



TOBY DOUGLAS
Director

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



EDMUND G. BROWN JR.
Governor

**NOTICE OF PROPOSED CHANGES TO THE TEXT OF EMERGENCY REGULATIONS
AND ADDITION OF DOCUMENTATION TO THE RULEMAKING FILE REGARDING
DRUG MEDI-CAL PROGRAM INTEGRITY
(Title 22) (DHCS-14-006E)**

Pursuant to Government Code Section 11346.8, notice is hereby given that the Department of Health Care Services (Department) is proposing changes to the text of the subject emergency regulations. A copy of the regulation text with the proposed changes clearly indicated is attached.

Pursuant to Government Code Section 11347.1, notice is hereby given that the Department is adding supporting documentation to the rulemaking file for the subject emergency regulations.

The Department is making the proposed changes and the added documentation available for review during a 15-day public comment period.

WRITTEN COMMENT PERIOD

Any interested person or his or her duly authorized representative may submit written comments to the Department. *Only the proposed changes to the emergency regulation text and supporting documentation added to the rulemaking file as described in this notice are subject to comment.*

Please label any comments as pertaining to Drug Medi-Cal Program Integrity, DHCS-14-006E and submit using any of the following methods:

Mail Delivery: Department of Health Care Services
Office of Regulations, MS 0015
P.O. Box 997413
Sacramento, CA 95899-7413

Hand Delivery: Department of Health Care Services
Office of Regulations
1501 Capitol Avenue, Suite 5084
Sacramento, CA 95814

FAX: (916) 440-5748

Email: regulations@dhcs.ca.gov

The Department will accept written comments from **December 26, 2014 through January 9, 2015**. Any written comments, regardless of the method of transmittal must be received by the Office of Regulations by **5:00 pm on January 9, 2015**, for consideration and response by the Department in the Final Statement of Reasons.

Written comments should include the author's contact information so the Department can provide notification of any further changes to the regulation proposal.

METHOD OF INDICATING CHANGES

The proposed changes to emergency regulations, currently in effect for Drug Medi-Cal Program Integrity (DHCS-14-006E), are shown by using double strikethrough for deletions (~~double strikethrough for deletions~~) and double underline for additions (double underline for additions.)

SUMMARY OF PROPOSED CHANGES – Subsection (h) – Paragraph (1)(A)(v)

The Department proposes amending Subsection (h) – Paragraph (1)(A)(v) in response to a comment pertaining to the recently approved California State Plan Amendment (SPA) 13-038, dated September 5, 2014. SPA 13-038 authorizes licensed practitioners of the healing arts to diagnose a beneficiary. The SUD Services Chart (Supplement 3 to Attachment 3.1-A, Page 6a and Supplement 3 to Attachment 3.1-B, Page 4a of SPA 13-038) indicates that in addition to a physician, a physician assistant, a nurse practitioner, a psychologist licensed by the California Board of Psychology, a clinical social worker licensed by California Board of Behavioral Sciences, a marriage and family therapist licensed by the California Board of Behavioral Sciences, and an intern registered with the California Board of Psychology or the California Board of Behavioral Sciences can also diagnose a beneficiary with a substance use disorder. (The definition of a therapist as specified under Subsection (b)(29) of the emergency regulations, includes a psychologist licensed by the California Board of Psychology, a clinical social worker licensed by the California Board of Behavioral Sciences, a marriage and family therapist licensed by the California Board of Behavioral Sciences and an intern registered with the California Board of Psychology or the California Board of Behavioral Sciences, who are all considered licensed practitioners of the healing arts.) Therefore, the following amendments are proposed:

The Department proposes amending Paragraph (1)(A)(v) to read “Diagnosis requirements,” which now includes Paragraphs (1)(A)(v)(a) and (b).

The Department proposes redesignating Paragraph (1)(A)(v) as Paragraph (1)(A)(v)(a) with no proposed changes to the regulation text.

The Department proposes adding Paragraph (1)(A)(v)(b) as an alternative to meeting the requirements specified in Paragraph (1)(A)(v)(a) above. This proposed amendment authorizes a therapist (as described above,) a physician assistant or a nurse practitioner to diagnose a beneficiary instead of a physician. Paragraph (1)(A)(v)(b) requires the individual performing the diagnosis to meet the same requirements as a physician in Paragraph (1)(A)(v)(a). However, the physician shall sign and date the beneficiary’s treatment plan, as required by Subsection (h)(2), which demonstrates approval of this diagnosis.

DOCUMENTATION ADDED TO THE RULEMAKING FILE

The Department is adding the following pages from the California State Plan Amendment 13-038 to the rulemaking file as documents relied upon:

- Supplement 3 to Attachment 3.1-A Page 6a and Supplement 3 to Attachment 3.1-B, Page 4a – SUD Services Chart – This chart contains information that is the basis for the proposed amendments described above. In addition, the column in the SUD Services Chart entitled, “Individual Counseling,” contains the text the Department relied on for the definition of “face-to-face,” which was in SPA 12-005. See Page 4 of the Initial Statement of Reasons for the definition of “face-to-face” (Subsection (b) – Paragraph 10.))
- Supplement 3 to Attachment 3.1-A, pages 5, 6 and Supplement 3 to Attachment 3.1-B, pages 3, 4 – These pages supersede the SPA 12-005 pages which were referred to on Page 8 of the Initial Statement of Reasons for the definition of “therapist” (Subsection (b) – Paragraph 29.))

The SPA 13-038 is available at:

http://www.dhcs.ca.gov/formsandpubs/laws/Documents/CA_SPA_13-038_Approved_Package_Redacted.pdf

These documents are also available for inspection at the Office of Regulations, at the address noted above, between the hours of 8:00am and 5:00pm.

CONTACT PERSONS

Inquiries regarding the proposed changes to the emergency regulations or the documentation added to the rulemaking file described in this notice may be directed to Tracie Walker of the Substance Use Disorder Prevention, Treatment and Recovery Services Division, Performance Management Branch at (916) 322-7012.

All other inquiries concerning the regulatory action described in this notice may be directed to Jasmin Delacruz of the Office of Regulations, at (916) 440-7688, or to the designated backup contact person, Lynette Cordell, at (916) 440-7695.

ASSISTIVE SERVICES

The Department can also provide assistive services such as the conversion of written materials into Braille, large print, audiocassette, or computer disk. To request these assistive services, please call (916) 440-7695 (or California Relay at 711 or 1-800-735-2929), email – regulations@dhcs.ca.gov, or write to the Office of Regulations at the address noted above.

AVAILABILITY OF MATERIAL REGARDING THE REGULATORY ACTION

Materials regarding the regulatory action described in this notice (including this public notice and the proposed changes to the emergency regulations) are posted to the Department’s Internet site at: <http://www.dhcs.ca.gov/formsandpubs/laws/Pages/DHCS-14-006E-DMCProgramIntegrity.aspx>