

Designation of Categorical Risk Levels for Pharmacy Providers in Los Angeles County

Legal Authority for Risk Level Designation and Screening Process

Federal law requires state Medicaid agencies (Medi-Cal in California) to establish categorical risk levels for providers and provider categories that pose an increased financial risk of fraud, waste or abuse to Medicaid (Medi-Cal). Federal law mandates that Medi-Cal screen all initial applications, including those applications for a new practice location and applications received in response to a continued enrollment or revalidation of enrollment request, based on a categorical risk level of “limited,” “moderate” or “high” (42 *Code of Federal Regulations* [CFR], Sections 424.518, 455.434 and 455.450; *Welfare and Institutions Code* (W&I Code), Section 14043.38).

Based upon the authority granted in W&I Code, Section 14043.75(b), the director of the Department of Health Care Services (DHCS) implements W&I Code, Section 14043.38, by way of this bulletin, without the need to take regulatory action. This bulletin makes specific the requirements of Section 14043.38 and has the full force and effect of law.

Effective the date of this bulletin, any pharmacy applicant located in Los Angeles County who is seeking enrollment in Medi-Cal for the first time or who is submitting an application for continued enrollment, with the exception of those operated by governmental entities, chain pharmacies, non-profit corporations and those operated by a Federally Qualified Health Center (FQHC), will be screened at the “high” categorical risk level. For the purpose of this bulletin, a chain pharmacy is defined as an entity with 20 or more service locations.

Pharmacy Providers in Los Angeles County Pose a High Risk of Fraud, Waste and Abuse to the Medi-Cal Program

DHCS has assessed the risk of fraud, waste and abuse posed by the category of pharmacy providers. DHCS has determined that newly enrolling pharmacy applicants, or those submitting an application for continued enrollment in Los Angeles County, with the exception of those operated by governmental entities, chain pharmacies, non-profit corporations and those operated by an FQHC, should be designated as a “high” categorical risk.

This designation is based upon criteria including but not limited to the following:

- DHCS continues to find significant program integrity issues with certain pharmacy providers in the Medi-Cal program
- DHCS reviews and investigations of pharmacy providers that led to numerous temporary suspensions and referrals to the California Department of Justice
- DHCS experience with claims data that identify fraudulent billing practices
- DHCS expertise with investigating and identifying Medi-Cal fraud across a broad spectrum of providers

When Medi-Cal designates a provider as a “limited,” “moderate” or “high” categorical risk, Medi-Cal must complete the following enrollment screenings:

- Screening for providers designated as “limited” categorical risk:
 - Verify that a provider meets any applicable federal regulations or State requirements for the provider type prior to making an enrollment determination
 - Conduct license verifications, including State license verifications in states other than where the provider is enrolling and
 - Conduct database checks on a pre- and post-enrollment basis to ensure that providers continue to meet the enrollment criteria for their provider type

- Screening for providers designated as “moderate” categorical risk:
 - Perform the “limited” screening requirements and
 - Conduct on-site visits
- Screening for providers designated as “high” categorical risk:
 - Perform the “limited” and “moderate” screening requirements
 - Conduct a criminal background check and
 - Require submission of a set of fingerprints for a criminal background check for all individuals who have 5 percent or greater direct or indirect ownership interest in the provider.

(42 CFR, Section 455.450; W&I Code, Section 14043.38)

Pursuant to W&I Code, Section 14043.26(f)(4)(E), failure to submit fingerprints upon the request of DHCS will result in the denial of the application package.

The requirements and procedures for submission of fingerprints are set forth in the bulletin entitled [“Medi-Cal Requirement to Submit Fingerprints for a Criminal Background Check”](#) published on October 14, 2014.