



State of California—Health and Human Services Agency  
Department of Health Care Services



EDMUND G. BROWN JR.  
Governor

**NOTICE OF RULEMAKING AFTER EMERGENCY ADOPTION**

**SUBJECT: MANAGED CARE INFORMATION SHARING, DHCS-14-030**

**NOTICE IS HEREBY GIVEN** that the Department of Health Care Services (Department) has adopted the regulations in California Code of Regulations (CCR), Title 22, Division 3, Subdivision 1, Chapter 2, Article 4, Section 50188 on an emergency basis. These emergency regulations became effective on June 24, 2015, and will remain in effect for a period of 180 days. The purpose of this rulemaking is to adopt the emergency regulations on a permanent basis.

WRITTEN COMMENT PERIOD

Any interested person or his or her duly authorized representative may submit written comments to the Department relevant to the regulatory action described in this notice.

Please label any comments as pertaining to Managed Care Information Sharing, DHCS-14-030 and submit using any of the following methods:

Mail Delivery: Department of Health Care Services  
Office of Regulations, MS 0015  
P.O. Box 997413  
Sacramento, CA 95899-7413

Hand Delivery: Department of Health Care Services  
Office of Regulations  
1501 Capitol Avenue, Suite 5084  
Sacramento, CA 95814

FAX: (916) 440-5748

Email: [regulations@dhcs.ca.gov](mailto:regulations@dhcs.ca.gov)

The written comment period closes at **5:00 pm on August 24, 2015**, any written comments, regardless of the method of transmittal must be received by the Office of Regulations by **5:00pm** on this date, for consideration.

Written comments should include the author's contact information so the Department can provide notification of any further changes to the regulation proposal.

A public hearing has not been scheduled for this rulemaking. However, the Department will conduct a hearing if a written request for a public hearing is received from any interested person or his or her duly authorized representative, no later than 15 days prior to the close of the written comment period, pursuant to Government Code Section 11346.8.

The Department shall consider all comments received regarding the proposal equally, whether submitted in writing or through oral testimony at a public hearing.

#### Authority and Reference

These regulations are being proposed under the following authorities:

Welfare and Institutions Code (WIC) Sections 10725 and 14124.5 authorize the Director of the Department to adopt, amend or repeal regulations as necessary and proper to carry out the purposes and intent of the statutes governing the Medi-Cal program.

These regulations implement, interpret, or make specific the following:  
WIC Section 14005.36.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department's mission is to provide Californians with access to affordable, high-quality health care, including medical, dental, mental health, substance use treatment services and long-term care. In support of this mission, the Department administers many health care programs including California's State Medicaid program, which is known as the Medi-Cal program.

The Medi-Cal Eligibility Division, within the Department, is responsible for the coordination and implementation of Medi-Cal regulations that support the accurate and timely determination of Medi-Cal eligibility for beneficiaries, as established by the California county departments.

#### Related State and Federal Laws

The Medi-Cal program is governed by federal and state law. Federal Medicaid law is found primarily in 42 United States Code (U.S.C.) Section 1396 et seq. and in Title XIX of the Social Security Act. State law is generally found in WIC Division 9, Part 3, Chapters 7 and 8. WIC Sections 10725 and 14124.5 authorize the director of the Department to adopt, amend or repeal regulations as necessary and proper to carry out the purposes and intent of the statutes governing the Medi-Cal program.

WIC Section 14005.36(e) specifies that the Department shall adopt emergency regulations related to the reporting of updated beneficiary contact information.

### Statement of Purpose/Problem to be Addressed

This regulatory action adopts Section 50188 to address the matter of describing how and under what circumstances updated beneficiary contact information shall be reported. This regulatory action will support accurate and timely Medi-Cal eligibility re-determinations and is consistent with the requirements to promulgate regulations as specified in WIC Section 14005.36(e).

### Anticipated Benefits or Goals of the Regulations

This proposed regulatory action will benefit the county departments by providing a means to obtain the most up-to-date contact information for beneficiaries. This information will assist with the annual process of re-determining Medi-Cal eligibility for beneficiaries and will in turn benefit the health and welfare of California residents by providing redeterminations for beneficiaries so they can have access to all necessary Medi-Cal services in a timely manner.

This regulatory proposal also supports the intent of the initiating legislation as specified under WIC Sections 14000 and 14007. WIC Section 14000 states the purpose of Chapter 7, Basic Health Care is to afford qualifying individuals 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 14124.5 further specifies that the Director may establish regulations as are necessary or proper to carry out the purpose and intent of this Chapter, which includes the establishment of Medi-Cal eligibility standards and methodologies as set forth under this Chapter (including Section 14005.30) and in accordance with U.S.C., Section 1396U-1.

This regulatory proposal ensures the proper and efficient administration of the Medi-Cal program, in accordance with federal and state laws that govern the Medi-Cal programs rules of eligibility participation and funding. This is accomplished by improvements to the eligibility determination process.

### Consistency and Compatibility with Existing State Regulations

The Department has conducted an evaluation of the related existing state regulations under Title 22, CCR, Division 3 and has determined that the regulations are consistent with and compatible with those regulations. An automated search of Title 22, CCR, Division 3 using the following keywords “managed care, redetermination, eligibility, and beneficiary contact information” was conducted via Westlaw and yielded no conflicting state regulations.

### Duplication Explanation

Including provisions from WIC Section 14005.36 within this regulation is an effective and convenient way to provide all current information related to the reporting of updated beneficiary contact information in one convenient and centralized location for the affected public (i.e. beneficiaries, county departments, and providers).

### Regulatory Sections

This regulatory action adopts Section 50188, which makes specific the information that can be shared by a managed care plan with a county department and the Department, that consent must be requested from a beneficiary in order to share this information, and what action the county departments can take to verify the information received from the managed care plan, as well as how to verify the information received when a beneficiary does not give consent to the managed care plan to share their contact information.

### DISCLOSURES REGARDING THE RULEMAKING

The Department has made the following initial determinations:

#### Fiscal Impact Statement

- A. Costs to any Local Agency or School District that is not reimbursable by the State: None  
  
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: None.
- C. Costs or Savings in Federal Funding to the State: None.
- D. Other nondiscretionary costs or savings including revenue changes imposed on State or Local Government: 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.

#### Mandates on Local Agencies or School Districts

The Department has determined that the 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.

#### Significant Statewide Adverse Economic Impact Affecting Businesses

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

### Results of the Economic Impact Assessment (Analysis)

In accordance with Government Code Section 11346.3(b)(1), the Department has made the following assessments and has determined that the proposed regulations would not significantly affect the following:

1. The creation or elimination of jobs in California.
2. The creation or elimination of businesses in California.
3. The expansion of businesses currently doing business in California.

### Impact on Jobs and Businesses

The Medi-Cal program is a public health program that provides health care services for low-income individuals who choose to enroll and participate in the program. This regulatory action will affect only those managed care plans that also choose to participate in the Medi-Cal program and the beneficiaries enrolled in these plan. This regulation only requires reporting of the beneficiary's updated contact information to the Department and county department to assist with the re-determination of Medi-Cal eligibility and therefore it is not anticipated to have an impact on the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses or the expansion of businesses in California.

### Benefits of the Proposed Regulation

The Department has determined that the regulations will not specifically affect worker safety or the state's environment. However, the regulations will benefit the California county departments by providing the most up-to-date contact information for Medi-Cal beneficiaries. The county departments will be able to use this information to assist with the annual process of re-determining Medi-Cal eligibility for beneficiaries. This in turn will benefit the health and welfare of California residents by providing timely redeterminations for Medi-Cal beneficiaries so they can have access to necessary health care services.

This regulatory proposal ensures the proper and efficient administration of the Medi-Cal program, in accordance with federal and state laws. This is accomplished by improvements to the eligibility determination process.

### Effect on Small Businesses

The Department has determined that the regulations would not affect small businesses because these regulations do not impose any additional reporting, recordkeeping, or other compliance requirements on small businesses.

### Housing Costs Determination

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

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Department must determine 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 the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Existing regulations related to the Medi-Cal program are located in Title 22, CCR, Division 3. Using this regulatory proposal to adopt additional requirements regarding Medi-Cal eligibility is the most effective and convenient way to provide (current/updated) information directly to those impacted (county departments, providers and beneficiaries).

This regulatory action is necessary pursuant to WIC Section 14005.36, which requires the Department to adopt emergency regulations.

### ASSISTIVE SERVICES

For individuals with disabilities, the Department can provide assistive services such as the conversion of written materials into Braille, large print, audiocassette and computer disk. For public hearings, assistive services can include sign-language interpretation, real-time captioning, note takers, reading or writing assistance. To request these assistive services, please call (916) 440-7695 (or California Relay at 711 or 1-800-735-2929), email – [regulations@dhcs.ca.gov](mailto:regulations@dhcs.ca.gov), or write to the Office of Regulations at the address noted above. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

The Department shall provide, upon request from a person with a visual disability or other disability for which effective communication is required under state or federal law, a narrative description of the additions to, and deletions from, the California Code of Regulations or other publication in a manner that allows for accurate translation by reading software used by the visually impaired. Providing this description may require extending the period of public comment for the proposed action pursuant to Government Code Section 11346.6.

### CONTACT PERSONS

Inquiries regarding the regulations described in this notice may be directed to Chase George, Health Care Reform Unit, at (916) 552-9542.

All other inquiries concerning the regulatory action described in this notice may be directed to Jordan Espey of the Office of Regulations, at (916) 445-1514, or to the designated backup contact person, Lori Manieri, at (916) 650-6825.

### AVAILABILITY OF TEXT OF REGULATIONS AND STATEMENT OF REASONS

The Department has prepared and has available for public review an initial statement of reasons for the regulations, all the information upon which the regulations are based, and the text of the regulations. The Office of Regulations, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the regulations (rulemaking file). In addition, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations.

The full text of any regulation which is changed or modified from the express terms of the emergency action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

Materials regarding the regulatory action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) are posted to the Department's Internet site at:

<http://www.dhcs.ca.gov/formsandpubs/laws/Pages/ProposedRegulations.aspx>.

In order to request a copy of this public notice, the regulation text, and the initial statement of reasons be mailed to you, please call (916) 440-7695 (or California Relay at 711 or 1-800-735-2929), email [regulations@dhcs.ca.gov](mailto:regulations@dhcs.ca.gov), or write to the Office of Regulations at the address noted above.