

## **FINAL STATEMENT OF REASONS**

This regulatory action amends Title 22, California Code of Regulations (CCR), Section 51516.1 by updating Drug Medi-Cal (DMC) reimbursement rates for substance abuse services for FY 2003-2004 through FY 2009-2010 in accordance with Welfare and Institutions Code (WIC) Sections 14021.5, 14021.6 and 14105, and Health and Safety Code (HSC) Section 11758.42.

### **STATEMENT OF NECESSITY:**

This emergency regulatory action is necessary to implement WIC Sections 14021.5 and 14021.6 and HSC Sections 11758.42 and 11758.46. WIC Section 14021.5 specifies that rates for DMC services shall be effective July 1 through June 30 of the fiscal year in which the rates are established. WIC Section 14021.6 and HSC Section 11758.42 specify how rates for DMC services shall be determined. HSC Section 11758.42 requires the Department of Alcohol and Drug Programs (ADP) to establish rates for the use of the narcotic replacement drugs Methadone and LAAM. HSC Section 11758.46 specifies DMC services which are reimbursable through the Medi-Cal program.

Specific changes and the necessity for those changes are described below:

#### **Section 51516.1 (a)**

Senate Bill (SB) 1838, Statutes of 2004, Chapter 862, Section 36 renamed Day Care Habilitative - Day Care Rehabilitative; therefore this subsection was revised to reflect this change.

#### **Section 51516.1 (a)(2)**

The term "rendering" is replaced with the more common term "providing" based on its use in HSC Section 11848.5. The term "defined" is replaced with the more accurate term "specified" since Section 11848.5 specifies information, it does not provide definitions. The cross reference to Section 11987.5 is replaced with Section 11848.5 of the HSC since Section 11848.5 replaced Section 11987.5 in January 2005 due to SB 1838, Statutes of 2004, Chapter 862, Sections 120 and 134.

#### **Section 51516.1 (a)(3):**

The statewide maximum allowances (SMAs) shown in Section 51516.1(a)(3) were revised and are indicated below in the sequence of how each Budget Act impacted rate development. The SMAs contain the FY 2003-2004 through FY 2009-2010 rates for non-narcotic treatment services. ADP established the rates in accordance with WIC Section 14021.6 and with each fiscal year's Budget Act. The SMAs are based on the median rates from the most recently completed cost data for each modality as reported by county-operated providers and county-contracted providers. The specific methodology used to

calculate Drug Medi-Cal SMAs are described in the document entitled “Drug Medi-Cal Rate Setting Methodology, For Non-Narcotic Treatment Programs, For Fiscal Year 2003-2004 through FY 2009-2010.” This document is included in the Department of Health Care Services’ (Department’s) rulemaking file, which is maintained by the Department’s Office of Regulations.

The proposed FY 2003-2004, DMC reimbursement rates are based on cost report data from FY 2001-2002.

The FY 2004-2005 Budget Act (SB 1113, Statutes of 2004, Ch. 208, Item 4200-102-0001, Provision 5 and Item 4200-103-0001 Provision 5) approved the FY 2004-2005 DMC rates at the FY 2002-2003 rate levels, which are based on cost report data from FY 2000-2001.

The FY 2005-2006 Budget Act (SB 77, Statutes of 2005, Ch. 38, Item 4200-102-0001, Provision 4 and Item 4200-103-0001, Provision 5) authorized the FY 2005-2006 DMC reimbursement rates at the FY 2002-2003 rate levels with an augmentation of \$1,104,000 General Fund monies.

The FY 2006-2007 Budget Act (AB 1801, Statutes of 2006, Ch. 47, Governor’s Objections Section) indicated that of the combined amounts appropriated in Items 4200-102-0001 and 4200-103-0001, \$1,000 additional was appropriated to increase the FY 2006-2007 rates above the FY 2005-2006 rates. Because of this small amount, FY 2006-2007 used the FY 2005-2006 rates.

The rates for FYs 2003-2004, 2007-2008 and 2008-2009 were developed in accordance with the established rate-setting methodologies, since there was no reduced Governor’s Budget for ADP as occurred in other FYs.

The specific methodology used to calculate Drug Medi-Cal SMAs is described in the document entitled “Drug Medi-Cal Rate Setting Methodology, For Non-Narcotic Treatment Programs, For Fiscal Year 2003-2004 Through FY 2009-2010”. This document is included in the Department’s rulemaking file, which is maintained by the Department’s Office of Regulations.

Since the FY 2004-2005 Budget Act approved the Drug Medi-Cal rates at the FY 2002-2003 levels, there was no Drug Medi-Cal Rate Setting Methodology for FY 2004-2005.

Because the FY 2005-2006 Budget Act provided the \$1,104,000 augmentation above the FY 2002-2003 levels, then after the ADP calculated the FY 2005-2006 rates based on the regular methodology, the ADP used a second methodology to determine the FY 2005-2006 augmented rates. That methodology is described in the document entitled “FY 2005-2006 Drug Medi-Cal Augmented Rate Methodology For Narcotic and Non-Narcotic Treatment Programs” and is included in the Department’s rulemaking file, which is maintained by the Department’s Office of Regulations.

The FY 2009-2010 Budget Act contained a 10 percent rate reduction to the reimbursement rates developed under the customary rate-development methodologies (see Assembly Bill (AB) X4 4, Chapter 4, Statutes of 2009, Section 31).

There have been no claims submitted for Naltrexone services since FY 1997-1998. Therefore, Naltrexone was not included in the "FY 2005-2006 Drug Medi-Cal Augmented Rate Methodology for Narcotic and Non-Narcotic Treatment Programs." Consequently, the DMC rate for Naltrexone was held at the FY 2002-2003 level for FY 2003-2004 through FY 2008-2009. It was also held at this level prior to being reduced by 10 percent for FY 2009-2010.

The DMC rate for Perinatal Outpatient Drug Free (ODF) Individual Counseling was held at the FY 2002-2003 DMC rate for FY 2003-2004 through FY 2008-2009. This was because the cost report total units, total cost and resulting cost per unit of service data varied widely. Therefore, ADP considered the cost report data as not reflecting the true cost of this service.

The DMC rate for Perinatal ODF Group Counseling was held at the FY 2006-2007 developed rate for FY 2007-2008 and FY 2008-2009. It was also held at the same rate for FY 2009-2010 prior to being reduced by 10 percent. This was because the cost report data used for the FY 2007-2008 through FY 2009-2010 rates consisted of less service providers, and the cost report data varied widely. Therefore, ADP considered the cost report data as not reflecting the true cost of this service.

Section 51516.1(a)(3)(A):

Section 51516.1(a)(3)(A) was revised to add "treatment" between "outpatient drug free" and "services" for accuracy.

Section 51516.1(a)(3)(A)1. and (A)2.:

Sections 51516.1 (a)(3)(A)1. and (A)2. were revised to make a grammatical correction.

Sections 51516.1(b)(1), (c), (d), (f) and (g):

These sections have been amended as the result of AB 1279, Statutes of 2008, Ch. 759, which revised HSC Section 11758.42(c) that specifies that reimbursement for narcotic replacement therapy .....shall be based on per capita statewide daily reimbursement rate. Therefore, the term "monthly" is removed from Section 51516.1(b); the "M", which stands for "monthly" is removed from the acronym "USMR" under subsections (b)(1), (c), (d), (f), and (g).

Section 51516.1(g):

The uniform statewide reimbursement rates (USRs) were revised to contain the FY 2003-04 through FY 2009-10 rates for narcotic treatment program services.

The specific methodology used to calculate narcotic treatment USRs is described in the document entitled “Narcotic Treatment Program – Uniform Statewide Reimbursement Rates and Methodology, FY 2003-2004 through FY 2009-2010.” This document is included in the Department’s rulemaking file, which is maintained by the Department’s Office of Regulations. Beginning with FY 2008-2009, daily reimbursement rates continued but monthly reimbursement rates were discontinued.

Since the FY 2004-2005 Budget Act approved the DMC rates at the FY 2002-2003 levels, there was no Narcotic Treatment Program – Uniform Statewide Reimbursement Rates and Methodology for FY 2004-2005.

Because the FY 2005-2006 Budget Act provided the \$1,104,000 augmentation above the FY 2002-2003 levels, after the ADP calculated the FY 2005-2006 rates based on the regular methodology, the ADP used a second methodology to determine the FY 2005-2006 augmented rates. That methodology is described in the document entitled “FY 2005-2006 Drug Medi-Cal Augmented Rate Methodology For Narcotic and Non-Narcotic Treatment Programs” and is included in the Department’s rulemaking file, which is maintained by the Department’s Office of Regulations.

For FY 2006-2007 and FY 2007-2008, LAAM was deleted from the narcotic treatment program rate tables. LAAM was discontinued from the United States market in August 2003 because of reports of adverse cardiac-related events.

The FY 2009-10 Budget Act contained a 10 percent rate reduction to the reimbursement rates developed under the customary rate-development methodologies (see ABX4 4, Chapter 4, Statutes of 2009, Section 31).

#### BIBLIOGRAPHY OF RATE-SETTING METHODOLOGY DOCUMENTS

1. Drug Medi-Cal Rate Setting Methodology for Non-Narcotic Treatment Programs for Fiscal Year 2003-2004 Through FY 2009-2010.
2. Narcotic Treatment Program – Uniform Statewide Reimbursement Rates and Methodology, FY 2003-2004 Through FY 2009-2010.
3. FY 2005-2006 Drug Medi-Cal Augmented Rate Methodology for Narcotic and Non-Narcotic Treatment Programs.

#### PUBLIC PROCEEDINGS

No comments were received during the public comment period, which commenced on July 9, 2010 and ended on August 27, 2010. A public hearing was not requested.

## **STATEMENTS OF DETERMINATION**

### **ALTERNATIVES CONSIDERED**

The Department has determined that no reasonable alternative 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 purpose for which this action is proposed, or would be as effective and less burdensome to affected private persons than the emergency action.

### **LOCAL MANDATE DETERMINATION**

The Department has determined that the emergency regulations will not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Government Code, Division 4, Part 7, (commencing with Section 17500).

### **ECONOMIC IMPACT STATEMENT**

The Department has determined that the emergency 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.

The Department has determined that the emergency regulations would not significantly affect the following:

1. The creation or elimination of jobs within the State of California.
2. The creation of new businesses or the elimination of existing businesses within the State of California.
3. The expansion of businesses currently doing business within the State of California.

### **EFFECT ON SMALL BUSINESSES**

The Department has determined that the emergency regulations would only affect small businesses that voluntarily provide Drug Medi-Cal services.

### **HOUSING COSTS DETERMINATION**

The Department has determined that the emergency regulations would have no impact on housing costs.