

## **INITIAL STATEMENT OF REASONS**

This regulatory action amends Title 22, California Code of Regulations (CCR), Section 51516.1, by updating Medi-Cal reimbursement rates for Drug Medi-Cal (DMC) substance use disorder services for Fiscal Year (FY) 2013-2014, in accordance with the Welfare and Institutions Code (WIC) Sections 14021.5, 14021.51, 14021.6, 14021.9, 14105, and 14124.24.

Assembly Bill 106 (Chapter 32, Statutes of 2011) transferred California's DMC substance use disorder program from the Department of Alcohol and Drug Programs (ADP) to the Department of Health Care Services (Department), effective July 1, 2012. Senate Bill 1014 (Chapter 36, Statutes of 2012) facilitated the transfer by providing the statutory authority necessary for the Department to administer the program.

### **Statement of Necessity**

This regulatory action is necessary to implement WIC Sections 14021.5, 14021.51, 14021.6, 14021.9, and 14124.24. WIC Section 14021.5(e) specifies that rates for DMC substance use disorder services shall be effective July 1 through June 30 of the fiscal year in which the rates are established. WIC Sections 14021.51 and 14021.6 specify how rates for DMC substance use disorder services shall be determined. WIC Section 14021.51 requires the Department to establish rates for the use of the narcotic replacement drugs Methadone and LAAM. Beginning with FY 2006-2007, ADP discontinued establishing the LAAM reimbursement rate because of reported adverse health effects, which eliminated the distribution of LAAM within the United States. WIC Section 14124.24 specifies DMC substance use disorder services that are reimbursable through the Medi-Cal program. WIC Section 14021.9(c) requires that starting with FY 2013-2014, the DMC substance use disorder services rates shall be the lower of the following:

1. The rates developed pursuant to WIC Sections 14021.35, 14021.51 and 14021.6; or
2. The rates applicable in FY 2009-2010, pursuant to WIC Section 14021.9(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.

### **Anticipated Benefits and Goals of the Regulations**

This regulatory action benefits DMC substance use disorder service providers through the provision of the recent (FY 2013-2014) reimbursement rates, which in turn facilitates the continued delivery of these services. This regulation not only meets the goals of the authorizing statutes, as specified above but also ensures 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.

Specific changes and the necessity for those changes are described below:

Section 51516.1(a)(3)

Revised to add the statewide maximum allowances (SMAs) for DMC substance use disorder services for FY 2013-2014. The Department has established these rates in accordance with WIC Sections 14021.6 and 14021.9 and with the Budget Act of 2013 (Assembly Bill 110, Chapter 20, Statutes of 2013), Item 4260-101-0890. The Department has based the SMAs on the median rates from the most recently completed cost data for each modality as reported by county-operated and county-contracted substance use disorder service providers.

In the FY 2013-2014 SMAs, the table was revised to show that the Day Care Rehabilitative (DCR) service name ends December 1, 2013 and the Intensive Outpatient Treatment service name replaces it starting January 1, 2014. As part of the Affordable Care Act (ACA) and starting January 2014, the DCR service is being renamed to Intensive Outpatient Treatment and will be made available to more than Early and Periodic Screening, Diagnostic, and Treatment beneficiaries, and pregnant and postpartum women who could receive that service before January 2014. The Intensive Outpatient Treatment will use the current DCR SMAs.

The specific methodology used to calculate DMC substance use disorder service SMAs is described in the document entitled “Drug Medi-Cal Rate Setting Methodology for Non-Narcotic Treatment Programs for Fiscal Year 2013-2014.” This document is included in the rulemaking file, which is maintained by the Department’s Office of Regulations.

Section 51516.1(c)

- A non-substantive change for grammar was made and a revision was included to clarify that this section only applies to the Narcotic Treatment Program daily dosing service, which is consistent with WIC Section 14021.51 that specifies the uniform statewide daily reimbursement rate.

Section 51516.1(d)

- Existing Subsection (d) was redesignated to (e) and amended to clarify that this subsection only applies to the Narcotic Treatment Program daily dosing service, which is consistent with WIC Section 14021.51 that specifies the uniform statewide daily reimbursement rate.

Section 51516.1(e)

- Existing Subsection (e) was redesignated to (h) and revised to indicate this only applies to the narcotic treatment program daily dosing service, which is consistent with WIC Section 14021.51.

Section 51516.1(f)

- Existing Subsection (f) was redesignated to (d) and amended to clarify that this subsection only applies to the Narcotic Treatment Program daily dosing service,

which is consistent with WIC Section 14021.51 that specifies the uniform statewide daily reimbursement rate.

- The “Counseling services” text contained in former Subsection (f)(C)(2) was deleted. The cost of counseling services is not a component cost of building the USR rate for the NTP daily dosing service.
- The sentence structure under new Subsection (d) was amended to provide parallel construction with paragraph redesignations.
- A new Subsection (f) is proposed to specify that the USR rate for the narcotic treatment program Individual Counseling service shall be based on the Outpatient Drug Free Individual Counseling service SMA and is billable in 10 minute increments as specified in USR rate charts and new Subsection (j)(2). Subsection (f) is proposed to clarify the methodology, as established in the document entitled “Drug Medi-Cal Narcotic Treatment Program, Uniform Statewide Monthly Reimbursement Rates and Methodology, Fiscal Year 1997-1998” (pages 8-9), for determining the narcotic treatment program Individual Counseling service, which is consistent with WIC Section 14021.51.

#### Section 51516.1(g)

- Existing Subsection (g) has been redesignated to (i).
- New Subsections (f) and (g) were added to indicate that the NTP counseling rates are built from the Outpatient Drug Free counseling rates.
- A new Subsection (g) is proposed to specify that the USR rate for the narcotic treatment program Group Counseling service shall be based on the Outpatient Drug Free Group Counseling service SMA and is billable in 10 minute increments as specified in USR rate charts and new Subsection (j)(2). Subsection (g) is proposed to clarify the methodology, as established in the document entitled “Drug Medi-Cal Narcotic Treatment Program, Uniform Statewide Monthly Reimbursement Rates and Methodology, Fiscal Year 1997-1998” (pages 8-9), for determining the narcotic treatment program Individual Counseling service, which is consistent with WIC Section 14021.51.

#### Section 51516.1(h)

- Existing Subsection (h) has been redesignated to (j) and amended to include cross-references to CCR sections that specify requirements related to counseling services for narcotic treatment programs. The cross-reference to Section 51341.1(b)(11) and/or (12) is in subsection (j) only because subsection (j) applies to the provisions under existing paragraphs (1) and (2), so this cross-reference is only needed under subsection (j) and is removed from paragraphs (1) and (2).
- Existing Subsection (h)(1) has been redesignated to (j)(1) and is proposed to be amended for clarity and for the reasons specified in newly redesignated subsection (j) above.
- Existing Subsection (h)(2), which has been redesignated to (j)(2), is proposed to be amended for the reasons specified in newly redesignated subsection (j) above.

- A new Subsection (j)(3) is proposed to specify that on or after January 1, 2014, a provider can be reimbursed for counseling, both individual and/or group, beyond the maximum 200 minutes of counseling per calendar month, per beneficiary, if the additional counseling is deemed medically necessary in accordance with Section 51341.1. This subsection is consistent with the State Plan Amendment 13-038 approved by the Centers for Medicare & Medicaid Services, effective January 1, 2014. The availability of additional counseling services is also anticipated to improve the effectiveness of the counseling sessions.
- Existing Subsection (h)(3) has been redesignated to (j)(4).

#### Section 51516.1(i)

- Is former Subsection (g).
- Revised to include the USR rates for narcotic treatment program services for FY 2013-2014. The Department established these rates based upon criteria specified in WIC Sections 14021.51 and 14021.9(c), and with the FY 2013-2014 Budget Act (Assembly Bill 110, Chapter 20, Statutes of 2013, Item 4260-101-0890).
- The specific methodology used to calculate these rates is described in the document entitled “Drug Medi-Cal - Narcotic Treatment Program – Uniform Statewide Reimbursement Rates and Methodology, Fiscal Year (FY) 2013-2014.” This document is included in the rulemaking file, which is maintained by the Department’s Office of Regulations.

#### BIBLIOGRAPHY

1. Drug Medi-Cal Rate Setting Methodology for Non-Narcotic Treatment Programs for Fiscal Year 2013-2014.
2. Drug Medi-Cal - Narcotic Treatment Program - Uniform Statewide Reimbursement Rates and Methodology, Fiscal Year (FY) 2013-2014.
3. Drug Medi-Cal Narcotic Treatment Program, Uniform Statewide Monthly Reimbursement Rates and Methodology, Fiscal Year 1997-1998 (pages 8-9).
4. State Plan Amendment 13-038 approved by the Centers for Medicare & Medicaid Services [Supplement 4 to Attachment 3.1A and Attachment 3.1B, effective January 1, 2014] accessible at: <http://www.dhcs.ca.gov/formsandpubs/laws/Pages/13-038.aspx>

## **STATEMENTS OF DETERMINATION**

### **ALTERNATIVES CONSIDERED**

The Department has determined that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which this regulatory action was taken, would be as effective and less burdensome to affected private persons than the regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Department is required, pursuant to WIC Section 14021.5, to establish reimbursement rates for substance use disorder services under the Medi-Cal Program. Including these reimbursement rates in regulation is not only necessary for statutory compliance, but it provides DMC service providers with convenient access to these rates of reimbursement.

### **LOCAL MANDATE DETERMINATION**

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).

### **ECONOMIC IMPACT STATEMENT**

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. Of the fourteen Medi-Cal reimbursement rates for DMC substance use disorder services for FY 2013-2014, eight are higher than the rates for the prior fiscal year. Therefore, DMC substance use disorder service providers will benefit from the increase in payment.

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.

### **Impact on Jobs and Businesses**

These regulations affect DMC substance use disorder service providers and beneficiaries who receive these services through Medi-Cal. These providers will benefit from the increased rates for FY 2013-2014. However, it is not anticipated that this rate increase would have an impact on the creation or elimination of jobs, the creation of

new business, the elimination of existing business or the expansion of businesses in California.

### Benefits of the Regulations

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 substance use disorder services in the DMC Program and implementing the FY 2013-2014 reimbursement rates for these services. Furthermore, 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.

### EFFECT ON SMALL BUSINESSES

The Department has determined that the regulations would only affect small businesses that voluntarily provide Drug Medi-Cal services.

### HOUSING COSTS DETERMINATION

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