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**HEALTH AND SAFETY CODE - HSC**

**DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]** ( *Division 105 added by Stats. 1995, Ch. 415, Sec. 7. )*

**PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]** ( *Part 4 added by Stats. 1995, Ch. 415, Sec. 7. )*

**CHAPTER 4. Acquired Immune Deficiency Syndrome (AIDS) Early Intervention Projects [120900 - 120920]** ( *Chapter 4 added by Stats. 1995, Ch. 415, Sec. 7. )*

**120900.** (a) The director shall award contracts to early intervention projects to provide long-term services to persons infected with HIV. The purposes of the early intervention projects shall be to provide appropriate medical treatment to prevent or delay the progression of disease that results from HIV infection, to coordinate services available to HIV infected persons, and to provide information and education, including behavior change support, to HIV infected persons to prevent the spread of HIV infection to others. The director shall award contracts to early intervention projects from a variety of geographical areas. In selecting projects, the director shall ensure that each early intervention project will respond to the needs of its projected service area, will be sensitive to linguistic, ethnic, and cultural differences, and will accommodate the special needs of clients by taking into account the circumstances that placed them at risk for becoming infected with HIV. The director shall award contracts for early intervention services at a pace that reflects the availability of private, state, and federal reimbursement pursuant to Section 120920. Prior to awarding contracts to new programs, the director shall consider utilizing existing services and programs with which it currently contracts, or that are currently in operation, and that provide HIV-related services.

(b) Early intervention projects that are awarded contracts pursuant to this section shall provide all of the following services:

- (1) Health assessment of HIV infected persons, including, but not limited to, a physical examination and immunologic and clinical monitoring.
- (2) Health education and behavior change support related to reducing the risk of spreading HIV infection to others and to maximize the healthy and productive lives of HIV infected persons.
- (3) Psychosocial counseling services.
- (4) Information and referrals for social services.
- (5) Information and referrals on available research for the treatment of HIV infection.
- (6) Covered outpatient preventative or therapeutic health care services related to HIV infection, as determined by the director.
- (7) Case management.

(c) An early intervention project shall establish a core case management team for each client to assess the needs of the client and to develop, implement, and evaluate the client's written individual service plan. As needed by the client, the individual service plan shall include services specified in subdivision (b), other support services, legal services, public assistance, insurance, and inpatient and outpatient health care services needs of the client. A core case management team shall include, but not be limited to, a physician and surgeon, a physician assistant or nurse practitioner, a health educator, a case manager, and the client. Case management in an early intervention project shall incorporate an interdisciplinary approach. Other professionals, paraprofessionals, and other interested persons deemed appropriate by the members of the core case management team also may be included. The case manager shall coordinate the objectives specified in the client's individual service plan. The case manager also shall monitor and assist the client through all services provided by the project and shall provide information, guidance, and assistance to the client

regarding support services, legal services, public assistance, insurance, and inpatient and outpatient health care services. The project shall designate a sufficient number of case managers to reflect case manager-to-client ratios established by the department.

*(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)*

**120905.** (a) The director shall commence awarding contracts to projects on or before July 1, 1990. In awarding contracts to early intervention projects, the director may select projects from each of the following models:

- (1) A privately operated profit or nonprofit clinic that is not licensed as part of a health facility and that provides all of the services specified in subdivision (b) of Section 120900.
- (2) A publicly operated clinic that is not licensed as part of a health facility and that provides all of the services specified in subdivision (b) of Section 120900.
- (3) A combination of independent privately operated clinics, publicly operated clinics, and other health care providers that in total provide all of the services specified in subdivision (b) of Section 120900.
- (4) Any other model that the director considers worthy of receiving funds.

(b) An applicant for a contract to operate an early intervention project that is not a part of a county health department shall submit its application to the county health department for review and comment. The county health department shall provide comment on the application to the department within a time period to be specified by the department. The failure by a county health department to comment on an application submitted to it within the time period specified by the department shall not jeopardize the application, and the department in a case of this nature may process and award a contract in the absence of comment by the county health department.

(c) An applicant for a contract to operate an early intervention project shall indicate in its application how it intends to coordinate with county health department programs, community-based organizations that provide HIV-related services, and other public and private entities that may provide services to a person who is infected with HIV.

*(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)*

**120910.** (a) The department shall collect data from the early intervention projects, assess the effectiveness of the different models of early intervention projects.

(b) The department shall continuously collect data from each early intervention project. The data collected may include, but not be limited to, the following:

- (1) The total number of clients served.
- (2) The number of clients utilizing each service provided by the project.
- (3) Demographics on clients in the aggregate.
- (4) The source of funding for each type of service provided.
- (5) The cost of each type of service provided.
- (6) Medical treatment modalities utilized in the aggregate.
- (7) Changes in the clinical status of clients in the aggregate.
- (8) Changes in behaviors that present risks of transmitting HIV infection of the clients in the aggregate.
- (9) The psychosocial changes of clients in the aggregate.
- (10) Referrals made by the project.
- (11) Perceived unmet needs of the clients served by the project.

(c) The department shall develop and distribute to each early intervention project forms for data collection that are designed to elicit information necessary for the department to comply with the requirements of subdivision (b). The data may be used by the department to comply with the requirements of subdivision (a).

**120915.** (a) The department shall establish a reimbursement schedule for all of the services detailed in subdivision (b) of Section 120900. The amounts to be reimbursed for these services shall be commensurate with the costs of providing these services.

(b) The department shall develop and disseminate guidelines to assist early intervention projects in identifying appropriate public and private payers of early intervention services. The guidelines shall take into account each client's access to, and eligibility for, private health insurance and public medical assistance. The guidelines shall include, but not be limited to, the reimbursement schedule established pursuant to subdivision (a) and the elements identified in subdivisions (c) to (h), inclusive.

(c) Reimbursement under Sections 120900 to 120920, inclusive, shall not be made for any services that are available to the client under a private health insurance program. Early intervention projects shall inquire of each client as to the client's coverage by a private health insurance policy. Where a client has a private health insurance policy, the early intervention project shall bill the insurer for those services in subdivision (b) of Section 120900 that are covered by the client's policy.

(d) The department shall develop and implement, or cause to be implemented by an early intervention project, a uniform sliding fee schedule for services provided to individuals under Sections 120900 to 120920, inclusive. The schedule shall be based on the client's ability to pay.

(e) The department may apply for any funds available from the federal government for the reimbursement of those services to be provided by early intervention projects, including, but not limited to, funds available pursuant to Section 2318 of the Public Health Service Act, as added by Public Law 100-607, that provides for the development of model protocols for the clinical care of individuals who are infected with HIV.

(f) To the extent permitted under existing law, the Medi-Cal program shall provide reimbursement to early intervention projects for services provided under Sections 120900 to 120920, inclusive, that are covered under the Medi-Cal program. This subdivision shall not be construed to confer Medi-Cal eligibility on any person who does not meet existing Medi-Cal eligibility requirements.

(g) The department shall use federal and state general funds that are appropriated for the purpose of purchasing HIV-related drug treatments and related services, to reimburse for covered outpatient preventative or therapeutic health care services, as defined by the director, provided that the client is eligible for a federal or state program that subsidizes the cost of HIV-related drugs and related services. If Assembly Bill 2251 of the 1989–90 Regular Session is enacted, the department shall use the provisions in Chapter 6 (commencing with Section 120950) to implement this subdivision.

(h) The department shall use moneys from the General Fund to cover expenses for early intervention services that are not otherwise reimbursed, to the extent that moneys from the General Fund are expressly appropriated to the department for early intervention services.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

**120917.** (a) An HIV counselor who meets the requirements of subdivision (f) may do all of the following:

(1) Perform any HIV, hepatitis C virus (HCV), or other sexually transmitted disease (STD) test that is classified as waived under the federal Clinical Laboratory Improvement Act (CLIA) (42 U.S.C. Sec. 263a et seq.) if all of the following conditions exist:

(A) The performance of the HIV, HCV, or STD test meets the requirements of CLIA and, subject to subparagraph (D), Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(B) The HIV counselor has been trained and demonstrates proficiency in administering the HIV, HCV, or STD test.

(C) The HIV counselor demonstrates sufficient knowledge of HIV, HCV, or STDs to provide appropriate counseling and referrals to patients for the test they are performing.

(D) Notwithstanding Section 1246 of the Business and Professions Code, an HIV counselor may perform skin punctures for the purpose of withdrawing blood for an HIV, HCV, or STD test, upon specific authorization from a licensed physician and surgeon, provided that the person meets all of the following requirements:

(i) The HIV counselor works under the direction of a licensed physician and surgeon.

(ii) The HIV counselor has been trained in administering rapid HIV, HCV, or STD tests and in universal infection control precautions, consistent with best infection control practices established by the Division of Occupational Safety and Health in the Department of Industrial Relations and the federal Centers for Disease Control and Prevention. The HIV counselor shall not administer a rapid HIV, HCV, or STD test until they demonstrate proficiency in administering the test.

(E) The person performing the HIV, HCV, or STD test meets the requirements for the performance of waived laboratory testing pursuant to subdivision (a) of Section 1206.5 of the Business and Professions Code. For purposes of this subdivision and subdivision (a) of Section 1206.5 of the Business and Professions Code, an HIV counselor who meets the requirements of subdivision (f) shall be "other health care personnel providing direct patient care" as referred to in paragraph (14) of subdivision (a) of Section 1206.5 of the Business and Professions Code.

(F) The patient is informed that the preliminary result of the test is indicative of the likelihood of HIV infection, HCV exposure, or other STD exposure and that the result may need to be confirmed by an additional more specific test, or, if approved by the federal Centers for Disease Control and Prevention for that purpose, a second different rapid HIV, HCV, or STD test. This subdivision does not allow an HIV counselor to perform an HIV, HCV, or STD test that is not classified as waived under the CLIA.

(2) Notwithstanding Section 1246.5 of the Business and Professions Code, order and report HIV, HCV, or STD test results from tests performed pursuant to paragraph (1) to patients without authorization from a licensed health care professional or the health care professional's authorized representative. Patients with indeterminate or positive test results from tests performed pursuant to paragraph (1) shall be referred to a licensed health care provider whose scope of practice includes the authority to refer patients for laboratory testing for further evaluation.

(b) An HIV counselor who has been certified pursuant to subdivision (b) of Section 120871 prior to September 1, 2009, and who will administer rapid HIV, HCV, or STD skin puncture tests shall obtain training required by clause (ii) of subparagraph (B) of paragraph (1) of subdivision (a) prior to September 1, 2011. The HIV counselor shall not, unless also certified as a limited phlebotomist technician, perform a skin puncture pursuant to this section until after completing the training required by that clause.

(c) An HIV counselor who has been certified pursuant to subdivision (f) prior to January 1, 2022, and who will administer rapid STD tests, shall obtain training required by subparagraph (B) of paragraph (1) of subdivision (a). The HIV counselor shall not, unless also certified as a limited phlebotomist technician, perform STD tests pursuant to this section until after completing the training required by that clause.

(d) An HIV counselor who meets the requirements of this section with respect to performing any HIV, HCV, or STD test that is classified as waived under the CLIA may not perform any other test unless that person meets the statutory and regulatory requirements for performing that other test.

(e) This section does not certify an HIV counselor as a phlebotomy technician or a limited phlebotomy technician, or fulfill any requirements for certification as a phlebotomy technician or a limited phlebotomy technician, unless the HIV counselor has otherwise satisfied the certification requirements imposed pursuant to Section 1246 of the Business and Professions Code.

(f) (1) An HIV counselor shall meet one of the following criteria:

(A) Is trained by the Office of AIDS and working in an HIV counseling and testing site funded by the department through a local health jurisdiction, or its agents.

(B) Is working in an HIV counseling and testing site that meets both of the following criteria:

(i) Utilizes HIV counseling staff who are trained by the Office of AIDS or its agents.

(ii) Has a quality assurance plan approved by the local health department in the jurisdiction where the site is located and has HIV counseling and testing staff who comply with the quality assurance requirements specified in Section 1230 of Article 1 of Group 9 of Subchapter 1 of Chapter 2 of Division 1 of Title 17 of the California Code of Regulations.

(C) Has completed a training course that has been approved by the Office of AIDS.

(2) (A) The Office of AIDS or its agents may charge a fee for training HIV counseling staff.

(B) The local health department may charge a fee for the quality assurance plan approval.

(3) The Office of AIDS may determine which HIV, HCV, and STD tests are to be included in the training for HIV counseling staff. This determination may be modified by the department at any time, in consultation with appropriate local public health stakeholders. Both the establishment and modification of this determination shall be exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

*(Amended by Stats. 2021, Ch. 486, Sec. 6. (SB 306) Effective January 1, 2022.)*

**120920.** The Legislature hereby finds and declares that people with HIV infection may not avail themselves of early intervention services unless they are aware of the availability of the services and the efficacy of early intervention in prolonging life. This awareness by HIV-infected persons is critical to maximizing the benefits of early intervention. Therefore, it is the intent of the

Legislature that the department includes early intervention education as a component of information and education grants in the first grant cycle following enactment of Sections 120900 to 120920, inclusive.

*(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)*