

**15-Day Public Comment Period  
List of Commenters**

**Commenter #1 (submitted 6-19-19)**

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**Section 10270(d)(2)****Comment #15A**

However, we are concerned about a proposed modification that would maintain the requirement that patients have a confirmed history of two or more unsuccessful attempts at short-term detoxification or drug-free treatment before accessing maintenance treatment for individuals under the age of 18 years. For the reasons outlined below, we oppose this provision.

As detailed in our previous comments, we strongly support the much-needed changes proposed to Section 10270 that would remove patient selection criteria requirements that are incompatible with evidence-based practices regarding MAT and that go beyond the limitations imposed by federal law. The current provision limiting patient eligibility for NTP treatment to patients that have a confirmed history of two or more unsuccessful attempts in withdrawal treatment with subsequent relapse to illicit opiate use is not consistent with best practices in the field. This is true both for adults and minors with OUD and would also apply to a potential requirement to document at least two unsuccessful attempts at short-term detoxification or drug-free treatment as proposed under Section 10270(d)(2). No clinical evidence exists to justify different medical necessity criteria for children and adults. Similarly, such a distinction would continue to exceed the limitations imposed by federal law, resulting in state-imposed unnecessary barriers to care.

OUD is a chronic condition, just as diabetes and heart disease are. In the same way that postponing treatment for a heart condition would increase the risk of death, denying immediate access to MAT to individuals with OUD increases the risks of overdose and other harms associated with the condition. Commencing treatment at once is also highly cost-effective. A recent study analyzed the impact of Section 10270(d)(2) vis-à-vis immediate treatment initiation and found that “[t]he value of publicly funded treatment of opioid use disorder in California is maximized when [MAT] is delivered to all patients initially presenting for treatment” (emphasis added). Moreover, no studies have shown decreased effectiveness of MAT for children and adolescents. On the contrary, medication treatment without delay has been increasingly recommended for treating minors with OUD. The fact that minors may in particular benefit from other interventions, such as peer and family counseling, does not diminish the fact that MAT with methadone and buprenorphine is widely considered and accepted as the gold standard for treatment of OUD for all populations.

While we understand that DHCS is currently not enforcing this NTP patient selection criteria, adopting this new provision that applies solely to minors will constitute an affirmative declaration by the department that it intends to enforce the regulations. As such, the only possible outcome of adoption of this policy will be to reduce access to OUD treatment for minors, in some cases by cutting services that are currently being provided. This is particularly detrimental because NTPs constitute the sole providers of

methadone maintenance treatment and an important provider of buprenorphine treatment. Cutting access to NTPs will, thus, leave children and adolescents with OUD with few to no alternatives for treatment.

For the above reasons, we strongly oppose the proposed changes to Section 10270(d)(2) and respectfully requests that the department reconsider removing all unnecessary patient selection criteria for access to MAT at NTPs.

**Response #15A**

This comment was considered, however, the regulations were not amended. The proposed language is consistent with 42 Code of Federal Regulations §8.12 (e)(2), which reads as follows:

(2) *Maintenance treatment for persons under age 18.* A person under 18 years of age is required to have had two documented unsuccessful attempts at short-term detoxification or drug-free treatment within a 12-month period to be eligible for maintenance treatment. No person under 18 years of age may be admitted to maintenance treatment unless a parent, legal guardian, or responsible adult designated by the relevant State authority consents in writing to such treatment.

The Department did remove the requirement to have two documented unsuccessful attempts at short-term detoxification or drug-free treatment within a 12-month period to be eligible for maintenance treatment for a person 18 years or older. However, to be consistent with federal law, this requirement will remain in place for a person under 18 years of age.