

## **EXPLANATION FOR CHANGES WITHOUT REGULATORY EFFECT**

The Department of Health Care Services (Department) proposes changes without regulatory effect that would amend each “Note” under §§ 1840.205 and 1850.325 of Title 9, California Code of Regulations (CCR).

The proposed changes are without regulatory effect because the changes would not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provisions.

The proposed amendments, as discussed in further detail below are pursuant to Title 1, CCR § 100(a)(5), changing “authority” or “reference” citations.

### Background

California’s Medicaid Program, established under Title XIX of the Social Security Act includes the provision of mental health services in California. On July 1, 2012, the California Legislature transferred the responsibilities and duties to administer and oversee the provision of mental health services and programs from the former Department of Mental Health (DMH) to the Department pursuant to Welfare and Institutions (W&I) Code § 14700. As part of its administrative duties in the provision of mental health services, the Department must provide a dispute resolution/appeal process to address any State actions that impact the due process afforded an individual, entity or organization providing Medi-Cal services or to an individual receiving Medi-Cal services. This is accomplished through dispute resolution processes and appeals provided by the Department or the mental health plans (MHPs) with which the Department contracts for the provision or arrangement of mental health services.

The proposed non-substantive amendments are as follows:

### § 1840.205:

W&I Code § 14700 is included as an “Authority” under the “Note.” Assembly Bill 102 (Stats. of 2011, c. 29, § 20, effective June 29, 2011) transferred the DMH Medi-Cal specialty mental health managed care, the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program, and applicable functions, to the Department.

Additionally, W&I Code § 5778 is removed as a “Reference” and W&I Code § 14718 is included as a “Reference.” Due to the enactment of Senate Bill 1009 (Stats.2012, c. 34, § 179, eff. June 27, 2012), § 5778 was renumbered to § 14718 and (although many amendments were made to this statute only subsection (b)(1) applies here) subsection (b)(1) was amended to eliminate the reference to the “initial phases of implementation of the part” because the Short Doyle claims procedures are in place so that claims are no longer submitted on a “fee-for-service” basis. This statute also requires the mental health plans to submit claims pursuant to procedures in the Medi-Cal State Plan in addition to the Specialty Mental Health Waiver. § 14718 is now the statute that is implemented, interpreted, or made specific under § 1840.205. Under W&I Code § 14704, the Department is permitted to continue to enforce regulations that were promulgated by the former Department of Mental Health. Replacing § 5778 with the

renumbered § 14718 updates the “Reference” citation to permit the Department to continue enforcing this regulation that is necessary in order for a county to receive federal reimbursement for the services for which it paid.

§ 1850.325:

W&I Code § 14700 is included as an “Authority” under the “Note.” Assembly Bill 102 (Stats. of 2011, c. 29, § 20, effective June 29, 2011) transferred the DMH Medi-Cal specialty mental health managed care, the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program, and applicable functions, to the Department.

W&I Code § 14718 is also included as an “Authority” under the “Note.” § 14718(b)(4)(C) specifically provides that the Department shall develop regulations as necessary to implement Subsection (b)(4) related to the provision of an MHP appeal process.

W&I Code § 14718, is included as a “Reference” under the “Note.” § 14718 is the statute that is implemented, interpreted, or made specific under § 1850.325. Specifically, § 14718(b)(4)(A) requires the Department to provide an appeals process, if necessary, to resolve disputes about claims of payment for Medi-Cal services and recoupment of funds for overpayments. This statute expressly requires the Department to “provide an appeals process that specifies a progressive process for resolution of disputes about claims or recoupments relating to specialty mental health services under the Medi-Cal specialty mental health services waiver.” The appeal process that the Department uses for denied claims appeals is provided in § 1850.325 and therefore meets the statutory requirements of § 14718.