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**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 7. Basic Health Care [14000 - 14199.87]** ( Chapter 7 added by Stats. 1965, 2nd Ex. Sess., Ch. 4. )

**ARTICLE 2.92. Health Benefits Study [14091.21- 14091.21.]** ( Article 2.92 added by Stats. 1986, Ch. 1487, Sec. 2. )

[14091.21.](#) (a) Nursing facility services necessary for the treatment of illness or injury are covered subject to the provisions of this section:

(b) Nursing facility services are covered only after prior authorization has been obtained from the designated Medi-Cal consultant for the field office area in which the nursing facility is located. The authorization request shall be initiated by the facility and shall be signed by the attending physician. Nursing facility services may be authorized either for a distinct-part nursing facility (a facility that is a distinct part of an acute care hospital), or for a freestanding nursing facility (a facility that is not part of an acute care hospital).

(1) Distinct-part nursing facility care at the distinct-part nursing facility reimbursement rate for any Medi-Cal patient determined to need long-term nursing care shall be authorized when any one of the following conditions is met:

(A) There is no freestanding nursing facility within 15 miles, which shall be defined as 30 minutes at 30 miles per hour, from the established residential address of that patient prior to admission to nursing care and the distinct-part nursing facility is within a shorter actual travel time than the closest freestanding nursing facility able and willing to admit the patient.

(B) There is a freestanding nursing facility within 15 miles, as defined in subparagraph (A) from the established residential address of the patient before admission to nursing care, but after reasonable placement efforts, no such facility is able and willing to accept the patient, and the distinct-part nursing facility is within a shorter travel time than the closest freestanding nursing facility able and willing to admit the patient, within the 25-day placement period.

(C) There is no freestanding nursing facility within 30 minutes actual travel time from the established residential address of the immediate family member, such as the spouse, parent, child, or sibling of the patient, who certifies that he or she is the family member who will be most frequently visiting and helping with the personal needs of the patient, or if there is such a freestanding nursing facility, there is none able and willing, after reasonable placement efforts, to accept the patient, and the distinct-part nursing facility is within a shorter travel time than the closest freestanding nursing facility. In this case, the distinct-part nursing facility shall submit with the treatment authorization request a signed statement from the immediate family member certifying that he or she is the person who will be most frequently visiting and seeing to the personal needs of the patient. The signed statement of the family member shall contain an explanation of the relationship to the patient, the residential address used in calculating the distance to the distinct-part nursing facility, and the mode of transportation to be used. A copy of this certification shall be kept in the patient's file at the distinct-part nursing facility.

(D) The immediate family member who will be most frequently visiting and seeing to the personal needs of the patient cannot, because of established health reasons, travel to a freestanding nursing facility that is able and willing to admit the patient and that is within 30 minutes actual travel time, but he or she is able to travel to the distinct-part nursing facility. The certification so stating, and signed by that family member, shall be submitted with the treatment authorization request. A copy of this certification shall be kept in the patient's file at the distinct-part nursing facility.

(E) The patient has a spouse residing in the same distinct-part nursing facility.

(F) The patient is currently, as of the time approval is sought, residing in the distinct-part nursing facility and has been continuously residing in that facility for at least 120 consecutive days, and payment has been made or approved during the 120 consecutive days by Medicare, other health insurance, or by Medi-Cal at a distinct-part nursing facility rate. For patients who

have met this requirement and are later hospitalized, a treatment authorization request at the distinct-part nursing facility rate shall be reinstated if the patient returns to the same distinct-part nursing facility during the seven-day bed-hold period specified in Section 1599.79 of the Health and Safety Code. Otherwise, to reside in a distinct-part nursing facility, the patient shall meet one of the conditions set forth unless the patient's attending physician documents in the medical record that discharge to a freestanding nursing facility would cause physical or psychological harm to the patient.

(2) "Actual travel time" means the amount of time it would usually take the immediate family member to travel between two specific points by means of whatever transport would be available to him or her, taking into account actual road and weather conditions.

(3) "Reasonable placement efforts" means that during the 25-day time period beginning with the date that approval for the Medi-Cal distinct-part nursing facility rate is first sought, the facility shall do all of the following:

(A) Contact on a daily basis, not including Saturdays, Sundays, or holidays, Medi-Cal-certified freestanding nursing facilities within the applicable mileage or travel time, to determine whether each such freestanding nursing facility is able and willing to admit the patient. In meeting this requirement, facilities shall contact only those freestanding nursing facilities that they, in good faith, believe may be able and willing to admit this patient, taking into account previous contacts. Further attempts at placement calls will be waived by the department. Freestanding nursing facilities within the applicable mileage or travel time are those within the appropriate travel time plus any freestanding nursing facility within a shorter actual travel time than the distinct-part nursing facility from the appropriate residential address such as the patient's or the immediate family member's.

(B) Document that the facility contacted a person responsible for admission decisions during each required contact, the date and time of each contact with a freestanding nursing facility, the name and title of each person contacted, the reason given for the freestanding nursing facility not being able or willing to admit the patient on the day contacted, and the date, if any, when the freestanding nursing facility would be able and willing to accept the patient. Contacts may be made by telephone or facsimile transmission.

(C) Submit the documentation specified in subparagraph (B) to the Medi-Cal field office at the conclusion of the 25-day placement effort period.

(4) Upon submission of documentation that reasonable placement efforts requirement were met, the distinct-part nursing facility rate or acute administrative days shall be approved as follows:

(A) Hospitals seeking to place a patient into their own distinct-part nursing facilities shall be approved for acute administrative days for a patient determined to need long-term nursing facility care, who remains in an acute care bed during the placement period. If a contacted freestanding nursing facility was able and willing to admit the patient during the 25-day period, the hospital's treatment authorization request shall be subsequently authorized for approval of acute administrative days until the date that the freestanding nursing facility is able to accept the patient.

At the completion of the reasonable placement effort period, if no freestanding nursing facility is able and willing to take the patient, the hospital's treatment authorization request shall be authorized for approval for acute administrative days for days of care during the reasonable placement period. The hospital, in order to comply with this subparagraph, shall complete the 25-day placement period if there is a freestanding nursing facility within the applicable mileage or travel time willing to take the patient, but due to occupancy, is unable to accept transfer on the days it was contacted. If, however, there is a freestanding nursing facility within the applicable mileage or travel time, but the freestanding nursing facility is not able or willing to admit the patient at the time of the placement effort or in the future, the length of placement time required shall vary and may be shorter than 25 days. If documentation establishes that no freestanding nursing facility within the applicable mileage or travel time, is, or will ever be, able or willing to admit the patient, further placement efforts shall not be required. The distinct-part nursing facility rate of reimbursement shall be approved upon the patient's admission to the distinct-part nursing facility if reasonable placement efforts requirement has been met and no freestanding nursing facility within the applicable mileage or travel time standard was able and willing to accept the patient.

(B) When a patient is either admitted to a distinct-part nursing facility from an acute hospital, nonacute facility, or community setting, or was a distinct-part nursing facility resident whose care has been, but is no longer being, paid by another payment source, a treatment authorization request shall be approved at the distinct-part nursing facility rate for a patient who has been admitted and determined to need long-term nursing facility placement when the reasonable placement efforts requirement has been met. If a contacted freestanding nursing facility is able and willing to admit the patient during the 25-day period, the distinct-part nursing facility treatment authorization request shall be subsequently authorized for approval at the distinct-part nursing facility rate until the date that the freestanding nursing facility is able to accept the patient. If the basis on which the final distinct-part nursing facility approval is sought is the lack of any freestanding nursing facility able and willing to take the patient after reasonable placement efforts, this approval shall not be given until after the completion of the reasonable placement period, but may be given for days of care during that period. The criteria for shortening the reasonable placement period to less than 25 days shall apply. Notwithstanding the general requirement that skilled nursing care must receive prior

authorization, when a distinct-part nursing facility admits a patient during the time it is making reasonable placement efforts, authorization of the distinct-part nursing facility rate may be given postadmission.

However, no days of care shall be authorized for any period prior to the receipt of the treatment authorization request from the facility, unless retroactive authorization may be given.

(C) When a patient spends some of the placement period in the hospital and some of that time in a distinct-part nursing facility, acute administrative days shall be authorized for the hospital days and the distinct-part nursing facility rate for the distinct-part nursing facility days, subject to the provisions of this paragraph.

(5) Reasonable placement efforts, as defined in paragraph (3), shall be conducted for all patients in need of long-term nursing care who are seeking admission to a distinct-part nursing facility pursuant to paragraph (1) of subdivision (a) of Section 51335 of Title 22 of the California Code of Regulations. Patients requiring nursing care for postsurgical rehabilitative or therapy services shall not be subject to the reasonable placement efforts required for admission to a distinct-part nursing facility but they shall be subject to all other Medi-Cal criteria for these admissions. A patient, who is a resident of a distinct-part nursing facility and who has been hospitalized for more than the seven-day bed-hold period, may be readmitted to the distinct-part nursing facility without meeting the reasonable placement efforts requirement for admission, if the attending physician documents that discharge to a freestanding nursing facility will result in physical or psychological harm.

(6) If a distinct-part nursing facility desires of its own volition to admit a patient needing nursing care at the freestanding nursing facility rate, the department shall approve a treatment authorization request submitted for approval at that rate. Distinct-part nursing facilities shall be enrolled in the Medi-Cal program as a freestanding nursing facility provider for that purpose, in addition to being otherwise enrolled in the Medi-Cal program. A distinct-part nursing facility objecting to the freestanding nursing facility rate in any other circumstance, such as when it has not accepted the rate of its own volition, shall not be deemed to have waived its rights to administrative appeal and further review.

(7) With respect to acute care hospitals that are licensed for distinct-part nursing beds, and determined by the State Department of Health Services to provide special services to a unique population, the department shall enact and enforce no regulation, field office instruction, or preadmission screening criteria that restricts a Medi-Cal beneficiary's freedom to seek admission to a nursing facility or unit that is a distinct part of an acute care hospital on terms or conditions different from those governing admission to a long-term care facility.

(c) The department may waive the requirements of this section if it can be demonstrated that both of the following apply:

(1) Access to care is compromised for a specific patient population.

(2) The facility can demonstrate an increase in acute administrative days that are attributable to unsuccessful placement efforts.

*(Amended by Stats. 2007, Ch. 188, Sec. 60. Effective August 24, 2007.)*