due to the complexity and size of the packet, additional time is needed to complete this process as the redetermination regulation package involves multiple new and amended regulations and processes. DHCS is refining the draft regulations and ISOR using recent guidance available from OFFICE OF REGULATIONS. Progress on this regulations package has been significantly delayed due to workload priorities and impacts associated with the COVID-19 Public Health Emergency. These regulations are currently in development



process. ***\*Since the last report, the following progress has been made on the regulations: The package is currently being amended to incorporate feedback from our internal Office of Regulations. Anticipated \*December 2023. This reflects when DHCS anticipates the regulations will be submitted to our internal Office of Regulations for final processing. DHCS anticipates that these regulations will be submitted to OAL for review by December 2024.***

Sections 10 and 13 are currently under development. No activities to report since the last report. ***\*Progress on this regulations package has been significantly delayed due to workload priorities and impacts associated with the COVID-19 Public Health Emergency. Anticipated June 2022. This reflects when DHCS anticipates the regulations will be submitted to our internal Office of Regulations for review. DHCS anticipates that these regulations will be submitted to OAL for review by June 2023.***

***\*Section 12: NQI Wrap was repealed and regulations are no longer required.***

Section 14: Pending development of a new county administrative budgeting methodology.  
- Per discussions between the Administration and the County Welfare Directors' Association, this package is on hold indefinitely.

### [SBx1 1 \(Hernandez, Ch. 4, Statutes of 2013\)](#)

**Subject:** Medi-Cal Eligibility

#### **Statutory Language:**

SBx1 1 is a companion bill to ABx1 1 and implements various provisions of the ACA, including the provision of essential health benefits for newly eligible populations, coverage of former foster care youth, and streamlined eligibility and enrollment processes to facilitate enrollment of low-income individuals into insurance affordability programs, specifically the Medi-Cal program. It includes the use of PE by hospitals. The bill specifies the benefit package for the newly eligible population under Medi-Cal for newly eligible populations as well as existing Medi-Cal beneficiaries. It also requires DHCS to seek any necessary federal approvals for services and activities subject to FFP.

The following sections provide authority for all-county letters, plan letters, plan or provider bulletins, or similar instructions until the time regulations are adopted. Thereafter, DHCS is required to adopt regulations, and beginning six months after the effective date of the section, DHCS is required to provide a status report to the Legislature on a semiannual basis until regulations have been adopted.

SEC 3 – WIC Section 14000.7 – Authorized Representative Regulations.

SEC 4 – WIC Section 14005.28 – Former Foster Youth.

SEC 5 – WIC Section 14005.28 – Covers former foster youth from any state.

SEC 7 – WIC Section 14005.31 (d) – Continuing Medi-Cal Eligibility Upon Loss of Cash Aide.

SEC 9 – WIC Section 14005.32 (d) – Transfer of Medi-Cal Eligibility Between Medi-Cal Programs Regulations.

SEC 11 – WIC Section 14005.63 – Authorized Representative Regulations.

SEC 12 – WIC 14005.65 – MAGI methodology allowing projected annual income and reasonably predictable annual income to establish eligibility.

SEC 17 – WIC Section 14007.1 – Residency Regulations.

SEC 18 – WIC Section 14007.15 – Residency Regulations.

SEC 20 – WIC Section 14007.6 – Residency Regulations.

SEC 22 – WIC Section 14011.6 – Hospital PE.

**Action Taken:**

ACWDL 14-06. Issue Date: 02-21-14

ACWDL 14-06E. Issue Date: 05-07-14

ACWDL 14-14. Issue Date: 03-27-14

ACWDL 14-24. Issue Date: 05-06-14

ACWDL 14-41. Issue Date: 12-04-14

ACWDL 17-12. Issue Date: 03-28-17

ACWDL 18-26E. Issue Date: 06-04-19

MEDIL 14-02. Issue Date: 01-09-14

MEDIL 14-04. Issue Date: 01-15-14

MEDIL 14-05. Issue Date: 01-17-14

MEDIL 14-18. Issue Date: 03-06-14

MEDIL 14-32. Issue Date: 06-11-14

MEDIL 14-43. Issue Date: 07-30-14

MEDIL 14-48. Issue Date: 10-01-14

MEDIL 14-57. Issue Date: 11-26-14

Status of Regulations:

Sections 4, 5, and 12 are included in the DHCS 15-017 (ACA Medi-Cal Eligibility and Enrollment) recombined regulation package which is pending internal approval. This regulations package is highly complex and covers many different policy areas. Due to the complexity and size of this packet, additional time is needed to complete this process. Progress on this regulations package has been significantly delayed due to workload priorities and impacts associated with the COVID-19 Public Health Emergency. These regulations have been drafted but have not been sent out for public comment. ***\*Since the last report, the following progress has been made on the regulations: The package is under review by the Office of Regulations. Anticipated \*December 2022. This reflects when DHCS anticipates the regulations will be resubmitted to our internal Office of Regulations for final processing. DHCS anticipates that these regulations will be submitted to OAL for review by December 2023.***

Sections 3 and 11 are included in 14-029E. Translated Authorized Representative (AR) forms are anticipated to be released in ***\*mid*** 2021. Progress on this regulations package has been significantly delayed due to staff turnover, workload priorities, and impacts associated with the COVID-19 Public Health Emergency. These regulations have been

drafted but have not been sent out for public comment. ***\*Since the last report, the following progress has been made on the regulations: The package is under revision to incorporate Office of Regulations comments. Anticipated \*June 2022. This reflects when DHCS anticipates the regulations will be resubmitted to our internal Office of Regulations for review and release for public comment. DHCS anticipates that these regulations will be submitted to OAL for review by March 2023***

Sections 7 and 9 are on hold pending federal approval of Facilitated Enrollment SPA. Anticipated SPA submission date is ***\*December 2022***. Once the SPA is approved, DHCS will follow up with a regulation.

Sections 17, 18, and 20: DHCS 14-028E delivered to Agency on 5/1/2018. Control agencies have completed their review and the package is back with DHCS to update the fiscal/budgeting impacts that were outdated in the original documents. Progress on this regulations package has been significantly delayed due to workload priorities and impacts associated with the COVID-19 Public Health Emergency.

These regulations have been drafted but have not been sent out for public comment.

***\*Since the last report, the following progress has been made on the regulations: The package is under internal review. Anticipated \*December 2021. This reflects when DHCS anticipates the regulations will be submitted to our internal Office of Regulations for review. DHCS anticipates that these regulations will be submitted to OAL for review by December 2022.***

Section 22 is included in the DHCS 16-010 (PE) regulation package which is under DHCS review. This regulations package is highly complex and covers many different policy areas. Progress on this regulations package has been significantly delayed due to workload priorities and impacts associated with the COVID-19 Public Health Emergency.

***\*Since the last report, the following progress has been made on the regulations: The package was submitted to Office of Regulations in March 2021 and placed in their queue for review. This reflects when DHCS anticipates the regulations will be resubmitted to our internal Office of Regulations for final processing. DHCS anticipates that these regulations will be submitted to OAL for review by February 2023.***

## 2014 REQUIREMENTS

[AB 617 \(Nazarian, Ch. 869, Statutes of 2014\)](#)

**Subject:** California Health Benefit Exchange: appeals.

### Statutory Language:

SEC 7 – WIC Section 10950

- DHCS, Covered California, and DSS shall implement a process to receive state fair hearing requests for health subsidy programs in electronic form and provides for

communication with applicants/beneficiaries through commonly available electronic means.

- DHCS is to provide a semiannual status report to the Legislature starting July 1, 2015, until regulations are adopted.
- DHCS shall adopt regulations by July 1, 2017.

**Action Taken:**

No interim instructions issued.

DHCS is currently drafting DHCS 17-007. Additional time is needed to obtain input from internal and external partners/stakeholders. Research and analysis has been delayed on this regulation package due to additional workload as a result of the COVID-19 Public Health Emergency (PHE). The COVID PHE has generated a high volume of inquiries from managed care, beneficiaries, applicants and advocates resulting in additional research and time required to follow up with counties regarding the appropriate actions. Anticipated **\*July 2022. This reflects when DHCS anticipates the regulations will be submitted to our internal Office of Regulations for review. DHCS anticipates that these regulations will be submitted to OAL for review by July 2023.**

[SB 857 \(Committee on Budget and Fiscal Review, Ch. 31, Statutes of 2014\)](#)

**Subject:** Full Scope Medi-Cal Coverage and Affordability and Benefit Program for Low-Income Pregnant Women

**Statutory Language:**

SEC. 46 – WIC Section 14005.22 (c)

Specifies the income threshold for full scope pregnant women is 109 percent of federal poverty level and requires a pregnant woman meeting specified eligibility criteria to enroll in a managed care plan (MCP) in those counties that have a MCP.

- All county, all plan letter or provider bulletin to implement until regulations are adopted.
- Adopt regulations by July 1, 2017.
- Six months following effective date of the Section (i.e., 12/20/14) status report to Legislature on semiannual basis until regulations have been adopted.

**Action Taken:**

MEDIL 15-25 and ACWDL 15-35 provide directives that pregnant beneficiaries aided under full scope Medi-Cal program are required to enroll in a MCP. Issue Date: 08-19-15 and 11-12-15.

Sections 46 and 47 are included in the DHCS 15-017 (ACA Medi-Cal Eligibility and Enrollment) recombined regulation package, which is pending internal approval. Due to the complexity and size of this packet, additional time is needed to complete this process.

**\*Progress on this regulations package has been significantly delayed due to workload priorities and impacts associated with the COVID-19 Public Health Emergency.**

**These regulations have been drafted but have not been sent out for public comment. Since the last report, the following progress has been made on the regulations: The package is under review by the Office of Regulations.** Anticipated

**\*December 2022. This reflects when DHCS anticipates the regulations will be resubmitted to our internal Office of Regulations for final processing. DHCS anticipates that these regulations will be submitted to OAL for review by December 2023.**

**Subject:** Full Scope Medi-Cal expansion of pregnant women

**Statutory Language:**

SEC. 47 – WIC Section 14005.225 (a)

Seek State Plan Amendment (SPA) or federal waiver to provide coverage to women whose income is above 109 and up to and including 138 percent.

- All county, all plan letter or provider bulletin to implement until regulations are adopted.
- Adopt regulations by July 1, 2017.
- Six months following effective date of Section (i.e., 12/20/14) report to Legislature on semiannual basis until regulations have been adopted.

**Action Taken:**

Sections 46 and 47 are included in the DHCS 15-017 (ACA Medi-Cal Eligibility and Enrollment) recombined regulation package, which is pending internal approval. Due to the complexity and size of this packet, additional time is needed to complete this process. Progress on this regulations package has been significantly delayed due to workload priorities and impacts associated with the COVID-19 Public Health Emergency. These regulations have been drafted but have not been sent out for public comment. **\*Since the last report, the following progress has been made on the regulations: The package is under review by the Office of Regulations. Anticipated \*December 2022. This reflects when DHCS anticipates the regulations will be resubmitted to our internal Office of Regulations for final processing. DHCS anticipates that these regulations will be submitted to OAL for review by December 2023.**

ACWDL 15-35 issued with details on the Full Scope Medi-Cal expansion incorporated into CalHEERS effective 8/1/15. Issue date: 11-12-15.

**Subject:** Full Scope Medi-Cal expansion of pregnant women

**Statutory Language:**

SEC. 54 – WIC Section 14148.65 requires DHCS to develop and implement the Full Scope Medi-Cal Coverage and Affordability and Benefit Program for Low Income Pregnant Women, contingent on federal approval and availability of FFP; work with specified stakeholders to develop notices and procedures to inform eligible women and providers of the program; and other provisions. Subdivision (g) requires that DHCS:

- Issue all county, all plan letter or provider bulletin to implement until regulations are adopted.
- Adopt regulations by July 1, 2017.
- Six months following effective date of the section (i.e., 12/20/14) report to Legislature on semiannual basis until regulations have been adopted.

**Action Taken:**

Informational MEDIL 14-43 issued. Issue Date: 07-30-14.

[SB 870 \(Committee on Budget and Fiscal Review, Ch. 40, Statutes of 2014\)](#)

**Subject:** Treatment for Autism Spectrum Disorder

**Statutory Language:**

SEC. 8 – WIC Section 14132.56 requires DHCS to cover behavioral health treatment (BHT) for Medi-Cal for individuals under 21 years of age. DHCS is required to implement or continue to implement BHT services, only if: 1) it receives federal approval to obtain FFP; 2) it seeks an appropriation of state funding required for the fiscal year; and 3) it consults with stakeholders. Under specified conditions:

- Permits DHCS to implement, interpret or make specific this section through all-county letters, plan letters, or provider bulletins until regulations are adopted.
- Adopt regulations by July 1, 2017.
- Beginning six months after the effective date of this section (12/20/14), provide semiannual status reports to the Legislature until regulations have been adopted.
- Permits DHCS to seek federal approval of any necessary SPAs or waivers to implement the section. DHCS shall make SPAs or waiver requests public 30 days prior to submission to CMS and address public comments.

**Action Taken:**

APL 15-025 issued to update guidance on BHT services (supersedes APL 14-011). Issue Date: 12-03-15

DHCS SPA #14-026. CMS approved retroactively to July 2014. Issue Date: 01-21-16

DHCS SPA #14-033 approved by CMS retroactively to July 2014. Issue Date: 03-30-16

DHCS SPA #18-0011 approved by CMS retroactively to March 1, 2018. Issue Date: 05-24-18

Status of required regulations: ***\*Since the last report, the following progress has been made on the regulations: regulations have gone through internal division review. Anticipated \*fourth quarter 2021. This date reflects when DHCS anticipates the regulations will be submitted to our internal Office of Regulations for final processing. DHCS anticipates that these regulations will be submitted to OAL for review by December 2023.***

**2015 REQUIREMENTS**

[SB 75 \(Committee on Budget and Fiscal Review, Ch. 18, Statutes of 2015\)](#)

**Subject:** Medi-Cal Coverage for Undocumented Children

**Statutory Language:**

SEC. 33-35. These sections authorize full scope Medi-Cal benefits for children under age 19, who would otherwise be eligible for Medi-Cal except for satisfactory immigration status. The DHCS Director will determine and communicate in writing to the California Department of Finance (DOF) that systems have been programmed for implementation of this section, but no sooner than May 1, 2016, to provide full scope Medi-Cal benefits to undocumented children. DHCS shall seek any necessary federal approvals to obtain FFP. Benefits shall be provided with state-only funds only if FFP is not available for those services.

SEC 33 – WIC Section 14007

SEC 34 – WIC Section 14007.5

SEC 35 – WIC Section 14007.8

Subparagraphs (f)(1) and (2) of WIC Section 14007.8 require DHCS to issue all county or all plan letters, plan or provider bulletins or similar instructions to implement these sections until any necessary regulations are adopted. DHCS shall provide a semi-annual status report to the Legislature until regulations are adopted.

**Action Taken:**

ACWDL 16-12. Issue Date: 05-04-16

Status of required regulations: the amended Regulation, ISOR, and Informative Digest are under DHCS review. Due to length of package, anticipated date updated to account for additional time for internal review. Progress on this regulations package has been significantly delayed due to workload priorities and impacts associated with the COVID-19 Public Health Emergency.

These regulations are currently under development. ***\*Since the last report, the following progress has been made on the regulations: Staff are working with the Office of Legal Services on the package. Anticipated \*December 2022. This reflects when DHCS anticipates the regulations will be submitted to our internal Office of Regulations for review. DHCS anticipates that these regulations will be submitted to OAL for review by December 2023.***

**2016 REQUIREMENTS**

[AB 1114 \(Eggman, Ch. 602, Statutes of 2016\)](#)

**Subject:** Medi-Cal Pharmacist Services

**Statutory Language:**

An urgency measure that adds specified pharmacist services as covered Medi-Cal benefits, subject to DHCS' protocols and utilization controls and approval by CMS. Specifically, the bill requires: 1) DHCS to establish a fee schedule for the list of covered pharmacist services; 2) the rate of reimbursement to be 85 percent of the Medi-Cal

physician fee schedule; and 3) a pharmacist be enrolled as an ordering, referring, and prescribing provider under Medi-Cal prior to rendering a pharmacist service submitted by a Medi-Cal pharmacy provider for reimbursement. AB 1114 also authorizes DHCS to implement these provisions by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action, until regulations are adopted by July 1, 2021.

#### SEC 1

WIC 14132.968 (e)

Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section, and any applicable federal waivers and state plan amendments, by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action. By July 1, 2021, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Commencing July 1, 2017, the department shall provide a status report to the Legislature on a semiannual basis, in compliance with Section 9795 of the Government Code, until regulations have been adopted.

#### **Action Taken:**

In preparation for implementation, DHCS has finalized the billing codes for the allowed services and has met with, and shared these billing codes with, appropriate stakeholders.

CMS approved SPA 18-0039 on November 26, 2018.

Implementation via the release of letters/bulletins occurred on April 1, 2019.

“Pharmacist Services” was added to “Department of Health Care Services 2020 Rulemaking Calendar,” and was submitted to the Office of Administrative Law (OAL) and included DHCS’s projections of its rulemaking activities around the proposed regulation for the upcoming year 2021. The calendar was finalized and routed to the Director on February 6, 2020

DHCS received feedback from OFFICE OF REGULATIONS following a preliminary review of the draft regulation text. OFFICE OF REGULATIONS recommended DHCS to draft additional texts to cover other applicable Articles of the proposed regulation, “Pharmacist Services.” This feedback was received on March 13, 2020.

DHCS completed a draft of the ISOR on March 25, 2020\* **and September 29, 2020.**

DHCS completed form 399 (Economic and Fiscal Impact Statement) on October 8, 2020.

**\*DHCS sent updated regulation texts to OFFICE OF REGULATIONS on March 4, 2021.**



***DHCS received feedback from OFFICE OF REGULATIONS regarding regulation texts on April 6, 2021.***

***DHCS resent revised regulation texts to OFFICE OF REGULATIONS on April 11, 2021.***

***DHCS resent an updated ISOR to include the current regulation texts to OFFICE OF REGULATIONS on April 12, 2021.***

***DHCS sent draft Informative Digest to OFFICE OF REGULATIONS on April 27, 2021.***

***DHCS received feedback from OFFICE OF REGULATIONS regarding regulation texts and ISOR on May 24, 2021.***

***DHCS resubmitted updated regulation texts and ISOR to OFFICE OF REGULATIONS on May 26, 2021.***

***DHCS received feedback from OFFICE OF REGULATIONS regarding regulation texts and ISOR on May 27, 2021.***

***DHCS resubmitted updated regulation texts and ISOR to OFFICE OF REGULATIONS on May 28, 2021.***

***DHCS received feedback from OFFICE OF REGULATIONS regarding regulation texts and ISOR on June 4, 2021.***

***DHCS resubmitted updated regulation texts and ISOR to OFFICE OF REGULATIONS on June 4, 2021.***

***DHCS received feedback from OFFICE OF REGULATIONS regarding regulation texts and ISOR on June 6, 2021.***

***DHCS received additional feedback from OFFICE OF REGULATIONS on regulation texts and ISOR, revised and close to finalization, based on discussion with DHCS on June 22, 2021.***

***DHCS submitted SPA 21-0028 to CMS, to add Medication Therapy Management (MTM) as an additional Pharmacist Services benefit with an effective date of July 1, 2021. This was submitted to CMS on June 30, 2021.***

***DHCS notified OFFICE OF REGULATIONS of the submission of SPA 21-0028 and the requirement to add MTM to the regulatory language on June 25, 2021.***

***AB 133 (Committee on Budget, Ch.143, Statutes of 2021), added MTM pharmacist services, provided in conjunction with the dispensing of qualified specialty drugs, to the list of covered pharmacist services under the Medi-Cal program.***

***DHCS received the go-ahead from OFFICE OF REGULATIONS to add MTM to the regulation texts, in addition to updating form 399 (Economic and Fiscal Impact Statement), ISOR and Informative Digest on July 28, 2021.***

***DHCS sent updated regulation texts and ISOR, which includes MTM to its legal department for review on July 28, 2021.***

***DHCS sent updated form 399 (Economic and Fiscal Impact Statement) which includes MTM, to OFFICE OF REGULATIONS on August 4, 2021.***

***DHCS sent updated Informative Digest to include MTM to OFFICE OF REGULATIONS on August 11, 2021.***

Status of Regulations: ***\*DHCS is reviewing draft regulatory language. Progress on this regulations package has been significantly delayed due to workload priorities and impacts associated with the COVID-19 Public Health Emergency, in addition to the recent addition of MTM pharmacist services to the regulatory language. Since the last report, the following progress has been made on the regulations: MTM services has been added as an additional pharmacist service to the regulatory language. DHCS anticipates that these regulations will be submitted to OAL for review by April 2023. DHCS anticipates that these regulations will be adopted by July 1, 2023.***

[AB 2207 \(Wood, Ch. 613, Statutes of 2016\)](#)

**Subject:** Medi-Cal: dental program

**Statutory Language:**

AB 2207 does the following: 1) adds performance measures to monitor Medi-Cal dental program in FFS through provider in pediatric and adult dentistry; 2) requires DHCS to annually publish utilization data for the previous year for both dental FFS and dental managed care (DMC) on a “per-provider” basis, and report on annual preventive services by prevention, treatment, examination, and general anesthesia categories; 3) aligns FFS and DMC annual and quarterly reporting requirements; 4) further defines timing of the deactivation and disenrollment of dental providers, streamlines the provider application process, requires DHCS to annually review the treatment authorization request process and requires DHCS to assess opportunities to develop and implement innovative payment reform proposals; 5) requires Medi-Cal MCPs to perform specified activities to ensure consumer access to covered services; and 6) codifies the Dental Transformation Initiative data reporting and evaluation quality measure requirements across all domains and requires that this information be made publicly available.

SEC. 2

WIC 14149.8

(j) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory

action, shall implement, interpret, or make specific policies and procedures pertaining to the dental FFS program and dental MCPs, as well as applicable federal waivers and state plan amendments, including the provisions set forth in this section, by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions until regulations are adopted.

(2) No later than December 31, 2018, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Beginning six months after the effective date of this section, and notwithstanding Section 10231.5 of the Government Code, the department shall provide a status report to the Legislature on a semiannual basis until regulations have been adopted.

**Action Taken:**

***\*Status of Regulations for the Dental Manual of Criteria (MOC): Dental MOC updates from Current Dental Terminology (CDT) 13 to CDT 20 is anticipated for completion in March 2022. DHCS submitted the regulation text and Initial Statement of Reasons (ISOR) to OFFICE OF REGULATIONS in early February 2021. In March 2021, DHCS received DOF's questions regarding cost impact. DHCS is in the process of completing a comprehensive cost review to address DOF's comments, which may require revisions to the cost impact form (Std. 399) and the ISOR.***

APLs issued to dental plans:

APL 17-003 Grievance and Appeal Requirements. Issue Date: 05-24-17.

APL 17-008 Network Adequacy Standards for Time and Distance. Issue Date: 11-08-17.

APL 17-010 Changes to Plan Provider Network Report. Issue Date: 12-01-17.

APL 18-003E Network Adequacy Standards for Timely Access. Issue Date: January 2018.

APL 18-006 Modifications to the Performance Measures and Benchmarks for the Medi-Cal Dental Managed Care Program (Supersedes APL 16-017). Issue Date: March 2018.

***\*APL 19-004 (supersedes APL 17-010) X12 274 Provider Network Data Reporting Requirements. Issue Date: 08-14-2019.***

***\*APL 20-003 (supersedes APL 17-003) Grievance and Appeal Requirements. Issue Date: 12-14-2020.***

DHCS has completed all required performance measure reports through State Fiscal Year (SFY) ***\*2020-21 Quarter Two and are posted on the DHCS website at <http://www.dhcs.ca.gov/services/Pages/DentalReports.aspx>. Issue Date: July 2021.***

Complaints & Grievances Report SFY 2015-16 is available at:  
[https://www.dhcs.ca.gov/services/Documents/MDSD/Dental%20Data%20Reporting/Dental\\_Complaints\\_Grievances\\_Report\\_2015-16\\_Feb2018.pdf](https://www.dhcs.ca.gov/services/Documents/MDSD/Dental%20Data%20Reporting/Dental_Complaints_Grievances_Report_2015-16_Feb2018.pdf). Issue Date: May 2018.

Complaints & Grievances Report SFY 2016-17 is available at:  
[https://www.dhcs.ca.gov/Documents/MDSD/2016-17\\_Dental-Complaints\\_Grievances\\_June2018\\_ADAC.pdf](https://www.dhcs.ca.gov/Documents/MDSD/2016-17_Dental-Complaints_Grievances_June2018_ADAC.pdf). Issue Date: June 2018.

Complaints & Grievances Report SFY 2018-19 is available at:  
<https://www.dhcs.ca.gov/services/Documents/MDSD/Stakeholder-Meeting-Materials/Dental-Complaints-Grievances-2018-19.pdf>. Issue Date: May 2020.

**\*Complaints & Grievances Report SFY 2019-20 is available at:**  
<https://www.dhcs.ca.gov/provgovpart/denti-cal/Documents/Dental-Complaints-Grievances-SFY19-20.pdf> **Issue Date: March 2021.**

**\*Complaints & Grievances Report SFY 2020-21. Anticipated March 2022.**

General Anesthesia Report for Calendar Year (CY) 2018 is available at:  
<https://www.dhcs.ca.gov/services/Documents/MDSD/General-Anesthesia-Report-2019.pdf>. Issue Date: August 2019.

**\*General Anesthesia Report for CY 2019 is available at:**  
<https://www.dhcs.ca.gov/services/Documents/General-Anesthesia-Report-CY-2019.pdf>. **Issue Date: December 2020.**

**\*General Anesthesia Report for CY 2020. Anticipated February 2022.**

Per Provider Report for CY 2018 is available at:  
<https://www.dhcs.ca.gov/services/Documents/MDSD/Dental%20Data%20Reporting/PerProviderReport-Rendering-Final-CY-2018.xlsx>. Issue Date: October 2019.

**\*Per Provider Report for CY 2019 is available at:**  
[Medi-Cal Dental Per Provider Report Calendar Year 2019](#). **Issue Date: November 2020.**

**\*Per Provider Report for CY 2020. Anticipated November 2021.**

AB 2394 (Garcia, Eduardo, Ch. 615, Statutes of 2016)

**Subject: Subject:** Medi-Cal: Nonmedical Transportation

**Statutory Language:**

AB 2394 effective July 1, 2017, requires Medi-Cal to cover non-medical transportation, subject to utilization controls and federally permissible time and distance standards. AB 2394 shall be implemented only to the extent FFP is available, not jeopardized, and necessary federal approvals are obtained. DHCS is required to report to the Legislature

on the status of pending regulations, commencing from January 1, 2018, on a semiannual basis, until regulations are adopted by July 1, 2018.

**Action Taken:**

Regulations are under development following CMS approval of SPA 17-017 on August 21, 2018, for phase 1. DHCS has been working to develop regulations; however, due to the State General Fund deficit, the Budget Act of 2020 eliminated the transportation broker. DHCS is submitting a new SPA by September 30, 2021, to comply with Section 209 of the Consolidated Appropriations Act of 2021 and will also need to submit a new SPA in early 2022 to authorize reimbursement for mileage. DHCS has re-examined the regulations now that DHCS staff are administering and cOffice of Regulationsdinating Nonmedical Transportation (NMT) trips for FFS beneficiaries and will begin reimbursing beneficiaries for mileage and transit expenses in 2022. In addition, DHCS will need to account for recent federal regulations that make it easier for companies like Lyft and Uber to enroll in Medi-Cal. Anticipated date updated to account for additional time for internal development and review to include requirements for these new DHCS administrative processes and federal requirements. ***\*Since the last report, the following progress has been made on the regulations: Division staff has been meeting internally to identify new federal requirements and review the draft regulations. Anticipated Spring 2022. This date reflects when DHCS anticipates submitting the regulations to our internal Office of Regulations for informal review. DHCS anticipates that the regulations will be submitted for public review by November 2022.***

[SB 1339 \(Monning, Ch. 801, Statutes of 2016\)](#)

**Subject:** Public Social Services: Intercounty Transfers

**Statutory Language:**

SB 1339 requires intercounty transfers of all eligibility for public assistance programs, including Medi-Cal, CalWORKs and CalFresh, to be completed within the first day of the next available benefit month following 30 days from the date either county (sending or receiving) is notified of a beneficiary's change of residence to a new county within the state. The bill allows Medi-Cal beneficiaries who are required to receive services through a Medi-Cal MCP, or counties on their behalf, who move to a receiving county and are still enrolled in their MCP in the sending county, to request an expedited disenrollment from the sending county's MCP and to have access to Medi-Cal benefits in the receiving county through the Medi-Cal FFS delivery system until enrolled in an MCP in the receiving county. SB 1339 also deletes outdated provisions regarding determination of the county of residence for an aid recipient, who has been released or discharged from a state hospital. The provisions of the bill became effective June 1, 2017.

SEC 1

WIC 10003 (g)(1)(2)

(g) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Department of Health Care

Services and the State Department of Social Services, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions until the time regulations are adopted. The State Department of Health Care Services and the State Department of Social Services shall adopt regulations by July 1, 2021, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Beginning June 1, 2017, and notwithstanding Section 10231.5 of the Government Code, the State Department of Health Care Services and the State Department of Social Services shall provide a status report on the adoption of the regulations to the Legislature on a semiannual basis, in compliance with Section 9795 of the Government Code, until regulations have been adopted.

**Action Taken:**

ACWDL18-02. Issued January 11, 2018.

As of November 2019, ACWDL 18-02 is under review with stakeholders to respond to the counties' questions. DHCS published an errata to ACWDL 18-02 with FAQs in February 2021.

These regulations are currently at draft regulation stage in development. ***\*Since the last report, the following progress has been made on the regulations: The package is currently being finalized and will be sent to Office of Legal Services \*in early September 2021. Anticipated \*July 2022. This reflects when DHCS anticipates the regulations will be submitted to our internal Office of Regulations for review. DHCS anticipates that these regulations will be submitted to OAL for review by December 2023.***

## 2017 REQUIREMENTS

SB 97 (Committee on Budget and Fiscal Review, Ch. 52, Statutes of 2017)

**Subject:** Health

**Statutory Language:**

SEC. 21. This section requires DHCS to seek federal approval to use the determination of eligibility for the CalWORKs program as a determination of eligibility for the Medi-Cal program.

DHCS is required to seek federal approval to continue to determine eligibility for Medi-Cal beneficiaries based on their eligibility for CalWORKs. DHCS is required to adopt regulations by July 1, 2018. Beginning January 1, 2018, DHCS is required to provide a status report to the Legislature on a semiannual basis until regulations have been adopted.

**Action Taken:**

Regulations to be initiated upon CMS' approval of the facilitated enrollment SPA that will allow the use and determination of eligibility for the CalWORKs program as a determination for the Medi-Cal program.

This regulations package is currently on hold, pending CMS approval of the facilitated enrollment SPA.

SEC. 58. This section establishes the Diabetes Prevention Program (DPP) within Medi-Cal FFS and managed care delivery systems. DHCS is required to establish a DPP in FFS and managed care delivery systems, no sooner than July 1, 2018. DHCS is required to develop payment methodologies, or adjust existing methodologies, for reimbursing DPP services and activities in the FFS delivery system, not to exceed 80 percent of the federal Medicare Program reimbursement for comparable service, billing, and diagnosis codes under the federal Medicare Program. DHCS is required to adopt regulations by July 1, 2020. Beginning January 1, 2018, DHCS is required to provide a status report to the Legislature on a semiannual basis until regulations have been adopted.

**Action Taken:**

Section 58: DHCS began drafting regulations in 2019. DHCS conducted its stakeholder engagement process and finalized the program's policy, including payment methodologies and the benefit's structure.

DHCS submitted the SPA to CMS in December 2018. CMS approved SPA 18-0040 on October 24, 2019.

***\*DHCS is engaged in the internal approval process of the regulations. Status of regulations: Anticipated Spring 2022.*** Progress on this regulation package has been significantly delayed due to workload priorities and impacts associated with the COVID-19 Public Health Emergency and subsequently the Budget Act of 2021. These regulations are currently under development. ***\*Since the last report, the following progress has been made on the regulations: The division continues to work to finalize the draft regulation package. DHCS anticipates the regulations will be submitted for informal review by OLS by March 2022. DHCS anticipates that these regulations will be submitted to OAL for review by May 2022.***

**2018 REQUIREMENTS**

[SB 586 \(Hernandez, Ch. 625, Statutes of 2016\)](#)

**Subject:** Children's Services

**Statutory Language:**

SB 586 requires DHCS to establish the Whole-Child Model (WCM) program in designated County Organized Health System or Regional Health Authority counties to incorporate California Children's Services (CCS) program covered services for Medi-Cal eligible CCS

children and youth into a MCP contract. For non-WCM counties, the bill extends the CCS carve-out provision that prohibits the incorporation of CCS program covered services into a MCP contract until January 1, 2022.

WIC 14094.20 (a) requires the department to report to the Legislature the status of pending regulations, commencing from July 1, 2018, on a semiannual basis, until regulations are adopted by July 1, 2020. ***\*AB 1585 (Chapter 181, Statutes of 2021), is expected to extend this deadline to January 1, 2023 due to delays caused by the COVID-19 Public Health Emergency (PHE). See below for more information regarding the delay.***<sup>1</sup>

#### **Action Taken:**

DHCS is moving forward with promulgating regulations as required by SB 586; however, the COVID PHE impacted the timeline since DHCS was amidst informal stakeholder engagement when the WCM regulations were placed on hold so that staff could focus on the PHE. Prior to the PHE, DHCS conducted a review of CCS Numbered Letters (NLs) to determine which CCS NLs and related Subject Index Categories should apply to WCM plans. WCM plans are required to adhere to any further NLs that fall within the Subject Index Categories identified during this review as applying to WCM plans.

On June 7, 2018, DHCS released CCS NL 04-0618 and All Plan Letter 18-011 to inform WCM plans of these requirements. On December 23, 2018, DHCS released APL 18-023, which superseded the original APL 18-011. WCM plans continue to be held to the requirement to adhere to the CCS NLs in the Subject Index Categories listed in the APL.

DHCS completed its review of current CCS policies and shared a draft of the WCM regulatory framework with CCS and WCM stakeholders for comment and feedback on February 13, 2020. However, ***\*due to*** the end of the comment period coinciding with the start of the COVID-19 PHE, DHCS' evaluation of the comments on the draft regulatory framework was delayed.

DHCS has since reviewed all ***\*stakeholder*** comments received, and is ***\*revising its*** draft regulatory language ***\*to more closely align with what stakeholders expressed they would like to see reflected in these requirements. \*Once the draft regulation package is revised.*** It will be revised internally by the administration. Once submitted to the Office of Administrative Law, it is expected to undergo a formal public comment period.

***\*Status of Regulations: Under development. Anticipated completion date revised to account for the COVID-19 PHE. Anticipated completion by January 1, 2023.***

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<sup>1</sup> AB 1585 can be found at:

[https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill\\_id=202120220AB1585&showAmends=false](https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=202120220AB1585&showAmends=false)



## AB 349 (McCarty, Ch. 643, Statutes of 2018)

**Subject:** Drug Medi-Cal Treatment Program: rate setting process

### **Statutory Language:**

AB 349, sponsored by the California Opioid Maintenance Providers, requires DHCS to establish the Drug Medi-Cal (DMC) reimbursement rate setting methodology through regulations by July 1, 2020, and thereafter authorizes DHCS to administratively update the DMC statewide maximum reimbursement rates through annual bulletins or similar instructions. AB 349 also requires DHCS to semiannually provide the Legislature a status report until the regulations are adopted.

### **Actions Taken:**

Status of Regulations: Development of this regulatory package has been suspended due to upcoming system changes relating to payment reform, that have rendered the regulatory package obsolete.

## 2019 REQUIREMENTS

### AB 1088 (Wood, Ch. 450, Statutes of 2019)

**Subject:** Medi-Cal eligibility

### **Statutory Language:**

This bill requires the department to seek a Medicaid state plan amendment or waiver to implement an income disregard that would allow an aged, blind, or disabled individual who becomes ineligible for Medi-Cal benefits because of the state's payment of the individual's Medicare Part B premiums to remain eligible for the Medi-Cal program if their income and resources otherwise meet all eligibility requirements. The bill would authorize the department to implement this provision by provider bulletins or similar instructions until regulations are adopted. The bill would require the department to adopt regulations by July 1, 2021, and to provide a status report to the Legislature on a semiannual basis until regulations have been adopted.

SECTION 1. Section 14005.401 is added to the Welfare and Institutions Code, immediately following Section 14005.40, to read:

(b) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions until the time any necessary regulations are adopted.

(2) The department shall adopt regulations by July 1, 2021, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) Commencing six months after the effective date of this section, and notwithstanding Section 10231.5 of the Government Code, the department shall provide a status report to

the Legislature on a semiannual basis, in compliance with Section 9795 of the Government Code, until regulations have been adopted.

(c) This section shall be implemented only if, and to the extent that, federal financial participation is available and necessary federal approvals have been obtained.

**Actions Taken:**

CMS approved CA SPA 20-0016 on October 21, 2020. DHCS published formal guidance to the counties by means of ACWDL 20-18.

**Status of Regulations:**

DHCS began drafting regulations once CMS provided federal approval. ***\*AB 1088 and SB 104 (Committee on Budget and Fiscal Review, Ch. 67, Statutes of 2019) regulations have been combined into one regulations package to promulgate foundational regulations for the Aged, Blind, and Disabled Federal Poverty Level program.*** These regulations are currently in development. ***\*Since the last report, the following progress has been made on the regulations: A state plan amendment was approved and staff immediately began drafting regulations.*** Anticipated ***\*December 2022. This reflects when DHCS anticipates the regulations will be submitted to our internal Office of Regulations for review. DHCS anticipates that these regulations will be submitted to OAL for review by December 2024.***

[SB 104 \(Committee on Budget and Fiscal Review, Ch. 67, Statutes of 2019\)](#)

**Subject:** Health

**Statutory Language:**

The Director is required to determine and communicate in writing to the Department of Finance, that systems are programmed for implementation of the new income disregard no sooner than January 1, 2020. DHCS would be permitted to implement the amended provisions through “all-county letters,” and required to adopt regulations no later than July 1, 2023, but only if and to the extent federal approvals have been obtained and FFP is available. DHCS would also be required to provide semi-annual status reports to the Legislature until regulations are adopted.

**SEC. 7.**

This section, as proposed by the Legislature, amends section 14005.40 of the W&I Code to disregard all countable income over 100 percent of the Federal Poverty Level (FPL) up to 138 percent of the FPL, after taking all other income disregards, deductions, and exclusions into account, for the Aged, Blind, and Disabled (ABD) FPL program.

(e) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions until regulations are adopted.

(2) The department shall adopt regulations by July 1, 2023, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of

Title 2 of the Government Code. The department shall provide a status report to the Legislature on a semiannual basis, in compliance with Section 9795 of the Government Code, until regulations are adopted.

**Actions Taken:**

DHCS received CMS approval of SPA 19-0050 on December 20, 2019, with an effective date of August 1, 2020. However, due to budgetary activities, implementation was temporarily delayed. Subsequently, CMS approved SPA 20-0045 on November 19, 2020, which reflects the updated effective date of December 1, 2020.

DHCS released policy guidance to counties and Statewide Automated Welfare Systems (SAWS) in an ACWDL published January 31, 2020 (ACWDL 20-02 and 20-02E). DHCS published an updated ACWDL in November 2020, to reflect the implementation date of December 1, 2020.

DHCS continues to work with stakeholders to facilitate ongoing implementation of this policy.

**Status of Regulations:**

DHCS began drafting regulations once CMS provided federal approval. ***\*AB 1088 (Wood, Ch. 450, Statutes of 2019) and SB 104 regulations have been combined into one regulations package to promulgate foundational regulations for the Aged, Blind, and Disabled Federal Poverty Level program.***

These regulations are currently in development. ***\*Since the last report, the following progress has been made on the regulations: A state plan amendment was approved and staff immediately began drafting regulations. Anticipated \*December 2022. This reflects when DHCS anticipates the regulations will be submitted to our internal Office of Regulations for review. DHCS anticipates that these regulations will be submitted to OAL for review by December 2024.***

## APPENDIX

List of ACWsDLs:

<http://www.dhcs.ca.gov/services/medical/eligibility/Pages/ACWDLbyyear.aspx>

List of MEDILs:

<http://www.dhcs.ca.gov/services/medical/eligibility/Pages/ACWDLbyyear.aspx>

List of Dental APLs: [www.dhcs.ca.gov/services/Pages/DentalAllPlanLetters.aspx](http://www.dhcs.ca.gov/services/Pages/DentalAllPlanLetters.aspx)

List of APLs: <http://www.dhcs.ca.gov/formsandpubs/Pages/AllPlanLetters.aspx>

List of SPAs: <http://www.dhcs.ca.gov/formsandpubs/laws/Pages/CaliforniaStatePlan.aspx>

List of CCS NLs: <http://www.dhcs.ca.gov/services/ccs/Pages/CCSNL.aspx>