

Second 15-Day Modified Text

California Code of Regulations
Title 17. Public Health
Division 2. Health and Welfare Agency – Department of
Developmental Services Regulations
Chapter 3. Community Services

Amend Sections 57310, 57332, 58886 and 58888 to read as follows.

[NOTE: The originally proposed regulatory language is shown in single underline to indicate addition and ~~single strikethrough~~ to indicate deletion. The First 15-day changes are shown in double underline to indicate addition, and ~~double strikethrough~~ to indicate deletion. The Second 15-day changes are shown in **bold single underline** to indicate additions, and ~~**bold single strikethrough**~~ to indicate deletions. The symbol “# # #” means that intervening text not proposed for amendment is not shown.]

Subchapter 7. Nonresidential Service Vendor Rate-Setting Provisions

Article 3. Vouchers

§ 57310. Method of Reimbursement for Voucher Services.

- (a) # # #
- (b) If a voucher is issued, the maximum reimbursement authorized by the regional center for the service provided shall be specified in the voucher and shall not exceed the maximum rate of reimbursement as specified below:
- (1) Nursing Service - Family Member - Service Code 415 - the Schedule of Maximum Allowances for the Home and Community Based Services, In-Home Medical Care Waiver Program, as developed by the Department of Health Care Services;
 - (2) Day Care - Family Member - Service Code 405 - the usual and customary rate, as defined in Section 57210(a)(19), which the direct provider of the service charges or, if the direct provider of the service does not have an established usual and customary rate, a negotiated rate pursuant to Section 57300(e);

- (3) Respite Service - Family Member - Service Code 420 - ~~\$10.71 per consumer per hour, including the current state minimum wage plus~~ **the respite worker wage adjustment authorized in Welfare and Institutions Code, Section 4691.5 \$0.81**, and to that number add fringe benefits ~~of 21%, effective January 1, 2008;~~
- (4) Transportation - Family Member - Service Code 425 - the standard rate schedule developed by the regional center pursuant to Title 17, California Code of Regulations, Section 58543; and
- (5) Diaper and Nutritional Supplements - Family Member - Service Code 410 - the usual and customary rate charged by the supplier.

Note: Authority cited: Chapter 722, Statutes of 1992, Section 147; and Sections 4690, 4690.1, ~~and 4690.2,~~ and 4691.5, Welfare and Institutions Code. Reference: Sections 4690, 4690.1, 4690.2 and 4690.5, Welfare and Institutions Code; Budget Act of 2000-01, Item 4300-101-0001.

Article 5. Rates of Reimbursement Based on the Schedule of Maximum Allowances or the Vendor’s Usual and Customary Rate

§ 57332. Maximum Rates of Reimbursement for Non-Residential Services.

- (a) # # #
- (b) # # #
- (c) The maximum rate of reimbursement for the following medical services shall be as specified below:
 - (1) Behavior Management Assistant - Service Code 615
 - (A) The usual and customary rate, as defined in Section 57210(a)(19), charged for the behavior management assistant services or, if the vendor does not have an established usual and customary rate, a negotiated rate pursuant to Section 57300(e), not to exceed the rate of reimbursement established for the licensed professional with whom the Behavior Management Assistant is registered.

- (2) Behavior Management Consultant - Service Code 620
- (A) The maximum rate of reimbursement shall be based on the method of reimbursement established, pursuant to Section 57332, for an individual with the same licensed classification.
- (3) In-Home Respite Worker - Service Code 864
- (A) ~~Effective January 1, 2008, the~~ maximum rate of reimbursement for in-home respite workers shall not exceed ~~\$10.71 per consumer per hour, including the current state minimum wage plus~~ **\$0.81 the respite worker wage adjustment authorized in Welfare and Institutions Code, Section 4691.5, and to that number add** fringe benefits of 21%, except:
1. When the family member has more than one consumer residing with them who has been authorized by the regional center to receive in-home respite services, the maximum level of payment shall be determined pursuant to Section 58140 of these regulations.
- (4) Licensed Vocational Nurse - Service Code 742
- (A) The rate of reimbursement shall be in accordance with the Schedule of Maximum Allowances (SMA) for the Home and Community-Based Services, In-Home Medical Care Waiver Program.
- (5) Nurse's Aide or Assistant - Service Code 743
- (A) The rate of reimbursement shall be in accordance with the Schedule of Maximum Allowances (SMA) for the Home and Community-Based Services, In-Home Medical Care Waiver Program.
- (6) Out-of-Home Respite Services - Service Code 868
- (A) Day care homes providing out-of-home respite services shall be reimbursed in accordance with the vendor's usual and customary rate, as defined in Section 57210(a)(19) or, if the vendor does not have an established usual and customary rate, a negotiated rate pursuant to Section 57300(e).

- (B) Licensed residential facilities providing out-of-home respite services, for whom the Department of Social Services or the Department of Health Services has established a rate, shall be reimbursed in accordance with the rate of reimbursement as established by the appropriate Department.
 - (C) Licensed residential facilities providing out-of-home respite services, for whom the Department of Social Services has not established a rate, shall be reimbursed at 1/21 of the monthly rate established by the regional center for the facility's service level as approved pursuant to Title 17, California Code of Regulations, Section 56005.
- (7) Out-of-State Manufacturer or Distributor - Service Code 655
- (A) Out-of-State Manufacturers or Distributors supplying products that are reimbursable under the Medi-Cal program shall be reimbursed in accordance with the Schedule of Maximum Allowances (SMA).
 - (B) Out-of-State Manufacturers or Distributors supplying products that are not reimbursable under the Medi-Cal program shall be reimbursed according to the vendor's usual and customary rate.
- (8) Registered Nurse - Service Code 744.
- (A) The rate of reimbursement shall be in accordance with the Schedule of Maximum Allowances (SMA) for the Home and Community-Based Services, In-Home Medical Care Waiver Program.
- (9) Respite Facility - Service Code 869
- (A) Vendors classified as a respite facility shall be reimbursed as follows:
 - 1. Either 1/21 of the established monthly rate for the facility's service level as approved pursuant to Title 17, California Code of Regulations, Section 56005; or

2. The agreed-upon level of payment for a service contract negotiated pursuant to Section 57540(b) through (f).
 - a. ~~Effective January 1, 2008, the level of payment shall not exceed \$10.71 per consumer per hour, including fringe benefits, authorized by the Department for an In Home Respite Worker, Service Code 864, for the same units of service. the current state minimum wage plus, **\$0.81**the **respite worker wage adjustment authorized in Welfare and Institutions Code, Section 4691.5,** and to that number add fringe benefits of 21%.~~

- (10) Genetic Counselor - Service Code 800
Genetic counselors to whom the SMA does not apply shall be reimbursed in accordance with the vendor's usual and customary rate, as defined in Section 57210(a)(19) or, if the vendor does not have an established usual and customary rate, a negotiated rate pursuant to Section 57300(e).
- (11) Infant Development Specialist - Service Code 810
Infant development specialists to whom the SMA does not apply shall be reimbursed in accordance with the vendor's usual and customary rate, as defined in Section 57210(a)(19) or, if the vendor does not have an established usual and customary rate, a negotiated rate pursuant to Section 57300(e).
- (12) Behavior Management Technician (Paraprofessional) - Service Code 616
Regional centers shall contract for Behavior Management Technician (Paraprofessional) services at no more than 75 percent of the regional center's median hourly rate for Behavior Management Assistant - Service Code 615, or the statewide median rate for Behavior Management Assistant - Service Code 615, whichever is lower.

Note: Authority cited: Sections ~~4686.3, 4690 and 4686.3~~4690.2, and 4691.5, Welfare and Institutions Code. Reference: Sections 4648(a), 4690 and 4691.6, Welfare and Institutions Code.

Subchapter 22. Participant-Directed Services

Article 2. General Requirements for Participant-Directed Services

§ 58886. General Requirements for Participant-Directed Services.

- (a) Effective October 1, 2011, for consumers and family members of consumers receiving the services in California Code of Regulations, Title 17, Section 54355 (g) (1), (3), (4), and (5), when these services are funded with federal financial participation through Medicaid programs, the regional center may offer Participant-Directed Services to allow the adult consumer and/or family member to procure their own community-based training service, day care, nursing, respite, and transportation services. Effective [INSERT DATE] personal assistance, independent living services, and/or supported employment **will be added to are included in** the list of ~~Pp~~ participant--Directed ~~Ss~~ services.
- (b) # # #
- (c) # # #
- (d) # # #
- (e) The regional center shall vendor the Employer and Co-Employer in accordance with vendor requirements contained in California Code of Regulations, Title 17, Sections 54310 and 54326, in addition to the following requirements:
 - (1) # # #
 - (2) # # #
 - (3) # # #
 - (4) # # #
 - (5) # # #
 - (6) Participant-Directed Personal Assistance - Service Code 456 is a Personal Assistance service that assists the consumer with personal assistance and support to help the consumer be successful in their own home and in the community.

(A) A regional center shall classify a vendor as a Participant-Directed Personal Assistance Service if the vendor:

1. Is an adult consumer, family member, or conservator;
2. Selects an individual who is at least 18 years of age;
3. Ensures that the individual selected will possess the skill, training, or education necessary to provide the service in accordance with the IPP; and
4. Ensures that the individual is familiar with the consumer's daily routines and needs and is trained in any specialized supports necessary for the consumer.

(7) Participant-Directed Independent Living Services - Service Code 457 is an independent living service that assists the adult consumer in the development or maintaining of skills required for living independently in the community.

(A) A regional center shall classify a vendor as a Participant-Directed Independent Living service for Adults if the vendor:

1. Is an adult consumer, family member, or conservator;
2. Selects an individual who is at least 18 years of age;
3. Ensures that the individual will possess the skill, training, or education necessary to provide the service in accordance with the IPP; and
4. Ensures that the individual is familiar with the consumer's daily routines and needs and is trained in any specialized supports necessary for the consumer.

(8) Participant-Directed Supported Employment - Service Code 458 is a service that is provided in order to support a consumer in ~~obtaining~~ ~~getting~~ and maintaining competitive integrated employment, or self-employment. ~~or supporting in consumer in job discovery.~~ This may include developing a plan for employment by assessing the consumer's strengths, weaknesses, skills, and desires for employment.

(A) A regional center shall classify a vendor as a Participant-Directed Supported Employment provider if the vendor:

1. Is an adult consumer, family member, or conservator;
2. Selects an individual who is at least 18 years of age;
3. Ensures that the individual selected will possess the skill, training, or education necessary to provide the service in accordance with the IPP; and
4. Ensures that the person providing supported employment is familiar with the consumer's daily routines and needs and is trained in any specialized supports necessary for the consumer.

(f) # # #

NOTE: Authority cited: Sections 4405, 4648(a), 4648.12(c)(1)(B) and 4688.21(d), Welfare and Institutions Code; and Section 11152, Government Code. Reference: Sections 4631, 4648(a), 4648.12(c) and 4688.21, Welfare and Institutions Code.

Article 3. Participant-Directed Services Rate-Setting Provisions

§ 58888. General Provisions for Rate-Setting and Reimbursements.

- (a) The Participant-Directed Service(s), and units of service shall be determined through the IPP process pursuant to Welfare and Institutions Code Sections 4646 and 4646.5. The rate of payment for the service shall not exceed the maximum rate of reimbursement as specified below:
 - (1) Participant-Directed Day Care Service - Family Member - Service Code 455 - the usual and customary rate, as defined in California Code of Regulations, Title 17, Section 57210(a)(19), which the direct provider of the service charges or, if the direct provider of the service does not have an established usual and customary rate, a negotiated rate pursuant to California Code of Regulations, Title 17, Section 57300(e);

- (2) Participant-Directed Nursing Service - Family Member - Service Code 460 - the Schedule of Maximum Allowances for the Home and Community Based Services, In-Home Medical Care Waiver Program, as developed by the Department of Health Care Services;
 - (3) Participant-Directed Respite Service - Family Member - Service Code 465 - the rate established pursuant to California Code of Regulations, Title 17, Section 57310(b)(3);
 - (4) Participant-Directed Transportation - Family Member - Service Code 470 - the standard rate schedule developed by the regional center pursuant to California Code of Regulations, Title 17, Section 58543; and
 - (5) Participant-Directed Community-Based Training Service - Service Code 475 - ~~\$13.47 per consumer per hour up to a maximum of 150 hours per quarter. The rate established pursuant to Welfare and Institution Code section 4688.21, subdivision (c)(7).~~ The rate includes employer-related taxes and all transportation needed to implement the service, except that the consumer shall also be eligible for a regional center-funded bus pass, if appropriate and needed.
 - (6) Participant-Directed Personal Assistant – Service Code 456 – the rate methodology established is the current state minimum wage plus 7% and to that number add 21% for fringe benefits per consumer per hour.
 - (7) Participant-Directed Independent Living Individual - Service Code 457 – the rate methodology established is the current state minimum wage plus 11% and to that number add 22% for fringe benefits per consumer per hour.
 - (8) Participant-Directed Supported Employment – Service Code 458 – the rate methodology established is the current state minimum wage plus 56% and to that number add 22% for fringe benefits per consumer per hour.
- (b) The regional center shall authorize a rate of payment for the FMS F/EA and FMS Co-Employer as follows:
- (1) For FMS FE/A services as described in Section 58887(a) and (b):

- (A) A rate not to exceed a maximum of ~~\$45.00~~\$45.88 per consumer per month for one Participant-Directed Service; or
 - (B) A rate not to exceed a maximum of ~~\$70.00~~\$71.37 per consumer per month for two or three Participant-Directed Services; or
 - (C) A rate not to exceed a maximum of ~~\$95.00~~\$96.86 per consumer per month for four or more Participant-Directed Services.
- (2) For FMS Co-Employer services as described in Sections 58887(a) and (c) a rate not to exceed a maximum of ~~\$95.00~~\$96.86 per consumer per month for one to four Co-Employer services.
- (c) The regional center shall name the FMS Co-Employer - Service Code 491, and/or the FMS F/EA - Service Code 490, as the vendor of record for the purchase of service authorizations for the Participant-Directed Services identified in the consumer's IPP. The authorization shall have an effective date for services or payments no sooner than October 1, 2011.

NOTE: Authority cited: Sections 4405, 4648(a), 4648.12(c)(1)(B), 4688.21(d) and 4690, Welfare and Institutions Code; and Section 11152, Government Code.
 Reference: Sections 4631, 4648(a) and 4648.12(c), Welfare and Institutions Code.