

## **Explanation of Changes Without Regulatory Effect**

The Department of Health Care Services (DHCS) proposes amending California Code of Regulations, title 22, section 51490.1 to achieve consistency with Welfare and Institutions Code (WIC) Section 14021.6(g). DHCS proposes making the amendment as a change without regulatory effect, as the proposed change does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Specifically, California Code of Regulations, title 1, section 100(a)(6), permits changes that make “a regulatory provision consistent with a changed California statute if both” the provision being changed is inconsistent with and superseded by a changed statute, and the agency seeking the change “has no discretion to adopt a change that differs in substance from the one chosen.” This proposal is consistent with both requirements.

### **Background**

DHCS administers California’s Medi-Cal program, in accordance with Title XIX of the Social Security Act. Medi-Cal pays for health care services for low-income individuals including families, children, pregnant women, seniors, and persons with disabilities. The Drug Medi-Cal (DMC) Program provides substance use disorder services to eligible beneficiaries.

California Code of Regulations, title 22, section 51490.1 specifies claims submission requirements for county and provider reimbursement for DMC substance use disorder services. Subsection (a) states that “Claims from counties and providers for reimbursement... shall be presented to the Department no later than thirty (30) calendar days after the month of service, unless the county or provider has good cause, as specified in Sections 51008 and 51008.5.”

Assembly Bill (AB) 395 (Bocanegra, Chapter 223, Statutes of 2017) amended WIC Section 14021.6, by adding subdivision (g), which increases a DMC claims submission deadline to “no later than six months from the date of service.” The intent of the statutory change is to extend the timeframe for counties and providers to submit DMC claims for reimbursement. This change would be consistent with the existing state law under the Medi-Cal program, which requires bills for (other) services to be submitted not more than six months after the month in which the service is rendered and allows for an extension of up to one year after the service is rendered, under specified circumstances. The intent to extend the submission deadline is further reinforced by the arguments in support of AB 395 which states, “Supporters further argue that current regulations related to DMC claim submissions have been administratively burdensome to providers and counties, and by expanding the timeframe for submitting claims is more consistent with current Medi-Cal requirements.” (Please see Office of Senate Floor Analyses dated 7/14/17)

As a result, California Code of Regulations, title 22, section 51490.1(a) and WIC Section 14021.6(g) each provide different DMC claims submission deadlines (“no later than

thirty [30] calendar days after the month of service” and “no later than six months from the date of service,” respectively).

### **Proposed Amendment**

To correct this inconsistency, DHCS proposes amending California Code of Regulations, title 22, section 51490.1(a) by deleting the stated DMC claims submission deadline of no later than “thirty (30) calendar days after the month of service” and replacing it with no later than “six (6) months from the date of service.”

Adherence to California Code of Regulations, title 1, section 100(a)(6) requirements  
The amendment would “make a regulatory provision consistent with a changed California statute” and meet both of the stated conditions:

- In regard to California Code of Regulations, title 1, section 100(a)(6)(A), the regulatory provision (California Code of Regulations, title 22, section 51490.1(a)) is inconsistent with and superseded by the changed statute (WIC Section 14021.6(g)).
- In regard to California Code of Regulations, title 1, section 100(a)(6)(B), WIC Section 14021.6(g) does not provide DHCS with discretion to adopt a change which differs in substance from the one chosen.

This proposed amendment is a change without regulatory effect because amending the DMC claims submission deadline in California Code of Regulations, title 22, section 51490.1(a) to be consistent with WIC Section 14021.6(g) does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.