

FINDING OF EMERGENCY

This regulatory action adopts rates, for facilities providing long-term care, that the Department of Health Care Services (Department) established for the rate years 2004-05, 2005-06 and 2006-07 pursuant to funding in the Budget Acts of 2004-05, Items 4260-101-0001 and 4260-101-0890 (Ch. 208, Stats. 2004); 2005-06, Items 4260-101-0001 and 4260-101-0890 (Ch. 38, Stats. 2005); and 2006-07, Items 4260-101-0001 and 4260-101-0890 (Ch. 48, Stats. 2006). These regulations must be adopted as an emergency and will provide for the official regulatory publication of these rates for which facilities have received funding.

Welfare and Institutions (W&I) Code Section 14105, subdivision (a), provides as follows:

The director shall prescribe the policies to be followed in the administration of this chapter, may limit the rates of payment for health care services, and shall adopt any rules and regulations as are necessary for carrying out, but are not inconsistent with, the provisions thereof.

The policies and regulations shall include rates for payment for services not rendered under a contract pursuant to Chapter 8 (commencing with Section 14200). In order to implement expeditiously the budgeting decisions of the Legislature, the director shall, to the extent permitted by federal law, adopt regulations setting rates that reflect these budgeting decisions within one month after the enactment of the Budget Act and of any other appropriation that changes the level of funding for Medi-Cal services. With the written approval of the Department of Finance, the director shall adopt the regulations as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 commencing with Section 11340, Part 1, Division 3, Title 2 of the Government Code). For purposes of that Act, the adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare.

Pursuant to W&I Code Section 14105, the adoption of these regulatory changes is “deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare.”

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

W&I Code Section 14105 requires the Department to adopt regulations establishing reimbursement rates for Medi-Cal providers of health care services and mandates for the emergency adoption of regulations for these changes in response to legislative budgeting decisions.

This regulatory action amends the California Code of Regulations (CCR), Title 22 to reflect reimbursement rates established by the Department for specific types of facilities providing long-term care services to Medi-Cal beneficiaries. The rate years are August 1, through July 31 of 2004-05, 2005-06 and 2006-07. In the Budget Acts of 2004-05, Items 4260-101-0001 and 4260-101-0890 (Ch. 208, Stats. 2004); 2005-06, Items 4260-101-0001 and 4260-101-0890 (Ch. 38, Stats. 2005); and 2006-07, Items 4260-101-0001 and 4260-101-0890 (Ch. 48, Stats. 2006), the Legislature appropriated funding to pay these rates. The reimbursement rates established through this regulatory action include the Quality Assurance Fee (QAF), pursuant to Health and Safety (H&S) Code Section 1324.21.

Anticipated Benefits or Goals of the Regulations

This regulatory proposal supports the intent of the initiating legislation as specified under W&I Code Section 14000, which states the purpose of Chapter 7, Basic Health Care is to afford qualifying individuals (such as the aged or disabled) employment of health care services in a manner equitable to the general public and without duplication of benefits available under other federal or state laws.

Within Chapter 7, Section 14105 specifies that the Director shall prescribe policies and regulations for the administration of the chapter, which includes the establishment of rates for payment of health care services.

The amendments proposed through this regulatory action will address the matter of establishing reimbursements rates for specific types of facilities providing long-term care services to Medi-Cal beneficiaries. These amendments will directly benefit these Medi-Cal providers through the update of their specific rates of reimbursement, which facilitates the delivery of these vital long-term care services to beneficiaries. In addition to meeting the goals of the authorizing statutes as described above, 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.

Consistency and Compatibility with Existing State Regulations

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

Regulatory Sections

The proposed changes affect the following CCR sections: 51510, 51510.1, 51510.2, 51510.3, 51511, 51511.5, 51511.6, 51535, 51535.1, and 54501. In

addition to the changes in reimbursement rates this regulatory action will also accomplish the following:

- Make non-substantial changes in formatting and language structure.
- Specify the fiscal period for audit report findings.
- State audit disallowance factors per rate year.

AUTHORITY: Sections 20, 1267.7 and 1275.3 Health and Safety Code; and Sections 10725, 14105, 14108, 14108.1, 14108.2, 14109.5, 14110.6, 14110.7, 14124.5, 14125.5 and 14570, Welfare and Institutions Code.

REFERENCE: Sections 14087.3, 14105, 14105.47, 14105.981, 14108, 14108.1, 14108.2, 14109.5, 14110.1, 14110.4, 14110.6, 14110.7, 14123, 14132.22, 14132.25, 14171 and 14571, Welfare and Institutions Code; Sections 1250, 1267.7, 1275.3, 1324, 1324.2, 1324.4, 1324.6, 1324.8, 1324.10, 1324.12 and 1324.14 Health and Safety Code; Statutes of 2004, Chapter 208, Items 4260-101-0001 and 4260-101-0890; Statutes of 2005, Chapters 38, Items 4260-101-0001 and 4260-101-0890; and Statutes of 2006, Chapters 48, Items 4260-101-0001 and 4260-101-0890; and the Settlement Agreement in *California Association for Adult Day Services v. Department of Health Services*, January 12, 1994, San Francisco County Superior Court (Case Number 944047).

FISCAL IMPACT ESTIMATE:

- (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
- (b) Costs or Savings to any State Agency: The costs for the General Fund (Dollars in Thousands): FY 2004-05, \$119,133; FY 2005-06, \$61,884; and FY 2006-07, \$34,195. These costs were appropriated for and paid in their respective rate years and are included in the ongoing Medi-Cal base expenditures for Long-Term Care rates.
- (c) Costs or Savings in Federal Funding to the State: The costs for federal funding to the state via matching funds: FY 2004-05, \$119,133; FY 2005-06, \$61,884; and FY 2006-07, \$34,195.
- (d) Other Nondiscretionary Costs or Savings including Revenue Changes Imposed on State or Local Governments: 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.

DETERMINATIONS:

A. LOCAL MANDATE DETERMINATION

The Department has determined that the emergency 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.

B. ECONOMIC IMPACT STATEMENT

The Department has made an initial determination that the emergency 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 emergency 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.

This determination is made on the basis that the regulations reflect rate changes based upon reported costs that are prospectively updated for economic indicators and adjusted for audit results.

Medi-Cal is a voluntary program for both service providers and beneficiaries. These emergency regulations will affect only those long-term care facilities that choose to participate in the Medi-Cal program.

The Department has determined that the emergency regulations will not affect worker safety or the state's environment. However, the emergency regulations will benefit the health and welfare of California residents by maintaining the continuity of the Medi-Cal program through the provision of comprehensive health care services at low cost for low-income individuals such as families with children, seniors, persons with disabilities, children in foster care and pregnant women, including the delivery of long-term care services.

This emergency regulatory action will benefit long-term care Medi-Cal service providers through the provision of the reimbursement rates established in the

Budget Acts of 2004-05, Items 4260-101-0001 and 4260-101-0890 (Ch. 208, Stats. 2004); 2005-06, Items 4260-101-0001 and 4260-101-0890 (Ch. 38, Stats. 2005); and 2006-07, Items 4260-101-0001 and 4260-101-0890 (Ch. 48, Stats. 2006) for these services, which in turn facilitates the delivery of these vital services to beneficiaries.

C. EFFECT ON SMALL BUSINESSES

The Department has determined that the emergency regulations would only affect small businesses that voluntarily provide long-term care services to Medi-Cal beneficiaries. The regulations do not impose any additional reporting, recordkeeping, or other compliance requirements on small businesses.

D. HOUSING COSTS DETERMINATION

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