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 3.7. Incontinence Medical Supplies [14125 - 14125.9] *(Article 3.7 added by Stats. 1990, Ch. 456, Sec. 33.)*

14125. (a) The purpose of this article is to establish provider reimbursement rates for incontinence medical supplies covered by the Medi-Cal program. Reimbursement for incontinence medical supplies shall consist of the negotiated contract prices within each product category, plus a markup fee equal to 38 percent of the contract price.

(b) (1) In establishing the list of incontinence medical supplies, the department may enter into exclusive or nonexclusive contracts on a bid or negotiated basis with manufacturers, distributors, dispensers, or suppliers of incontinence medical supplies.

(2) To ensure that the health needs of Medi-Cal beneficiaries are met, the department shall, when evaluating a decision to execute a contract, and when evaluating incontinence medical supplies for retention on, addition to, or deletion from, the list of incontinence medical supplies, consider all of the following criteria:

(A) The safety of the product.

(B) The effectiveness of the product.

(C) The essential need for the product.

(D) The potential for misuse of the product.

(E) The immediate or long-term cost-effectiveness of the product.

(3) The deficiency of a product when measured by one of the criteria specified in paragraph (2) may be sufficient to support a decision that the product should be deleted from, should not be added to, or should not be retained on, the list of medical supplies. However, the superiority of a product under one criterion may be sufficient to warrant the addition or retention of the product, notwithstanding a deficiency in another criterion.

(4) In the evaluation of the effectiveness of a product, the department may require the manufacturer, distributor, dispenser, or supplier to submit their products to testing by an independent laboratory. For the purposes of this section, “independent laboratory” means an analytical laboratory that is not a subsidiary of, affiliated with, or on retainer for, the manufacturer, distributor, dispenser, or supplier.

(c) The department may use Healthcare Common Procedure Code System codes or Universal Product Number codes for the processing and payment of incontinence medical supplies.

(Amended by Stats. 2007, Ch. 188, Sec. 78. Effective August 24, 2007.)

14125.1. Unless the context requires otherwise, the definitions set forth in this section shall govern the construction and meaning of the terms and phrases used in this article.

(a) “Incontinence medical supplies” means disposable medical supplies that are covered benefits under the Medi-Cal program pursuant to subdivision (s) of Section 14132 when prescribed by a physician for the treatment of individuals who are incontinent. Incontinence medical supplies include, but are not limited to, disposable diapers, briefs, underpads, undergarments, liners or pads, pant and pad systems, and skin care products.

(b) “Department” means the State Department of Health Services.

(c) “Manufacturer” means any person, partnership, or corporation who assembles or combines the components of incontinence supplies into a final product sold to dealers.

(d) “Principal labeler” means any person, partnership, or corporation who purchases from a manufacturer an assembled product which is sold to dealers under the principal labeler’s label.

(e) “Dealer” means any person, partnership, corporation, or other entity that is recognized by the manufacturer or principal labeler as a provider or retail outlet for its line of incontinence medical supplies, and which provide these supplies directly to consumers. The term “dealer” includes a retailer.

(Amended by Stats. 1992, Ch. 722, Sec. 112. Effective September 15, 1992.)

14125.2. (a) (1) To qualify for Medi-Cal coverage a product shall be in general retail distribution, sold to the general public, and comply with any standards for products established by law or regulation. No product that is manufactured, distributed, or otherwise promoted for the exclusive use of beneficiaries of the Medi-Cal program shall be a Medi-Cal benefit.

(2) For purposes of this section, “product” means any product which is in general retail distribution.

(3) For purposes of this subdivision, “general retail distribution” means either of the following:

(A) The product is included in a listing of approved products for purchase either by the federal or state government.

(B) The product is on display and available for purchase by customers for private payment at licensed pharmacies or licensed medical supply dealers within California which are physical locations open to the general public.

(b) In order to qualify as a Medi-Cal provider of incontinence medical supplies, a dealer shall have an established place of business that is readily identifiable as a medical supply business, be open to the general public at regularly established business hours, have incontinence supplies in stock on the premises or in a warehouse under the provider’s direct control, and meet all local laws and ordinances regarding business licensing and operations. The department shall establish additional rules and regulations for participation in the Medi-Cal program as it deems necessary to ensure adequate safeguards to the integrity of the Medi-Cal program.

(Amended by Stats. 2007, Ch. 188, Sec. 79. Effective August 24, 2007.)

14125.3. The department shall reduce the weighted average of the negotiated contract prices within each product category in effect on June 30, 1992, as follows:

(a) For all premium underpads, as defined by the department, by 24 percent.

(b) For all other incontinence medical supply products, as defined by the department, by 14 percent.

(Repealed and added by Stats. 1992, Ch. 1106, Sec. 4. Effective January 1, 1993.)

14125.4. (a) No later than January 1, 1994, the department shall establish utilization controls that limit expenditures for incontinence medical supplies per beneficiary to no more than one hundred sixty-five dollars ($165) per month. Incontinence creams and washes shall be excluded from this limitation. The expenditure limit established by this section may be adjusted in the annual Budget Act to reflect changes in wholesale prices. These utilization controls shall be published in provider bulletins.

(b) The department shall, by prior authorization, allow a beneficiary to exceed the utilization limits established by this section when justified to the department’s satisfaction not later than January 1, 1994.

(c) Notwithstanding any other provision of law, no regulations shall be necessary to define the incontinence medical supplies subject to the reductions required in Section 14125.3, or to establish and implement the utilization controls required in this section.

(Amended by Stats. 1994, Ch. 813, Sec. 3. Effective January 1, 1995.)

14125.8. (a) In order to more fully identify the owner or owners of companies or corporations that apply to be or currently are providers of incontinence medical supplies, within 30 days of the receipt of a request from the department, or a request to the department from the Department of Justice, the applicant or provider shall provide, as part of the application process or as a condition of continued participation in the Medi-Cal program, the following:

(1) The name of the corporation, the official titles of the applicants, and a list of all the corporate officers.

(2) The California driver’s license or California identification card number of the applicants, coowners, corporate officers, and financially interested parties.

(3) The applicant’s business permit control number, issued by the State Board of Equalization, for the business location where services are rendered to the public.

(4) A statement of all current sources of capital, identity of all investors, disclosure of all manufacturers, suppliers, and providers currently doing business with the applicant, and disclosure of all entities to whom the applicant has extended a line of credit.

(5) A statement certifying that all information supplied pursuant to this section is accurate.

(b) A Medi-Cal provider of incontinence supplies shall not submit a claim for goods or services to the department prior to the date the goods or services are delivered to the Medi-Cal beneficiary. The date of delivery to a beneficiary shall be the earlier of the date the beneficiary actually received the goods or services, or the date the goods were posted or otherwise dispatched from the provider’s premises and control. A claim submitted to the department prior to the date of delivery shall not be paid. Violation of this subdivision shall be grounds for expulsion from the Medi-Cal program.

(c) The department may implement a 180-day moratorium on the enrollment of new providers or new business addresses for incontinence medical supply dealers when the department determines this action is necessary to safeguard public funds or to maintain the fiscal integrity of the program.

(Amended by Stats. 2007, Ch. 188, Sec. 80. Effective August 24, 2007.)

14125.9. Nothing in this article shall be interpreted as limiting or interfering in any way with the department’s authority to contract for the provision of incontinence medical supplies pursuant to subdivision (b) of Section 14105.3.

(Amended by Stats. 2006, Ch. 538, Sec. 705. Effective January 1, 2007.)