

ITEM 7
ADOPTION OF PROPOSED REGULATION AMENDMENTS
AFTER CLOSE OF 45-DAY COMMENT PERIOD
GENERAL CLEANUP PROVISIONS

PROPOSED AMENDMENTS TO
CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5
ARTICLES 1, 3, 4, 5, 6, 7, 8, AND 10

SECTIONS 1181.1; 1181.2; 1181.3; 1181.4; 1181.8; 1181.9; 1183.1; 1183.2; 1183.3; 1183.4;
1183.6; 1183.7; 1183.8; 1183.9; 1183.10; 1183.11; 1183.12; 1183.13; 1183.14; 1183.15;
1183.16; 1183.17; 1183.18; 1184.1; 1185.1; 1185.2; 1185.3; 1185.4; 1185.5; 1185.6; 1185.7;
1185.8; 1185.9; 1186.2; 1186.4; 1186.6; 1186.7; 1187.1; 1187.2; 1187.3; 1187.4; 1187.6;
1187.7; 1187.8, 1187.9, 1187.13; 1187.14; 1187.15; 1188.1, 1188.2, 1190.1, 1190.2, 1190.3, and
1190.5

EXECUTIVE SUMMARY

Background

The purpose of this rulemaking is to generally clean-up, clarify, and streamline Commission regulations and update language for consistency. Specifically, the proposed regulations: (1) clarify the definitions of “completed,” “new filing,” “party,” “statewide cost estimate,” “statewide estimate of costs,” and “subsequent change in the law;” and clarify the types of matters for which the executive director issues sequential numbers for matters; (2) require electronic filing for all new filings and written materials except as specified, and add electronic formatting requirements; (3) clarify that the tie vote procedures apply to all action items and that the option of assigning a matter to a hearing panel or hearing officer in the case of a tie vote applies to all quasi-judicial “matters” and not only to test claims and incorrect reduction claims; (4) streamline the process for adopting expedited parameters and guidelines; (5) clarify the joint reasonable reimbursement methodology (RRM) regulations, which implement Government Code sections 17557.1 and 17557.2, to make it clear that it is an alternative process and not the same as an RRM included in parameters and guidelines adopted by the Commission pursuant to Government Code section 17557; (6) clarify Commission and party actions in the timeline regulation; (7) clarify that the three-year limitation period that applies to filing incorrect reduction claims also applies to filing amendments to incorrect reduction claims; (8) add completeness language to a request to review the apportionment or base year entitlement of a program in the State Mandates Apportionment System (SMAS) consistent with the other SMAS requests for inclusion and removal; (9) clarify the definition of “matter” in article 7 to include joint reasonable reimbursement methodologies and statewide estimates of costs (joint RRM and SECs), and joint requests for early termination of a joint RRM; (10) clarify that the informal conference regulation and witnesses/subpoena regulations apply to all quasi-judicial “matters” subject to the article 7 regulations; (11) authorize limits to the length of testimony in Commission hearings consistent with the Bagley-Keene Open Meeting Act;

(12) clarify that the regulation for abandoning a matter applies to all quasi-judicial “matters” subject to the article 7 regulations; (13) clarify the regulation on dismissal of a test claim or other matter; (14) clarify the regulation governing the limited authority to reconsider a prior final decision on a test claim or incorrect reduction claim to make it consistent with Government Code section 17559(a), to clarify the standard of review to reconsider a prior final decision, and to make other clarifying amendments; (15) make minor, non-substantive consistency edits, corrections; and (16) update authority and reference citations.

At its regular meeting on July 26, 2019, the Commission adopted Order No. 19-01 to initiate rulemaking proceedings in accordance with Government Code sections 11346.2, 11346.4, 11346.8, and 11346.9.

The proposed text was posted on the Commission’s website and served on the regulatory mailing list on August 1, 2019; was published in the California Regulatory Notice Register 2019, Number 32-Z, on August 9, 2019; and was available to the public through September 23, 2019, for the 45-day comment period. There was no request to hold a public hearing and no comments were filed on the proposed regulation amendments.

Pursuant to Government Code section 11346.9(a)(4), staff finds that no alternative would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed regulations or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Thus, staff recommends that the Commission adopt the regulations as originally proposed and included in the Commission’s Order No. 19-01 to initiate rulemaking proceeding, adopted on July 26, 2019 and issued on August 1, 2019.¹

Staff Recommendation

Therefore, staff recommends that the Commission:

- Find that no alternative would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed regulations or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.
- Adopt the Final Statement of Reasons (Exhibit E).
- Adopt the proposed amendments, as originally noticed, to California Code of Regulations, Title 2, Division 2, Chapter 2.5, Articles 1, 3, 4, 5, 6, 7, 8, and 10, effective April 1, 2020 (Proposed Text Exhibit D).
- Authorize staff to issue the Order to Adopt (Exhibit F) and make any non-substantive, technical corrections to the proposed regulatory text requested by the Office of Administrative Law or Barclays Official California Code of Regulations prior to publication.

¹ Exhibit D, Proposed Text.