

**State of California
Office of Administrative Law**

In re:

Department of Health Care Services

Regulatory Action:

Title 22, California Code of Regulations

Adopt sections:

Amend sections: 50273

Repeal sections:

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

**California Code of Regulations, Title 1,
Section 100**

OAL File No. 2012-0111-03 N

The Department of Health Care Services submitted this Section 100 action to amend title 22, California Code of Regulations, section 50273. The amendment establishes an exemption to the general prohibition of providing Medi-Cal services to inmates of a public institution under Section 50273. The exemption would allow "an individual under age 21 years of age, who is receiving inpatient psychiatric hospital services while an inmate of a public institution" to receive Medi-Cal coverage, if otherwise eligible. This amendment is required for Section 50273 to be in compliance with Welfare and Institutions Code section 14011.10(a) and Title 42 U.S.C. section 1396d(a)(29)(A), and satisfies subdivision (a)(6) of Section 100 as a change without regulatory effect. Amendments to authority and reference citations are also made.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, Title 1, section 100.

Date: 1/26/2012

Original Signed

Richard L. Smith
Staff Counsel

For: DEBRA M. CORNEZ
Assistant Chief Counsel/
Acting Director

Original: Toby Douglas
Copy: Jasmin Delacruz

NONSUBSTANTIVE

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2012-0111-03N	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

<p style="text-align: center;">NOTICE</p>	<p style="text-align: center;">REGULATIONS</p>
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ENDORSED - FILED
in the office of the Secretary of State
of the State of California
Original Signed
JAN 26 2012 2:31 PM
DEBRA BOWEN
Secretary of State

2012 JAN 11 PM 4:50
OFFICE OF ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY Department of Health Care Services	AGENCY FILE NUMBER (if any) DHCS-11-005
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn			NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Inpatient Psychiatric Hospital Services for Minors In-Custody	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 50273
TITLE(S) 22	REPEAL

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____			

7. CONTACT PERSON Jasmin Delacruz	TELEPHONE NUMBER (916) 440-7688	FAX NUMBER (Optional) (916) 440-5748	E-MAIL ADDRESS (Optional) Jasmin.Delacruz@dhcs.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

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ENDORSED APPROVED
JAN 26 2012
Office of Administrative Law

Original Signed

DATE
1/10/12

TYPED NAME AND TITLE OF SIGNATORY

Toby Douglas, Director

(1) Amend Section 50273 to read as follows:

§ 50273. Medi-Cal Ineligibility Due to Institutional Status.

(a) Individuals who are inmates of public institutions are not eligible for Medi-Cal:

The following individuals are considered inmates of a public institution:

(1) An individual in a prison, or a county, city, or tribal jail.

(2) An individual in a prison or jail: Prior to arraignment, prior to conviction, or prior to sentencing.

(3) An individual who is incarcerated, but can leave prison or jail on work release or work furlough and must return at specific intervals.

(4) Individuals released from prison or jail due to a medical emergency who would otherwise be incarcerated but for the medical emergency. Institutional status of such persons is not affected by transfer to a public or private medical facility.

(5) A minor in a juvenile detention center prior to disposition (judgment) due to criminal activity of the minor.

(6) A minor, after disposition, placed in a detention or correctional facility, including a youth ranch, forestry camp, or home which is part of the criminal justice system.

(7) A minor placed on probation by a juvenile court on juvenile intensive probation with specific conditions of release, including residence in a juvenile detention center.

(8) A minor placed on probation by a juvenile court on juvenile intensive probation to a secure treatment facility contracted with the juvenile detention center if the secure treatment facility is part of the criminal justice system.

(9) Individuals between the ages of 21-65 who are in an institution for mental diseases shall be considered inmates of a public institution until they are unconditionally released.

(b) Ineligibility for individuals classified as inmates in (a) begins on the day institutional status commences and ends on the day institutional status ends.

(c) The following individuals are not considered inmates of a public institution and shall be eligible for Medi-Cal provided that all other requirements for eligibility set out in this chapter are satisfied:

(1) An individual released from prison or jail on permanent release, bail, own recognizance (OR), probation, or parole with a condition of:

- (A) Home arrest;
- (B) Work release;
- (C) Community service;
- (D) Outpatient treatment;
- (E) Inpatient treatment.

(2) An individual who, after arrest but before booking, is escorted by police to a hospital for medical treatment and held under guard.

(3) An individual in prison or jail who transfers temporarily to a halfway house or residential treatment facility prior to a formal probation release order.

(4) An individual released from prison or jail under a court probation order due to a medical emergency.

(5) A minor in a juvenile detention center prior to disposition (judgment) due to care, protection or in the best interest of the child (e.g., Child Protective Services) if

there is a specific plan for that person that makes the stay at the detention center temporary. This would include those juveniles awaiting placement but still physically present in juvenile hall.

(6) A minor placed on probation by a juvenile court on juvenile intensive probation with home arrest restrictions.

(7) A minor placed on probation by a juvenile court on juvenile intensive probation to a secure treatment facility contracted with the juvenile detention center if the secure treatment facility is not part of the criminal justice system.

(8) A minor placed on probation by a juvenile court on juvenile intensive probation with treatment as a condition of probation:

(A) In a psychiatric hospital;

(B) In a residential treatment center;

(C) As an outpatient.

(9) Individuals released from an institution for mental diseases or transferred from such an institution to a public or private medical facility.

(10) Individuals on conditional release or convalescent leave from an institution for mental diseases.

(11) Individuals under age 22 who are patients in an institution for mental diseases, were institutionalized prior to their 21st birthday, and continue to receive inpatient psychiatric care.

(12) An individual under 21 years of age, who is receiving inpatient psychiatric hospital services while an inmate of a public institution.

NOTE: Authority cited: Section 20, Health and Safety Code; and Sections 10725 and 14124.5, Welfare and Institutions Code. Reference: Sections 11014, 11016, 14011.10 and 14053, Welfare and Institutions Code; Sections 4011.1 and 4015, Penal Code; 42 U.S.C. Section 1396d(a)(~~2429~~)(A); and 42 CFR Sections 435.10089 and 435.100910.