

FINDING OF EMERGENCY

This regulatory action amends Title 22, California Code of Regulations (CCR), Section 51516.1, by updating Drug Medi-Cal (DMC) reimbursement rates for substance abuse services for fiscal year (FY) 2011-2012, in accordance with Welfare and Institutions Code (WIC) Sections 14021.5, 14021.6, 14021.9, and 14105, and Health and Safety Code (HSC) Sections 11758.42 and 11758.46.

Pursuant to WIC Section 14021.5, the Department of Health Care Services (Department) shall promulgate emergency regulations to establish rates to determine reimbursement of substance abuse services allowable under the Medi-Cal Program. WIC Section 14105 states that the Department shall adopt Medi-Cal rate regulations on an emergency basis and that the adoption of such regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. The deeming of the regulations as an emergency by the Legislature implies the need for immediate action to effectuate the statutes being implemented through this action. WIC Section 14021.6 states that the Department may adopt Medi-Cal rate regulations on an emergency basis.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This regulatory action amends Title 22, CCR, Section 51516.1, by updating Medi-Cal reimbursement rates for substance abuse DMC services for FY 2011-2012. This action implements, interprets, and makes specific the provisions of WIC Sections 14021.5, 14021.6, 14021.9, and 14105, and HSC Sections 11758.42 and 11758.46. These provisions require the Department of Alcohol and Drug Programs (ADP) in consultation with the Department, to establish rates for DMC, and establish a per capita uniform statewide reimbursement (USR) rate for ancillary services.

Assembly Bill 106 (Chapter 32, Statutes of 2011) transferred California's DMC program from ADP to the Department, effective July 1, 2012.

This regulatory action benefits DMC service providers through the provision of the recent (2011/2012 FY) reimbursement rates, which in turn facilitates the continued delivery of these vital services. These regulations not only meet the goals of the authorizing statutes, as specified above, but the 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.

The Department has conducted an evaluation of the related existing state regulations in CCR, Title 22, Division 3 and Title 9, Division 4 and has determined that the regulations are consistent and compatible with those regulations.

This regulatory action is necessary to implement WIC Sections 14021.5, 14021.6, and 14021.9; and HSC Sections 11758.42 and 11758.46, as specified below.

- WIC Section 14021.5(e) specifies that rates for DMC services shall be effective July 1 through June 30 of the fiscal year in which the rates are established.
- WIC Section 14021.6 and HSC Section 11758.42 specify how rates for DMC services shall be determined.
- WIC Section 14105(a) authorizes adoption of regulations to set rates for Medi-Cal services on an emergency basis.
- HSC Section 11758.42 requires ADP to establish rates for the use of the narcotic replacement drugs Methadone and LAAM.
- HSC Sections 11758.46(a) and (b) specify DMC services that are reimbursable through the Medi-Cal program.
- WIC Section 14021.9(b) states that for FY 2010-2011 and each fiscal year thereafter, rates for DMC services shall be the lower of the following:
 1. The rates developed by ADP under its normal rate-setting methodologies; or
 2. The rates applicable in FY 2009-2010 pursuant to subdivision (a), adjusted for the cumulative growth in the Implicit Price Deflator for the Costs of Goods and Services to Governmental Agencies, as reported by the Department of Finance.

Proposed changes to CCR, Title 22, Section 51516.1 include the following:

Section 51516.1(a)(3):

- Revisions to this subsection will add the statewide maximum allowances (SMAs) for DMC substance abuse program services for FY 2011-2012. The specific methodology used to calculate DMC SMAs are described in the document entitled “Drug Medi-Cal Rate Setting Methodology for Non-Narcotic Treatment Programs for Fiscal Year 2011-2012.” This document is included in the rulemaking file, which is maintained by the Department’s Office of Regulations.

Section 51516.1(g):

- Revisions to this subsection will add the USR rates for narcotic treatment program services for FY 2011-2012. The specific methodology used to calculate narcotic treatment USR rates is described in the document entitled “Narcotic Treatment Program – Uniform Statewide Reimbursement Rates and Methodology, FY 2011-2012.” This document is included in the rulemaking file, which is maintained by the Department’s Office of Regulations.

AUTHORITY: Sections 10725, 14021.5, 14021.6, 14105 and 14124.5, Welfare and Institutions Code; and Sections 20 and 11758.42, Health and Safety Code.

REFERENCE: Sections 5705, 14021.5, 14021.6, 14021.9 and 14132.90, Welfare and Institutions Code; and Sections 11758.42 and 11758.46, Health and Safety Code.

FISCAL IMPACT ESTIMATE

(a) Fiscal Effect on Local Government:

Expenditures for the Drug Medi-Cal Treatment Program reimbursement are funded by 2011 Realignment (Chapter 40, Statutes of 2011). The DMC program is partially

funded by Local Realignment Funds (LRF). The LRF impact of the rate is an additional expenditure of \$3,844,826 in FY 2011-12.

(b) Fiscal Effect on State Government: None.

(c) Fiscal Effect on Federal Funding of State Programs:

The Federal Financial Participation (FFP) impact of the rate is an additional expenditure of \$3,386,875 in FY 2011-2012.

(d) All cost impacts, known to the Department at the time the notice of proposed action is 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.

(e) Other Nondiscretionary Costs or Savings including Revenue Changes imposed on State or Local Governments: None.

DETERMINATIONS

The Department has determined that the regulations will not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Government Code, Division 4, Part 7 (commencing with Section 17500).

The Department has made an initial determination that the 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.

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

Medi-Cal is a voluntary program for both service providers and beneficiaries. These regulations affect Medi-Cal providers and beneficiaries who are offered substance abuse services through Medi-Cal.

The Department has determined that the regulations would not affect worker safety or the state's environment. However, the regulations will benefit the health and welfare of California residents by maintaining the continuity of the Medi-Cal Program through the provision of quality health care services, including the delivery of substance abuse services. These 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.

This regulatory action will benefit DMC service providers through the provision of the recent (FY 2011/2012) reimbursement rates for these services, which in turn facilitates the delivery of these vital services to beneficiaries.

The Department has determined that the regulations would only affect small businesses that voluntarily provide DMC services.

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