

FINDING OF EMERGENCY

These regulations are being adopted on an emergency basis for the immediate preservation of the public peace, health and safety, and general welfare, within the meaning of Government Code, Section 11346.1(b).

DESCRIPTION OF THE FACTS THAT CONSTITUTE THE EMERGENCY

Section 4648.12 of the Welfare and Institutions Code (WIC) (Stats 2011, C.9; SB74, § 11, eff. March 24, 2011) and Section 4688.21 (Stats 2011, C. 37, §19; AB104, § 19, signed by the Governor on June 30, 2011) provide the authority for the Department of Developmental Services (Department) to promulgate emergency regulations specifically for implementing proposals to meet federal requirements applicable to vouchered services and continue federal funding participation for these services.

AUTHORITY AND REFERENCE

Authority: Sections 4405, 4648(a), 4648.12(c)(1)(B), 4688.21, 4690, 4690.1, and 4690.2, Welfare and Institutions Code; and Section 11152, Government Code.

Reference: Sections 4631, 4648(a), 4648.12(c), 4690, 4690.1, Welfare and Institutions Code; 42 U.S.C. Section 1396n(c) (section 1915(c) of the Social Security Act).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently, the Department offers voucher services to consumers and/or to their families. In order for the Department to continue to receive federal funds for respite, day care, nursing, and transportation services, these services, when provided to participants in the Home and Community-Based Services (HCBS) Waiver, must be offered in conjunction with the use of a Financial Management Service (FMS) provider. These services are known as Participant-Directed Services. The Department proposes to amend Sections 50604, 54355 and 58543, and add Sections 58883, 58884, 58886, 58887 and 58888 of Title 17, of the California Code of Regulations (CCR), to add Participant-Directed Services for eligible participants. Regional centers will be required to identify and vendor, under new service codes, providers who have the ability, skills and knowledge to carry out the responsibilities of the FMS provider, which include but are not limited to: assisting a family member or adult consumer in verifying worker eligibility status; collecting and processing timesheets of workers; processing payroll, withholdings, filing and payment of applicable federal, state and local employment-related taxes and insurance; performing billing payments and reimbursements as authorized; and maintaining all source documentation related to the authorized service(s). New service codes will be added to existing service codes to identify when these services are used in conjunction with the Financial Management Services and the rates of reimbursement for these services.

Section 50604(d)(3)(E)

Proposed change will add the phrase “or participant-directed services, as described in California Code of Regulations, Title 17, Section 58884 (a)(1)” to require vendors to maintain records relating to these new services in addition to existing record maintenance requirements.

Section 54355(i)

Proposed new section will require consumers receiving services funded with federal financial participation through Medicaid programs or their vendored family members who currently procure their own services of day care, nursing, respite, and transportation services, to be vendored pursuant to the new participant-directed services, effective October 1, 2011.

Section 58543(a)

Proposed change will add the new participant-directed transportation service to be included in the standard rate schedule.

Section 58883

Proposed new section will effectuate the usual meaning of words unless the definition or context indicates otherwise, defines the use of grammatical tense and grammatical number, and the use of “shall” and “may”.

Section 58884

Proposed new section will add definitions for the new participant-directed services.

Section 58886

Proposed new section will add general requirements for participant-directed services including basic guidelines and requirements for service providers and new service codes related to these services.

Section 58887

Proposed new section will add basic guidelines and requirements for vendors of financial management services (FMS) related to participant-directed services, including descriptions of the duties, related new service codes for FMS vendors, the FMS fiscal/employer agent and FMS co-employer, and basic payment parameters.

Section 58888

Proposed new section will add basic provisions for rate-setting and reimbursements for the participant-directed services and the FMS, including rate guidelines for the new service codes.

LOCAL MANDATE AND FISCAL IMPACT DETERMINATIONS

The Department has determined that the proposed regulatory action does not impose: 1) a mandate on local agencies or school districts, 2) significant costs or savings to any state agency, 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630, 4) other nondiscretionary costs or savings imposed on local agencies, or 5) costs or savings in federal funding to the State.