

Intermediate Care Facilities
Payment for Transportation and Day Treatment Costs
Proposed Amendments

Section 1. Section 4646.55 is added to the Welfare and Institutions Code to read:

4646.55 (a) Notwithstanding any other provision of law or regulation to the contrary and to the extent federal financial participation is available, effective July 1, 2007, the California Department of Developmental Services is hereby authorized to make supplemental payment to Medi-Cal providers that are licensed intermediate care facility/developmentally disabled-habilitative, licensed intermediate care facility/developmentally disabled-nursing or licensed intermediate care facility/developmentally disabled for day treatment and transportation services provided pursuant to Sections 4646, 4646.5 and applicable regulations and 14132.92, to Medi-Cal beneficiaries residing in a licensed intermediate care facility/developmentally disabled-habilitative, licensed intermediate care facility/developmentally disabled-nursing or licensed intermediate care facility/developmentally disabled. These payments shall be considered supplemental payments to the Medi-Cal providers and shall be comprised of the full costs of paying Regional Centers to arrange day treatment and transportation services, plus a coordination fee which will include an administrative fee and reimbursement for the increased costs associated with the Quality Assurance fee.

(b) Notwithstanding any other provision of law and to the extent federal financial participation is available, and in furtherance of this section and 14132.925, the Department of Developmental Services shall amend the regional center contracts for the fiscal year 2007-08 to extend the contract liquidation period until June 30, 2011. The contract amendments and budget adjustments shall be exempt from the provisions of Article 1, (commencing with Section 4620) of Chapter 5 of Division 4.5 of the Welfare and Institutions Code.

Section 2. Section 14132.925 is added to the Welfare and Institutions Code to read:

(a) Notwithstanding any other provision of law or regulation to the contrary and to the extent federal financial participation is available, and in furtherance of Section 14105.06 and subdivisions (a) and (c) of Section 14132.92 effective July 1, 2007, a licensed intermediate care facility/developmentally disabled-habilitative, a licensed intermediate care facility/developmentally disabled-nursing or a licensed intermediate care facility/developmentally disabled shall be responsible for providing day treatment and transportation services, consistent with 14105.06 and subdivision (a) of Section 14132.92, that are selected and authorized through the individual program plan process pursuant to Sections 4646, 4646.5 and applicable regulations for each beneficiary receiving such services who resides in that licensed intermediate care facility/developmentally disabled-habilitative, licensed intermediate care facility/developmentally disabled-nursing or licensed intermediate care facility/developmentally disabled. These services shall be arranged by the regional

center pursuant to Sections 4646, 4646.5 and applicable regulations, and the licensed intermediate care facility/developmentally disabled-habilitative, licensed intermediate care facility/developmentally disabled-nursing or licensed intermediate care facility/developmentally disabled, shall reimburse the regional center for the full costs incurred in arranging for such services. The licensed intermediate care facility/developmentally disabled-habilitative, licensed intermediate care facility/developmentally disabled-nursing or licensed intermediate care facility/developmentally disabled shall not substitute day treatment or transportation services for the day treatment and transportation services selected and authorized through the individual program plan process pursuant to Sections 4646, 4646.5 and applicable regulations.

(b) The State Department of Developmental Services shall be responsible for reimbursing a licensed intermediate care facility/developmentally disabled-habilitative, licensed intermediate care facility/developmentally disabled-nursing or licensed intermediate care facility/developmentally disabled for the costs of reimbursing the Regional Center for the full costs of arranging the day treatment and transportation services, plus a coordination fee which will include an administrative fee and reimbursement for the increased costs associated with the Quality Assurance fee. This payment shall be a supplement to the Medi-Cal payment from the Department of Health Care Services described in 14105.06 and 14132.92. A licensed intermediate care facility/developmentally disabled-habilitative, licensed intermediate care facility/developmentally disabled-nursing or licensed intermediate care facility/developmentally disabled may authorize the Regional Center to invoice the State Department of Developmental Services on its behalf for arranging for the services described in subdivision (a). The licensed intermediate care facility/developmentally disabled-habilitative, licensed intermediate care facility/developmentally disabled-nursing or licensed intermediate care facility/developmentally disabled shall reimburse the Regional Center the full cost of arranging for the day treatment and transportation services within 30 days of receipt of payment from the State Department of Developmental Services pursuant to instruction from the State Department of Developmental Services. If a licensed intermediate care facility/developmentally disabled-habilitative, licensed intermediate care facility/developmentally disabled-nursing or licensed intermediate care facility/developmentally disabled fails to reimburse the Regional Center within 30 days of receipt of payment from the Department of Developmental Services, for all or part of the costs associated with arranging for the day treatment and transportation services, the outstanding amount shall be recovered by any of the following methods:

- (1) lump sum payment by the provider:
- (2) offset against current payments due to the provider from the State of California; or
- (3) a repayment agreement between the provider and the State of California.

(c) A licensed intermediate care facility/developmentally disabled-habilitative, licensed intermediate care facility/developmentally disabled-nursing or licensed intermediate care facility/developmentally disabled shall report the costs incurred pursuant to

subdivision (a) according to instruction from the Department of Health Care Services. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the Department of Health Care Services may implement this subdivision by means of a provider bulletin or similar instruction.

(d) If services meeting the conditions of subdivision (a) have been provided to a Medi-Cal beneficiary on or after July 1, 2007, and, notwithstanding Section 14115, a licensed intermediate care facility/developmentally disabled-habilitative, licensed intermediate care facility/developmentally disabled-nursing or licensed intermediate care facility/developmentally disabled may authorize the Regional Center to invoice the State Department of Developmental Services on its behalf for arranging for the services described in subdivision (a). The licensed intermediate care facility/developmentally disabled-habilitative, licensed intermediate care facility/developmentally disabled-nursing or licensed intermediate care facility/developmentally disabled shall reimburse the Regional Center the full cost of arranging for the day treatment and transportation services within 30 days of receipt of payment from the State Department of Developmental Services pursuant to instruction from the State Department of Developmental Services. If a licensed intermediate care facility/developmentally disabled-habilitative, licensed intermediate care facility/developmentally disabled-nursing or licensed intermediate care facility/developmentally disabled fails to reimburse the Regional Center within 30 days of receipt of payment from the Department of Developmental Services, for all or part of the costs associated with arranging for the day treatment and transportation services, the outstanding amount shall be recovered by any of the following methods:

- (1) lump sum payment by the provider:
- (2) offset against current payments due to the provider from the State of California; or
- (3) a repayment agreement between the provider and the State of California.

(e) The department shall seek federal financial participation, including American Recovery and Reinvestment Act money, pursuant to a federally approved state plan amendment authorizing reimbursement for these services provided during that period. Upon approval of the amendment the payments made pursuant to this section shall be subject to the Quality Assurance fee provided for in Health and Safety Code Sections 1324 through 1324.14. If federal financial participation is not made available for that period, the services nonetheless shall be reimbursed from the General Fund by the Department of Developmental Services.

(f) The Department of Health Care Services shall request approval from the federal Centers for Medicare and Medicaid Services for the implementation of this section. The Director of the Department of Health Care Services, with the concurrence of

the Director of the Department of Developmental Services, may alter the methodology specified in this section, to the extent necessary to meet the requirements of federal law or regulations or to obtain federal approval. If after seeking federal approval, federal approval is not obtained or federal financial participation is no longer available, this section and section 4646.55 shall not be implemented or shall become inoperative.

Section 3. Due to a change in the availability of federal funding that addresses the ability of California to capture additional federal financial participation for day treatment and transportation services provided to a Medi-Cal beneficiary residing in a licensed intermediate care facility/developmentally disabled-habilitative, a licensed intermediate care facility/developmentally disabled-nursing or a licensed intermediate care facility/developmental disability, as specified in Section 4646.55 and 14132.925, funds appropriated in Item 4300-101-0001, Budget Act of 2007 (Chapters 171 and 172, Statutes of 2007), shall be available for liquidation until June 30, 2011.

May 14, 2010