

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(284)(i)(D) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(284) * * *
(i) * * *

(D) Ventura County Air Pollution Control District

(1) Rule 74.9, adopted on July 21, 1981 and amended on November 14, 2000.

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[FR Doc. 02-27134 Filed 10-24-02; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Medicare & Medicaid Services****42 CFR Parts 431 and 438**

[CMS-2104-F2]

RIN-0938-AK96

Medicaid Program; Medicaid Managed Care: New Provisions Correcting Amendment

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correcting amendment.

SUMMARY: In the June 14, 2002 issue of the **Federal Register** (67 FR 40989), we published a final rule implementing the Medicaid managed care provisions of the Balanced Budget Act of 1997. The effective date of the final rule was August 13, 2002. This document corrects a limited number of technical and typographical errors identified in the June 14, 2002 final rule.

EFFECTIVE DATE: This correcting amendment is effective November 25, 2002.

FOR FURTHER INFORMATION CONTACT: Bruce Johnson, (410) 786-0615.

SUPPLEMENTARY INFORMATION:**Background***Need for Corrections*

In FR Doc. 02-14747 of June 14, 2002, (67 FR 40989), we published final regulations that implemented the statutory provisions from the Balanced Budget Act of 1997 (BBA) related to Medicaid managed care. As published, a provision of § 431.220, and several provisions of the new part 438,

contained technical errors. The errors included typographical errors, incorrect cross-references, incorrectly designated paragraphs, and contradictions. We are in this final rule correcting the identified errors.

Summary of Technical Corrections to the Regulations Text of the June 14, 2002 Medicaid Managed Care Final Rule

Section 431.220 identifies when the State agency must grant a fair hearing to a beneficiary, and was amended by the June 14, 2002 final rule to add new reasons or circumstances under which a State fair hearing must be granted. Section 438.56(f)(2) specifies that an enrollee may request a State fair hearing, for example, if the enrollee is dissatisfied with the State agency's determination that there is not good cause for disenrollment. The preamble to the final rule makes clear that it was CMS' intent that these new rights be provided.

However, we inadvertently neglected to include a cross-reference to this new right in § 431.220, under the heading "*When a hearing is required*". This is corrected by adding a new item (7) to § 431.220, identifying the new circumstance when a State fair hearing must be granted as related to disenrollment.

In § 438.8, which identifies provisions that apply to PIHPs and PAHPs, paragraph (b) identifies provisions of part 438 that apply to prepaid ambulatory health plans (PAHPs). In this provision, we inadvertently omitted a reference to prohibitions against affiliations with individuals debarred by Federal agencies in § 438.610. Again, it is clear from the preamble, and from the text of § 438.610, that this provision was intended to apply to PAHPs. This error is corrected by adding a new item (8) to § 438.8(b) to reference prohibited affiliations with individuals debarred by Federal agencies in § 438.610.

In § 438.10, which sets forth requirements relating to information, in subparagraph (e)(1)(ii) the term "PIHP" and in subparagraph (i)(3) the term "potential enrollee," are in the singular form, but should be plural to conform with other nouns that are plural in the provision. These grammatical errors are corrected by making the terms plural.

In several paragraphs, there were inaccurate cross-references to other provisions of the regulations text. In § 438.10(f)(6)(iv), the reference to "§ 438.10(h)" should be "§ 438.10(h)(1)". In § 438.52(d), the reference to paragraphs "(b)(2) or (b)(3)" should be "(b) or (c)". In § 438.100(b)(iii), the reference to

"§ 438.10(f)(6)(xiii)" should be "§ 438.10(f)(6)(xii)". In § 438.102(c), the reference to "§ 438.10(e)(2)(ii)" should be "§ 438.10(e)(2)(ii)(E)". These are corrected in this final rule by inserting the correct regulatory citations.

In both subparagraph (b)(2) and paragraph (c) in § 438.102, which addresses provider-enrollee communications, we added the clarifying term "paragraphs" following "§ 438.102".

In § 438.114, governing emergency and post-stabilization services, the requirements in paragraphs (a) through (e) were intended to apply to all types of managed care programs. It is clear from the preamble to the final rule that this was CMS's intent. However, in paragraph (d)(ii), "PIHP" and "PAHP" inadvertently were omitted.

This is corrected in this final rule by including a reference to "PIHP" and "PAHP".

Paragraph (b)(2)(i) of § 438.116, which sets forth solvency standards, creates an exception to the solvency standard in paragraph (b) for entities that do not provide both inpatient hospital and physician services. By definition, PAHPs would not provide inpatient services. Therefore, the references to PAHPs in paragraph (b) are extraneous. This is corrected in this final rule by removing the two references to PAHPs in paragraphs (b)(1) and (2).

In two places, paragraphs are incorrectly designated. In § 438.214, on provider selection, there are two paragraphs designated "(a)". This is corrected in this final rule by redesignating the second paragraph as "(b)". In § 438.810, on expenditures for enrollment broker services, the last paragraph (c) is actually a continuation of paragraph (b) specifying conditions that enrollment brokers must meet. This is corrected in this final rule by redesignating paragraph "(c)" as "(b)(3)".

In § 438.730, on sanctions by CMS, subparagraphs (e)(1) and (e)(2), the term "HMO" is used. The BBA replaced the term "Health Maintenance Organization (HMO)" with "Managed Care Organization (MCO)". The obsolete references to HMO in paragraph (e) of § 438.730 are corrected in this final rule by removing "HMO" and replacing it with the new acronym "MCO".

In § 438.810, governing expenditures for enrollment broker services, a reference to PAHPs was inadvertently omitted from the definition of "Choice counseling" in paragraph (a), even though the text in the remainder of the provisions in § 438.810 includes such a reference. This is corrected in this final

rule by including the term "PAHP" in the definition of "Choice counseling".

Waiver of Proposed Rulemaking

Ordinarily, a final rule is first published in the **Federal Register** in proposed form to provide a period for public comment before the provisions of the final rule take effect. We can waive this procedure, however, if we find good cause that a notice and comment procedure is impracticable, unnecessary, or contrary to the public interest, and incorporate a statement of finding in the final rule.

We find that it is unnecessary to undertake notice and public comment procedures in this case because the technical corrections made in this final rule do not make any substantive policy changes. This document merely makes technical corrections and conforming changes designed to clarify the provisions of the June 14, 2002 final rule, which was subjected to notice and comment. Therefore, for good cause, we waive notice and public comment procedures under 5 U.S.C. 553(b)(B).

Correction of Errors

In FR Doc. 02-14747 of June 14, 2002, (67 FR 4089), we are making the following corrections:

Corrections to the Regulations Text

List of Subjects

42 CFR Part 431

Grant programs-health, Health facilities, Medicaid, Privacy, Reporting and recordkeeping requirements.

42 CFR Part 438

Grant programs-health, Managed care entities, Medicaid, Quality assurance, Reporting and recordkeeping requirements.

Accordingly, 42 CFR parts 431 and 438 are corrected by making the following correcting amendments:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

1. The authority citation for part 431 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§ 431.220 [Corrected]

2. In § 431.220, add new paragraph (a)(7) to read as follows:

§ 431.220 When a hearing is required.

(a) * * *

(7) Any enrollee who is entitled to a hearing under subpart B of part 438 of this chapter.

* * * * *

PART 438—MANAGED CARE

1. The authority citation for part 438 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§ 438.8 [Corrected]

2. In § 438.8, add a new paragraph (b)(8) to read as follows:

§ 438.8 Provisions that apply to PIHPs and PAHPs.

* * * * *

(b) * * *

(8) Prohibitions against affiliations with individuals debarred by Federal agencies in § 438.610.

§ 438.10 [Corrected]

3. In § 438.10(e)(1)(ii), "PIHP" is revised to read "PIHPs".

4. In § 438.10(f)(6)(iv), the last reference to "§ 438.10(h)" is revised to read "§ 438.10(h)(1)".

5. In § 438.10(i)(3), the last reference to "potential enrollee" is revised to read "potential enrollees".

§ 438.52 [Corrected]

6. In § 438.52(d), the reference to "(b)(2) or (b)(3)" is revised to read "(b) or (c)".

§ 438.100 [Corrected]

7. In § 438.100(b)(2)(iii), the reference to "§ 438.10(f)(6)(xiii)" is revised to read "§ 438.10(f)(6)(xii)".

§ 438.102 [Corrected]

8. In § 438.102(b)(2), "§ 438.10(e) and (f)" is revised to read "§ 438.10, paragraphs (e) and (f)".

9. In § 438.102(c), "§ 438.10(e)(2)(ii) and (f)(6)(xii)" is revised to read "§ 438.10, paragraphs (e)(2)(ii)(E) and (f)(6)(xii)".

§ 438.114 [Corrected]

10. In § 438.114(d)(1)(ii), the phrase "PIHP, PAHP" is added between "MCO" and "or applicable State entity".

§ 438.116 [Corrected]

11. In § 438.116(b)(1), "MCO, PIHP, and PAHP" is revised to read "MCO or PIHP".

12. In § 438.116(b)(2), "MCO, PIHP, or PAHP" is revised to read "MCO or PIHP".

§ 438.703 [Corrected]

13. In § 438.703(e)(1) and (e)(2), the term "HMO" is revised to read "MCO".

§ 438.810 [Corrected]

14. In § 438.810(a), in the definition of "Choice counseling", "PAHP," is added between "PIHP" and "or PCCM".

15. In § 438.810, paragraph (c) is redesignated as paragraph (b)(3).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: October 17, 2002.

Ann Agnew,

Executive Secretary to the Department.

[FR Doc. 02-27256 Filed 10-24-02; 8:45 am]

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DEPARTMENT OF DEFENSE

48 CFR Parts 208 and 216

[DFARS Case 2001-D017]

Defense Federal Acquisition Regulation Supplement; Competition Requirements for Purchase of Services Under Multiple Award Contracts

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 803 of the National Defense Authorization Act for Fiscal Year 2002. Section 803 requires DoD to issue DFARS policy requiring competition in the purchase of services under multiple award contracts.

DATES: Effective Date: October 25, 2002.

Applicability Date: This rule applies to all orders for services placed under multiple award contracts on or after October 25, 2002, regardless of whether the multiple award contracts were awarded before, on, or after that date.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, Defense Acquisition Regulations Council, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0326; facsimile (703) 602-0350. Please cite DFARS Case 2001-D017.

SUPPLEMENTARY INFORMATION:

Notification of training opportunities: DoD and civilian agency contracting professionals that place orders under multiple award contracts using DoD funds, and contractors that sell services on multiple award contracts, should receive training on the new procedures for placing orders over \$100,000 for services. DoD has developed many training tools on Section 803 and will be providing training in the DC metro area. Please visit the Defense Procurement Home Page, "Interest Items" drop-down box, for Section 803 training materials and lists of training opportunities at <http://www.acq.osd.mil/dp>. Additional questions regarding training should be directed to Melissa Rider at