

Explanation of Changes Without Regulatory Effect

Background

Medi-Cal, California's Medicaid Program, is administered by the Department of Health Care Services (Department). The Medi-Cal program provides comprehensive health care services including medical, dental, mental health, substance use disorder, and long-term care for low-income individuals including families with children, pregnant women, seniors, persons with disabilities, and children in foster care.

Welfare and Institutions Code (WIC) 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 purpose and intent of the laws enforced by the Department. Specifically, WIC, Chapter 7, Basic Health Care, Section 14000 states the purpose of this chapter is to afford qualifying individuals health care services. The uniform schedule of health care benefits under Medi-Cal is described under WIC Section 14131, et seq., including midwifery services that are specified under WIC Section 14132.39.

Summary/Purpose

Amendments, as proposed, are generally pursuant to the enactment of Assembly Bill 1308 (Bonilla, Chapter 665, Statutes of 2013) that amended Business and Professions Code (BPC) Section 2507 and Section 2508. The requirement that the practice of midwifery be under the supervision of a licensed physician and surgeon was removed from BPC Section 2507. Furthermore, Section 2508 was amended to include a requirement that a licensed midwife disclose to a prospective client that the client is retaining a licensed midwife, not a certified nurse midwife, and that the licensed midwife is not supervised by a physician and surgeon. These changes in statute make existing regulations – specifically California Code of Regulations, title 22, section 51255 and section 51356 pertaining to the supervision of licensed midwives inconsistent with current statute.

Proposed Amendments

The proposed amendments without regulatory effect, as discussed in further detail below, are pursuant to the following:

- California Code of Regulations, title 1, Section 100 (a)(4) [Hereafter, Cal. Code of Regs., tit. 1, § 100(a)(4)] allows for revising structure, syntax, cross-reference, grammar, or punctuation;
- California Code of Regulations, title 1, Section 100(a)(5) [Hereafter, Cal. Code of Regs., tit. 1, § 100(a)(5)] allows for changing “authority” or “reference” citations; and
- California Code of Regulations, title 1, Section 100(a)(6) [Hereafter, Cal. Code of Regs., tit. 1, § 100(a)(6)] allows for making a regulatory provision consistent with a changed California statute, if both of the following conditions are met:
(A) the regulatory provision is inconsistent with and superseded by a changed

- statute; and
- (B) the adopting agency has no discretion to adopt a change which differs in substance from the one chosen.

These proposed amendments related to the provision of licensed midwife services under Medi-Cal, are changes without regulatory effect, because these amendments would not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provisions.

Amendments to section 51255:

- Deleting section 51255(c) and (d) to remove language that requires supervision of a licensed midwife by a licensed physician and surgeon. These amendments are necessary to be consistent with BPC Section 2507 and Section 2508 that no longer require the supervision of a licensed midwife by a licensed physician and surgeon [pursuant to Cal. Code of Regs., tit. 1, § 100(a)(6)].

Amendments to section 51356:

- Deleting from section 51356(a), the phrase “supervised by a licensed physician and surgeon.” This amendment is necessary to be consistent with BPC Section 2507 and Section 2508 that no longer require the supervision of a licensed midwife by a licensed physician and surgeon [pursuant to Cal. Code of Regs., tit. 1, § 100(a)(6)].
- Deleting from section 51356(b), the phrases “the supervising” and “as described in Section 51255.” These amendments are necessary to be consistent with BPC Section 2507 and Section 2508 that no longer require the supervision of a licensed midwife by a licensed physician and surgeon [pursuant to Cal. Code of Regs., tit. 1, § 100(a)(6)].
- Adding to section 51356(b), the word “a” for proper sentence structure, grammar, and syntax [pursuant to Cal. Code of Regs., tit. 1, § 100(a)(4)].
- Deleting section 51356(c) that refers to the supervision of a licensed midwife by a licensed physician and surgeon. This is necessary to be consistent with BPC Section 2507 and Section 2508 that no longer require the supervision of a licensed midwife by a licensed physician and surgeon [pursuant to Cal. Code of Regs., tit. 1, § 100(a)(6)].
- Re-designating subsections (d) and (e) under section 51356 to subsections (c) and (d) as a result of the proposed removal of subsection (c) [pursuant to Cal. Code of Regs., tit. 1, § 100(a)(4)].

Amendments to Authority and Reference Citations:

- Health and Safety Code (HSC), Section 20 is added as an authority to Sections 51255 and 51356. As a result of the California Public Health Act of 2006 (SB 162, Ch. 241, Statutes of 2006), the Department adopts, as an authority, HSC, Section 20. Including Section 20 as an authority citation clearly acknowledges the renaming of the Department of Health Services, showing the Department of Health Care Services existed as the Department of Health Services, and acknowledges the authority of the Department to adopt, amend, or repeal regulations [pursuant to Cal. Code of Regs., tit. 1, § 100(a)(5)].

- WIC Section 10725 is added as an authority to Sections 51255 and 51356. This section grants the Director of the Department the authority to adopt, amend, or repeal regulations, as necessary and proper, to carry out the purpose and intent of the laws enforced by the Department [pursuant to Cal. Code of Regs., tit. 1, § 100(a)(5)].