

## NOTICE OF PROPOSED RULEMAKING

**SUBJECT: Psychology Services, DHCS-19-001**

**NOTICE IS HEREBY GIVEN** that the Department of Health Care Services (Department) proposes to amend California Code of Regulations, title 22, section 51505.3 after considering all public comments, objections, and recommendations.

### WRITTEN COMMENT PERIOD

Any interested person or their duly authorized representative may submit written comments to the Department relevant to the regulatory action described in this notice.

Please label any comments as pertaining to **Psychology Services, DHCS-19-001** and submit them 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

Fax: (916) 440-5748

Email: [regulations@dhcs.ca.gov](mailto:regulations@dhcs.ca.gov)

The written comment period closes at **5:00 p.m. on May 1, 2024**. Any written comments, regardless of the method of transmittal, must be received by the Office of Regulations by **5:00 p.m.** on this date for consideration.

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

A public hearing has not been scheduled for this rulemaking. However, the Department will conduct a hearing if a written request for a public hearing is received from any interested person or their duly authorized representative, no later than 15 days prior to the close of the written comment period, pursuant to Government Code section 11346.8.

The Department shall consider all comments received regarding the proposal equally, whether submitted in writing or through oral testimony at a public hearing.

## AUTHORITY AND REFERENCE

These regulations are being proposed under the following authorities:  
Sections 10725, 14105.05 and 14124.5, Welfare and Institutions Code.

These regulations implement, interpret, or make specific the following:  
Sections 14105, 14105.05 and 14132, Welfare and Institutions Code; Statutes of 1982, Chapter 1594, Section 77; Statutes of 1983, Chapter 323, Section 149; Statutes of 1984, Chapter 258, Items 4260-106-001 and 890; Statutes of 1984, Chapter 268, Section 66; Statutes of 1985, Chapter 111, Items 4260-106-001 and 890; and Statutes of 2000, Chapter 52, Items 4260-101-0001 and 0890.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

### Background

The purpose of the 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. 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. set 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 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 the 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.

#### Consistency and Compatibility with Existing State Regulations

The Department has conducted an evaluation of the related existing state regulations under the California Code of Regulations, title 22, division 3 and has determined that the proposed regulations are consistent with and compatible with those regulations. An automated search of the California Code of Regulations, title 22, division 3 using the following keywords was conducted in Westlaw and yielded no conflicting state regulations: "psychology," "psychology services," "psychotherapy," "individual therapy," "group therapy," "family therapy," "psychodiagnostic," "psychodiagnostic services," "case conference," and "reimbursement rate."

#### Proposed Regulation Amendments

This regulatory proposal seeks to adopt the following amendments to section 51505.3 of the California Code of Regulations:

- Removes outdated reimbursement rates and procedure codes for psychology services.
- Directs providers to current reimbursement rates and procedure codes for psychology services.
- Updates psychology services benefits information.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

#### FISCAL IMPACT STATEMENT

- A. Costs to any Local Agency or School District that is required to be reimbursed under part 7 (commencing with section 17500), division 4 of the Government Code: None.

Costs to any Local Agency or School District that is not reimbursable by the State: None.

- B. Costs or Savings to any State Agency: None.

- C. Costs or Savings in Federal Funding to the State: None.

- D. Other Nondiscretionary Costs or Savings Including Revenue Changes Imposed on State or Local Agencies: None.

All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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.

#### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESSES

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.

#### RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (ANALYSIS)

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 businesses within the State of California.
3. The expansion of businesses currently doing business within the State of California.

#### IMPACT ON JOBS AND BUSINESSES

The 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 PROPOSED REGULATION

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.

#### 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.

#### HOUSING COSTS DETERMINATION

The Department has made the determination that the regulations would have no impact on housing costs.

#### CONSIDERATION OF ALTERNATIVES

The Department must determine 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 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.

#### ASSISTIVE SERVICES

For individuals with disabilities, the Department will provide assistive devices, including sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of training or meeting materials into braille, large print, audio, or electronic format. To request these services, copies in an alternative format or language services, all free of charge, please call or write:

Department of Health Care Services  
Office of Regulations MS 0015  
P.O. Box 997413  
Sacramento, CA 95899-7413  
Program Phone Number: (916) 440-7695  
Program Email: [www.regulations.ca.gov](http://www.regulations.ca.gov)

Please note that the range of assistive services available may be limited if requests are received less than ten working days prior to the meeting or event.

The Department shall provide, upon request from a person with a visual disability or other disability for which effective communication is required under state or federal law, a narrative description of the additions to, and deletions from, the California Code of Regulations or other publication in a manner that allows for accurate translation by reading software used by the visually impaired. Providing this description may require extending the period of public comment for the proposed action pursuant to Government Code section 11346.6.

### CONTACT PERSONS

Inquiries regarding the proposed regulations described in this notice may be directed to Jim Elliott of the Benefits Division at (916) 345-8242.

All other inquiries concerning the action described in this notice may be directed to Erika Drayton-Jebali of the Office of Regulations, at (916) 345-8404, or to the designated backup contact person, Jasmin Delacruz, at (916) 345-8418.

### AVAILABILITY OF TEXT OF REGULATIONS AND STATEMENT OF REASONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file). In addition, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations.

The full text of any regulation which is changed or modified from the express terms of this proposed action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

Materials regarding the regulatory action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) are posted to the Department's Internet site at:

<http://www.dhcs.ca.gov/formsandpubs/laws/Pages/ProposedRegulations.aspx>.

In order to request a copy of this public notice, the regulation text, and the initial statement of reasons be mailed to you, please call (916) 440-7695 (or California Relay at 711), email [regulations@dhcs.ca.gov](mailto:regulations@dhcs.ca.gov), or write to the Office of Regulations at the address noted above.