



TOBY DOUGLAS
Director

State of California—Health and Human Services Agency
Department of Health Care Services



EDMUND G. BROWN JR.
Governor

DATE: AUGUST 28, 2013

TO: ALL MEDI-CAL MANAGED CARE HEALTH PLANS

SUBJECT: ASSEMBLY BILL 97 IMPLEMENTATION

PURPOSE:

This purpose of this letter is to provide information regarding the implementation of Assembly Bill (AB) 97 (Chapter 3, Statutes of 2011). On March 24, 2011, the Governor signed AB 97 into law, which contained cost savings measures that impact the Medi-Cal program. Among those measures, AB 97 enacted California Welfare and Institutions Code Section (§) 14105.192, which authorizes the Director of the Department of Health Care Services (DHCS) to reduce Medi-Cal fee-for-service (FFS) payment rates by up to 10 percent for various categories of services, for services on or after June 1, 2011, subject to obtaining federal approval of a state plan amendment (SPA) prior to implementation. AB 97 also required capitated rates to Medi-Cal managed care health plans (MCPs) to be reduced by the actuarial equivalent of the FFS payment reductions. The SPAs for the FFS payment reductions were approved on October 27, 2011. However, court injunctions prohibited DHCS from implementing many of the FFS reductions. This necessitated a delay in implementing the actuarial equivalent rate reductions for MCPs.

On May 24, 2013, the United States Ninth Circuit Court of Appeals in *Managed Pharmacy Care, et al. v. Kathleen Sebelius and Toby Douglas* issued a decision to reverse the court injunctions against the FFS reductions. The Ninth Circuit issued an order on June 25, 2013, that formally vacated the injunctions. Because the injunctions are now vacated, DHCS is in the process of implementing the FFS payment reductions for services rendered on or after June 1, 2011. Actuarial equivalent reductions for MCPs for all affected services will be implemented on a prospective basis only.

Therefore, the actuarial equivalent rate reductions for MCPs will be effective October 1, 2013.

SERVICES IMPACTED:

The rate reductions will be implemented for all of the same services and at the same levels as are occurring in FFS, except for the specified exemptions discussed below.

MEDI-CAL MANAGED CARE HEALTH PLANS

Page 2

First, as a result of the previous implementation of an efficiency adjustment to the pharmacy category of service and as previously communicated, DHCS has determined that an actuarially equivalent AB 97 reduction for pharmacy services in managed care is not appropriate and therefore will not be included.

Second, DHCS has determined that to ensure access to specialty physician services, an actuarially equivalent AB 97 reduction will not be applied to these services.

Third, due to the requirements under § 1202 of the Affordable Care Act that require payments for eligible primary care services to be equivalent to Medicare for services in calendar year 2013 and 2014, those services will also be exempt from the AB 97 reductions, just as they are in the FFS program.

RATE REVISIONS:

The rate revisions associated with AB 97 payment reductions impacting your MCP's 2012/13 and/or 2013/14 rate periods will be forthcoming. The revised rates will be incorporated into contract amendments or change orders.

If you have any questions regarding this letter, please contact Stuart Busby, Chief, Capitated Rates Development Division by email at Stuart.Busby@dhcs.ca.gov or by phone at (916) 449-5083.

Sincerely,

Original Signed by Mari Cantwell

Mari Cantwell
Chief Deputy Director, Health Care Programs
Department of Health Care Services