

Pages 14-18
In-Home Supportive Services Program

Placeholder Trailer Bill Language to Accompany Handout

1. Provider Enrollment Form

Amend Section 12305.81 of the Welfare and Institutions Code to read:

12305.81. (a) Notwithstanding any other provision of law, a person shall not be eligible to provide or receive payment for providing supportive services for 10 years following a conviction for, or incarceration following a conviction for, fraud against a government health care or supportive services program, including Medicare, Medicaid, or services provided under Title V, Title XX, or Title XXI of the federal Social Security Act or a violation of subdivision (a) of Section 273a of the Penal Code, or Section 368 of the Penal Code, or similar violations in another jurisdiction. The department and the State Department of Health Care Services shall develop a provider enrollment form that each person seeking to provide supportive services shall complete, sign under penalty of perjury, and submit to the county. The form shall include copies of original documentation verifying the provider's identity, and shall be considered as an application to render services under the Medi-Cal program consistent with Welfare and Institutions Code Section 14043.1(c). A provider may submit the form to the county by mail or in person. The form shall be developed with input from the counties, public authorities, and stakeholders representing recipients and providers. The form shall contain statements to the following effect:

(1) A person who, in the last 10 years, has been convicted for, or incarcerated following conviction for, fraud against a government health care or supportive services program is not eligible to be enrolled as a provider or to receive payment for providing supportive services.

(2) An individual who, in the last 10 years, has been convicted for, or incarcerated following conviction for, a violation of subdivision (a) of Section 273a of the Penal Code or Section 368 of the Penal Code, or similar violations in another jurisdiction, is not eligible to be enrolled as a provider or to receive payment for providing supportive services.

(3) A statement declaring that the person has not, in the last 10 years, been convicted or incarcerated following conviction for a crime involving fraud against a government health care or supportive services program.

(4) A statement declaring that he or she has not, in the last 10 years, been convicted for, or incarcerated following conviction for, a violation of subdivision (a) of Section 273a of the Penal Code or Section 368 of the Penal Code, or similar violations in another jurisdiction.

(5) The person agrees to reimburse the state for any overpayment paid to the person as determined in accordance with Section 12305.83, and that the amount of any overpayment, individually or in the aggregate, may be deducted from any future warrant to that person for services provided to any recipient of supportive services, as authorized in Section 12305.83.

~~—(b) The department shall include the text of subdivision (a) of Section 273a of the Penal Code and Section 368 of the Penal Code on the provider enrollment form.~~

(c) A public authority or nonprofit consortium that is notified by the department or the State Department of Health Services that a supportive services provider is ineligible to receive payments under this chapter or under Medi-Cal law shall exclude that provider from its registry.

(d) A public authority or nonprofit consortium that determines that a registry provider is not eligible to provide supportive services based on the requirements of subdivision (a) shall report that finding to the department.

And Amend WIC 14043.25 as follows:

14043.25. (a) The application form for enrollment, the provider agreement, and all attachments or changes to either, shall be signed under penalty of perjury.

(b) The department may require that the application form for enrollment, the provider agreement, and all attachments or changes to either, submitted by an applicant or provider licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, the Osteopathic Initiative Act, or the Chiropractic Initiative Act, be notarized.

(c) Application forms for enrollment, provider agreements, and all attachments or changes to either, submitted by an applicant or provider not subject to subdivision (b) shall be notarized, except for providers of In Home Supportive Services.

For reference: WIC 14043.1(c) "Application or application package" means a completed and signed application form, signed under penalty of perjury or notarized pursuant to Section 14043.25, a disclosure statement, a provider agreement, and all attachments or changes in the form, statement, or agreement.

2. Program Integrity Report

Add Section 12305.84 of the Welfare and Institutions Code to read:

12305.84 (a) Upon enactment of this section, the department shall convene a stakeholder group and begin a process with this group to develop and issue a report evaluating the implementation of the quality assurance (QA) and fraud prevention and detection activities enacted in 2004 and since that date. The department shall include and collaborate with the Department of Health Care Services (DHCS), the California State Association of Counties, the County Welfare Directors Association, and stakeholders representing consumers and providers.

b) The department shall provide this report to the Legislature by December 31, 2010.

c) The stakeholder group shall:

1. Review the annual error reports issued and state-level QA activities to date required by Section 12305.7 and review and evaluate the implementation of county quality assurance activities required by Section 12305.71, including a review of the number of instances, amount, and causes of overpayments and underpayments identified by QA activity at the state and county level from enactment to date.
2. Review information available regarding prevention and early detection of fraud, the latter as defined by section 12305.81.
3. Collect and review information regarding referrals of suspected fraud to DCHS pursuant to 12305.82, and subsequent investigative efforts, including cost-benefit information regarding these efforts, as well as the number of fraud cases handled locally.
4. Collect and review information regarding final convictions for fraud, including (i) the amount of funds involved in the conviction, (ii) the basis of the fraud conviction, including whether it involved services not provided and/or falsified consumers or providers, and (iii) aggregate information regarding the number and source of individuals responsible, including but not limited to, state employees, IHSS providers, consumers, county workers or others.
5. Provide recommendations on options for preventing errors and fraud for both the state and county levels, and recommendations for early detection strategies to combat fraud in the program.