WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 9. PUBLIC SOCIAL SERVICES [10000 - 18999.98] *(Division 9 added by Stats. 1965, Ch. 1784.)*

PART 3. AID AND MEDICAL ASSISTANCE [11000 - 15771] *(Part 3 added by Stats. 1965, Ch. 1784.)*

CHAPTER 8.7. Adult Day Health Care Programs [14520 - 14590] *(Heading of Chapter 8.7 renumbered from Chapter 8.5 (as added by Stats. 1977, Ch. 1066) by Stats. 1978, Ch. 429.)*

ARTICLE 4. Administration [14570 - 14577] *(Article 4 added by Stats. 1977, Ch. 1066.)*

14570. (a) The department shall adopt all necessary rules and regulations providing for quality of care and payment for services rendered under this chapter pursuant to Chapter 7 (commencing with Section 14000). All regulations heretofore adopted by the department pursuant to this chapter, and that are in effect immediately preceding the operative date of the amendment of this section enacted by the Legislature during the 1977–78 Regular Session, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director.

(b) The director shall establish a distinct organizational entity within the department that shall have primary responsibility for the Adult Day Health Care Medi-Cal program. This entity shall coordinate and direct all departmental activities required by this chapter.

(Amended by Stats. 2001, Ch. 681, Sec. 20. Effective January 1, 2002.)

14571. The department, in consultation with the California Association for Adult Day Services, shall develop a rate methodology. The methodology shall take into consideration all allowable costs associated with providing adult day health care services. Once a methodology has been approved by the department, it shall be the basis of future annual rate reviews.

Payment shall be for services provided in accordance with an approved individual plan of care. Billing shall be submitted directly to the department. Additionally, the department shall establish a separately billable and reasonable rate of reimbursement for the initial assessment that takes into account the intensity of services and the skill level of the health professionals required to conduct the mandated three-day assessment of new participant needs and living environment. Subsequent assessments, as needed or required, shall be billed at a lesser amount. The department shall establish utilization controls for assessment days to ensure the appropriate use of assessment and reassessment activity.

Nothing in this section shall preclude the department from entering into specific prospective budgeting and reimbursement agreements with providers.

(Amended by Stats. 2006, Ch. 691, Sec. 8. Effective January 1, 2007.)

14571.1. The Legislature finds and declares all of the following:

(a) Adult day health care is a necessary component in achieving an integrated home- and community-based long-term care system consistent with the principles of the decision of the United States Supreme Court in Olmstead v. L.C. by Zimring (1999) 527 U.S. 581.

(b) The federal Centers for Medicare and Medicaid Services has directed the State of California to segregate certain skilled services from the all-inclusive per diem rate currently in use for adult day health care centers and to bill for those services using separate billing codes and reimbursement rates.

(c) The reimbursement methodology for adult day health care services that is established by the department should provide for fair and equitable reimbursement to adult day health care centers for services that are provided to each participant.

(Added by Stats. 2006, Ch. 691, Sec. 9. Effective January 1, 2007.)

14571.2. (a) Subject to the provisions of this section, the department shall establish, effective August 1, 2012, a reimbursement methodology and a reimbursement limit for adult day health care services on a prospective cost basis for services that are provided to each participant, pursuant to his or her individual plan of care. The prospective reimbursement methodology shall be determined by the department after consultation with the California Association for Adult Day Services and other interested stakeholders.

(b) The following definitions shall apply for purposes of this section:

(1) “Daily core services” means the services described in Section 14550.5.

(2) “Separately billable services” means services designated by the department, after consultation with the California Association for Adult Day Services, and shall include, but not be limited to, the following:

(A) Physical therapy services.

(B) Occupational therapy services.

(C) Speech and language pathology services.

(D) Mental health services.

(E) Registered dietician services.

(F) Transportation services.

(c) The prospective reimbursement methodology for the daily core services provided by each adult day health care center shall be determined by the department based on the reasonable cost of providing all of the adult day health care services included within the core services and adjusted to the particular rate year. Services and costs included in the calculation of the daily core services rate shall include, but not be limited to, all of the following:

(1) Fixed or capital-related costs representing depreciation, leases and rentals, interest, leasehold improvements, and other amortization.

(2) Labor costs other than those for the separately billable services, including direct and indirect labor and contracted staff hours required by law or regulation.

(3) All other costs exclusive of fixed or capital-related costs, leases or rentals, interest, leasehold improvements, and other amortization.

(4) Add-ons, adjustments, and audit adjustments determined annually in the calculation of the core rate to allow for changes specified in subdivision (h), until those changes are reflected in the cost report.

(5) Cost components required to comply with licensing and certification laws and regulations.

(d) (1) The daily reimbursement rates for the separately billable services shall be determined based upon the reasonable cost of providing each service, how each of the individual billable services is defined, and which professional is providing the service, subject to the scope of his or her license. These reimbursement rates shall not exceed the Medi-Cal rates for the same service on file at the time the service is rendered.

(2) In establishing the total reimbursement limit, direct patient care labor costs may be paid at a specified discrete percentile to ensure maintenance of quality of care.

(e) The department shall determine a reimbursement limit applicable to each adult day health center peer group established pursuant to subdivision (m), taking into account total overall average costs per day of attendance for providing the entire array of adult day health care services, including the daily core services and the separately billable services. The department shall determine a reimbursement limit applicable to each adult day health care center peer group established pursuant to subdivision (m) based on cost containment principles applied to other acute care and long-term care providers.

(f) By July 1, 2010, the department shall develop, after consultation with the California Association for Adult Day Services, all of the following:

(1) An adult day health care center cost report meeting the requirements of subdivision (j) and a list of individual components to be included in the core rate calculation.

(2) The methodology and documentation necessary to establish the reimbursement rate for the separately billable services.

(3) The reimbursement rates for transportation services. Payments for transportation services shall be subject to the limit on the daily reimbursement and shall be reimbursed whether the center provides transportation directly, by use of contracted transportation, or both. The department shall review methodologies for payment for transportation services. The review of payment methodologies shall include a survey of other states’ adult day health care transportation systems, and transportation reports or expert consultation relevant to nonemergency medical transportation services in the community.

(g) (1) By January 1, 2011, the department shall facilitate the training of providers in collaboration with the California Association for Adult Day Services. The adult day health care centers shall be trained in the all of the following elements:

(A) The use of the modified cost report, supplemental reports, and the accounting and reporting manual.

(B) Plan of care documentation required to support the separately billable rate components.

(C) Medical necessity and eligibility requirements and documentation.

(2) By January 1, 2011, the department, after consultation with the California Association for Adult Day Services, shall establish facility peer groupings as specified in subdivision (m).

(h) By July 1, 2011, the department, after consultation with the California Association for Adult Day Services, shall establish a methodology for calculation of the reimbursement limit, rates for the daily core services, and applicable percentiles limiting specific cost categories within the core rate.

(i) (1) By March 30, 2012, a preliminary estimate of the reimbursement limit, the reimbursement rate for individual adult health care services, and separately billable services shall be established and provided to the California Association for Adult Day Services and other interested stakeholders. The department shall allow an appropriate stakeholder comment period following this action.

(2) The information supplied to all interested stakeholders in paragraph (1) shall be compared to what would have been paid under the rate methodology in effect for the 2011–12 fiscal year.

(3) Based on the rate comparisons, a methodology to provide for a multiyear phase in of the new prospective payment may be implemented.

(4) At the time of implementation, no adult day health care center's payment shall be decreased by more than 10 percent below the rate paid in the rate year immediately preceding the first year that the rate methodology prescribed in this section is implemented. In the second and third rate years, no adult day health care center reimbursement rate shall be decreased by more than 10 percent below the adult day health care center's reimbursement rate on file at the time of the application of the next year's reimbursement rate.

(j) (1) The department, with input from the California Association for Adult Day Services and all interested stakeholders, shall develop the cost reporting form and determine the costs that are to be included and excluded from the annual cost reporting methodology.

(2) Cost reporting shall be consistent with Section 1861 of the federal Social Security Act (42 U.S.C. Sec. 1395x) and Part 413 of Title 42 of the Code of Federal Regulations.

(3) Cost reporting shall include itemization of the costs of all adult day health care services such that information necessary to determine costs associated with the core bundle of services and each of the separately billable services can be collected.

(4) The cost report or supplemental report to the cost report, as determined by the frequency the data will be required for calculation of the core rate, shall collect staffing level and salary data for all direct and indirect patient care staff, arranged through either employment or contract.

(5) All adult day health care centers participating in the Medi-Cal program shall maintain books and records according to generally accepted accounting principles and the uniform accounting systems adopted by the state, and shall submit annual cost reports directly to the department.

(k) (1) The department may exclude any cost report or portion thereof that it deems to be inaccurate, incomplete, or unrepresentative, consistent with the policies established in paragraph (2) of subdivision (j). For facilities that fail to file cost reports with the department pursuant to this section, the department shall reimburse those facilities at 10 percent below the lowest reimbursement limit established in the facility's peer group pursuant to subdivision (d).

(2) Cost report data shall be validated by using comparisons to salary surveys and health industry administrative data maintained by the Office of Statewide Health Planning and Development and other state agencies. If cost report data is not statistically valid for a given peer group, survey statistics shall be used as a proxy to substitute for the cost report data.

(3) Cost report data for any adult day health care center that has closed or is no longer a Medi-Cal participating facility shall be excluded from the rate calculation.

(4) The specific process for maintaining cost data and submitting cost reports shall be developed after consultation with the California Association for Adult Day Services.

(l) Field audits shall be performed by the department in accordance with all of the following laws and regulations:

(1) Section 1861 of the Social Security Act (42 U.S.C. Sec. 1395x) and Title XVIII of the Social Security Act (42 U.S.C. Sec. 1395 et seq.).

(2) Sections 413.9, 433.32, and 483.10 of, Part 413 of, Title 42 of the Code of Federal Regulations.

(3) Centers for Medicare and Medicaid Services Publication 15-1 (federal Department of Health and Human Services Manual).

(4) Chapter 5 (commencing with Section 54001) of Division 3 of, and Chapter 10 (commencing with Section 78001) of Division 5 of, Title 22 of the California Code of Regulations.

(5) Sections 14170 and 14171.

(6) Relevant portions of the California Medicaid State Plan.

(m) (1) In accordance with field audit requirements, adult day health care centers shall be placed in a minimum of three designated peer groupings. Each adult day health care center in each of the designated peer groupings shall be audited on an annual basis.

(2) If for any reason a field audit was not performed, the average audit adjustment of the peer grouping shall be applied.

(3) The peer groupings shall include, at minimum, geographic differences and size of facility. The need for additional groupings shall be periodically reevaluated to ensure that the peer groupings remain relevant on a statewide basis.

(4) The department shall analyze and evaluate the data obtained through peer grouping analysis in order to determine if additional peer groupings or data elements are necessary for refinement of the peer groupings.

(5) After analyzing the data pursuant to paragraph (4), the department may increase the number of peer groupings or change the criteria to reflect pertinent factors affecting peer grouping costs.

(n) (1) An audit adjustment or adjustments, either specific to an adult day health care center or by peer grouping, reflecting the difference between reported and audited costs and participant days for field audited centers, shall be applied to all adult day health care centers for purposes of establishing the core services reimbursement rate and the reimbursement limit for the following rate year. Audit adjustments shall include all of the following:

(A) The results of settled appeals. The department shall consider only the findings of audit appeal reports that are issued more than 180 days prior to the beginning of the new rate year.

(B) In the case of peer grouping audit adjustments, audited costs shall be modified by a factor reflecting share-of-cost overpayments and share-of-cost underpayments.

(C) The results of federal audits, when reported to the state, shall be applied in determining audit adjustments.

(D) (i) An adjustment or adjustments to reported costs of adult day health care centers shall be made to reflect changes in state or federal laws and regulations that would affect those costs, including increases in the minimum wage or increases in minimum staffing requirements.

(ii) The costs described in clause (i) shall be reflected as an add-on to the new rate or rates.

(iii) To the extent not prohibited by federal law or regulations, add-ons to the rate or rates shall continue until those costs are included in cost reports used to set the new rate or rates.

(2) Adjusted costs shall be divided into categories and treated as follows:

(A) Fixed or capital-related costs shall include costs that represent depreciation, leases and rentals, interest, leasehold improvements, and other amortization. No update shall be applied.

(B) Property taxes, where identified, shall be updated at a rate of 2 percent annually.

(C) Labor costs, which shall be defined as a ratio of salary, wage, and benefits costs to the total costs of each adult day health care center, shall be updated based upon the labor study conducted by the department and using industry-specific wage data as reported by the adult day health care centers. The separately billable services shall be updated by applying the median market-based rate specific to the specialty service category.

(D) All other costs shall include all other costs less fixed or capital-related costs, property taxes, and labor costs. This cost category shall be updated using the California Consumer Price Index.

(3) Prior to the implementation of this methodology, the department shall take measures to ensure appropriate training of state audit staff.

(o) The department shall provide updates on the rate methodology to the appropriate fiscal and policy committees of the Legislature. The appropriation for services paid under this rate methodology shall be included in the annual Budget Act.

(p) Adult day health care centers may appeal findings that result in an adjustment to the rate or rates pursuant to Section 14171 and to Article 1.5 (commencing with Section 51016) of Chapter 3 of Division 3 of Title 22 of the California Code of Regulations.

(q) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of a provider bulletin or similar instruction without taking regulatory action. By August 1, 2015, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The department shall notify and consult with interested stakeholders in implementing, interpreting, or making specific the provisions described in this section.

(r) The department shall implement this section only to the extent that federal financial participation is obtained.

(s) The department may file a state plan amendment to implement the requirements of this section. Immediately upon filing any such state plan amendment, the department shall provide the fiscal committees of the Legislature with a copy of the state plan amendment.

(Amended by Stats. 2009, Ch. 165, Sec. 3. (SB 117) Effective January 1, 2010.)

14571.5. Federally qualified health centers shall be reimbursed on a prospective payment system rate basis pursuant to Section 14132.100 for the provision of adult day health care services.

(Added by Stats. 2006, Ch. 691, Sec. 11. Effective January 1, 2007.)

14572. (a) No Medi-Cal reimbursement shall be made for a service rendered by an adult day health care provider that does not have a license as an adult day health care center or that does not have currently effective Medi-Cal certification pursuant to this chapter.

(b) Notwithstanding subdivision (a), Medi-Cal certification shall be granted as of the date of licensure with respect to, and reimbursement shall be made for, a service rendered on or after that date if the provider meets all of the following requirements:

(1) Is exempt from the moratorium imposed on the certification and enrollment of new adult day health care centers pursuant to paragraph (5) of subdivision (b) of Section 14043.46.

(2) Meets all certification requirements for adult day health care centers, and is enrolled as a Medi-Cal provider.

(3) Provides services in compliance with the requirements of this chapter as of the date the center began providing services to beneficiaries.

(Amended by Stats. 2006, Ch. 74, Sec. 70. Effective July 12, 2006.)

14573. (a) Initial Medi-Cal certification for adult day health care providers shall expire 12 months from the date of issuance. The director shall specify any date he or she determines is reasonably necessary because of the record of the applicant and to carry out the purposes of this chapter, but not more than 24 months from the date of issuance, when renewal of the certification shall expire. The certification may be extended for periods of not more than 60 days if the department determines it to be necessary.

(b) Before certification renewal the provider shall submit with the application for renewal a report according to department specifications that includes an analysis of income and expenditures, continued demonstrated community need, services, participant statistics and outcome, and adherence to policies and procedures.

(c) Prior to approving renewal of Medi-Cal certification, the California Department of Aging shall conduct a financial review and onsite medical and management reviews. The reviews shall be conducted by a team of persons with appropriate technical skills. The management review shall be performed by the entity responsible for directing and coordinating the program, as specified in the interagency agreement entered into pursuant to Section 1572 of the Health and Safety Code.

(d) Where the director determines that the public interests would be served thereby, a public hearing may be held on any renewal application subject to this section. The findings of the departmental program and licensing reviews and the provider's annual evaluation report shall be presented at the hearing.

(Amended by Stats. 2004, Ch. 797, Sec. 4. Effective January 1, 2005.)

14574. (a) The director shall terminate the Medi-Cal certification of any adult day health care provider at any time if he or she finds the provider is not in compliance with standards prescribed by this chapter or Chapter 7 (commencing with Section 14000) or regulations adopted pursuant to these chapters. The director shall give reasonable notice of his or her intention to terminate the certification to the provider and participants in the center. The notice shall state the effective date of, and the reason for, the termination.

(b) The California Department of Aging and the department shall coordinate proceedings to deny an application for certification, to terminate or suspend certification, or to revoke or suspend licensure to the extent appropriate to ensure consistency and uniformity.

(c) The provider shall have the right to appeal the department's decision made pursuant to Section 14123.

(d) This section is not applicable to denials of initial certification made pursuant to a moratorium imposed in accordance with Section 14043.46 of the Welfare and Institutions Code.

(Amended by Stats. 2011, Ch. 119, Sec. 7. (SB 91) Effective July 25, 2011.)

14574.1. (a) Every adult day health care center shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director, unless otherwise specified in the interagency agreement entered into pursuant to Section 1572 of the Health and Safety Code. Inspections shall be conducted prior to the expiration of certification, but at least every two years, and as often as necessary to ensure the quality of care being provided. As resources permit, an inspection may be conducted prior to, as well as within, the first 90 days of operation.

(b) If, as a result of the inspection, the department or the California Department of Aging, as specified in the interagency agreement, determines that the adult day health care center has serious deficiencies that pose a risk to the health and safety of the participants, the department or the California Department of Aging, as specified in the interagency agreement, may immediately take any of the following actions, including, but not limited to:

(1) Require a plan of correction, including as requested, a program plan pursuant to Section 14552.2.

(2) Limit participant enrollment.

(3) Prohibit new participant enrollment.

(c) The provider shall have the right to dispute an action taken under paragraphs (2) and (3) of subdivision (b). The department or the California Department of Aging, as specified in the interagency agreement, shall accept, consider, and resolve disputes filed pursuant to this subdivision in a timely manner. The dispute resolution process shall be determined by the California Department of Aging in consultation with the department.

(d) The director shall ensure that public records accurately reflect the current status of any potential actions including the resolution of disputes.

(Amended by Stats. 2004, Ch. 797, Sec. 5. Effective January 1, 2005.)

14575. Each adult day health care provider shall maintain a uniform accounting and reporting system as developed by the department, in consultation with the provider. The department shall implement a uniform cost accounting system and train providers in this system by July 1, 1987. The California Department of Aging, in coordination with the department may approve an alternative cost accounting system where the provider demonstrates the ability to report comparable and reliable data. The provider shall submit annual cost reports to the department, unless otherwise specified in an interagency agreement entered into pursuant to Section 1572 of the Health and Safety Code, no later than five months after the close of the licensee's fiscal year. The report shall be submitted in the format prescribed by the state. Each facility shall maintain, for a period of four years following the submission of annual cost reports, financial and statistical records of the period covered by the cost reports which are accurate and in sufficient detail to substantiate the cost data reported. These records shall be made available to state or federal representatives upon request. The department, unless otherwise specified in an interagency agreement entered into pursuant to Section 1572 of the Health and Safety Code, may request a financial review performed by an independent certified public accountant as part of the provider's annual cost report. All certified financial statements shall be filed with the department within a period no later than three months after the department's request. The department, unless otherwise specified in an interagency agreement entered into pursuant to Section 1572 of the Health and Safety Code, may require a limited or complete certified public accountant audit when the monitoring activities carried out pursuant to Section 14573 reveal significant financial management deficiencies.

(Amended by Stats. 2001, Ch. 681, Sec. 25. Effective January 1, 2002.)

14576. Each adult day health care provider shall furnish to the department, unless otherwise specified by the interagency agreement entered into pursuant to Section 1572 of the Health and Safety Code, all additional information and reports that the department may find necessary in performing its functions under this chapter. The information and reports shall include, but not be limited to, any statistical information regarding utilization of services, individual treatment plans and individual service reports, costs of health care, and administration the department may require.

(Amended by Stats. 2001, Ch. 681, Sec. 26. Effective January 1, 2002.)

14577. All subcontracts for services reimbursable under this chapter shall be entered into pursuant to regulations of the department. All subcontracts shall be in writing, and a copy shall be transmitted to the department for approval prior to taking effect. Each subcontract submitted to the department for approval shall contain the amount of compensation or other consideration which the

subcontractor will receive under the terms of the subcontract with the adult day health care provider. However, this section shall not apply to employment contracts of salaried employees of an adult day health care licensee.

All subcontracts to provide health care benefits, including emergency services, shall include a specification that services will be provided to participants to meet the needs of the participants based upon the plans of care. All subcontracts to provide any of the basic services specified in Section 14550 through subcontractors, shall meet all of the qualifications required by, or pursuant to, this chapter as appropriate for the services which the subcontractors are required to perform.

Each subcontract shall require that the subcontractor make all of its books and records pertaining to the goods or services furnished under the terms of the subcontract available for inspection, examination, or copying by the department during normal working hours at the subcontractor's principal place of business, or at such other place in the state as the department shall designate. Subcontracts between an adult day health care provider and a subcontractor shall be public records and shall be kept on file and be available at the center. The names of the officers and stockholders of the subcontractor shall also be kept on file and be available as public records at the center.

(Amended by Stats. 1998, Ch. 151, Sec. 19. Effective January 1, 1999.)