

California Code, Welfare and Institutions Code - WIC § 14197.7

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(a)(1) Notwithstanding any other law, if the director finds that an entity that contracts with the department for the delivery of health care services (contractor), including a Medi-Cal managed care plan or a prepaid health plan, fails to comply with contract requirements, state or federal law or regulations, or the state plan or approved waivers, or for other good cause, the director may terminate the contract or impose sanctions as set forth in this section.

(2) Good cause includes, but is not limited to, a finding of deficiency that results in improper denial or delay in the delivery of health care services, potential endangerment to patient care, disruption in the contractor's provider network, failure to approve continuity of care, that claims accrued or to accrue have not or will not be recompensed, or a delay in required contractor reporting to the department.

(b) The director may identify findings of noncompliance or good cause through any means, including, but not limited to, findings in audits, investigations, contract compliance reviews, quality improvement system monitoring, routine monitoring, facility site surveys, encounter and provider data submissions, grievances and appeals, network adequacy reviews, assessments of timely access requirements, reviews of utilization data, health plan rating systems, fair hearing decisions, complaints from beneficiaries and other stakeholders, whistleblowers, and contractor self-disclosures.

(c)(1) Except when the director determines there is an immediate threat to the health of Medi-Cal beneficiaries receiving health care services from the contractor, at the request of the contractor, the department shall hold a public hearing to commence 30 days after notice of intent to terminate the contract has been received by the contractor.

(2) The department shall present evidence at the hearing showing good cause for the termination.

(3) The department shall assign an administrative law judge who shall provide a written recommendation to the department on the termination of the contract within 30 days after conclusion of the hearing.

(4)(A) Reasonable notice of the hearing shall be given to the contractor, Medi-Cal beneficiaries receiving services through the contractor, and other interested parties, including any other person and organization the director may deem necessary.

(B) The notice shall state the effective date of, and the reason for, the termination.

(d) In lieu of contract termination, the director shall have the power and authority to require or impose a plan of correction and issue one or more of the following sanctions against a contractor for findings of noncompliance or good cause, including, but not limited to, those specified in subdivision (a):

(1) Temporarily or permanently suspend enrollment and marketing activities.

(2) Require the contractor to suspend or terminate contractor personnel or subcontractors.

- (3) Issue one or more of the temporary suspension orders set forth in subdivision (j).
- (4) Impose temporary management consistent with the requirements specified in [Section 438.706 of Title 42 of the Code of Federal Regulations](#).
- (5) Suspend default enrollment of enrollees who do not select a contractor for the delivery of health care services.
- (6) Impose civil monetary sanctions consistent with the dollar amounts and violations specified in [Section 438.704 of Title 42 of the Code of Federal Regulations](#), as follows:
- (A) A limit of twenty-five thousand dollars (\$25,000) for each determination of the following:
- (i) The contractor fails to provide medically necessary services that the contractor is required to provide, under law or under its contract with the department, to an enrollee covered under the contract.
 - (ii) The contractor misrepresents or falsifies information to an enrollee, potential enrollee, or health care provider.
 - (iii) The contractor distributes directly, or indirectly through an agent or independent contractor, marketing materials that have not been approved by the state or that contain false or materially misleading information.
- (B) A limit of one hundred thousand dollars (\$100,000) for each determination of the following:
- (i) The contractor conducts an act of discrimination against an enrollee on the basis of their health status or need for health care services. This includes termination of enrollment or refusal to reenroll a beneficiary, except as permitted under the Medicaid program, or a practice that would reasonably be expected to discourage enrollment by beneficiaries whose medical condition or history indicates probable need for substantial future medical services.
 - (ii) The contractor misrepresents or falsifies information that it furnishes to the federal Centers for Medicare and Medicaid Services or to the department.
- (C) A limit of fifteen thousand dollars (\$15,000) for each beneficiary the director determines was not enrolled because of a discriminatory practice under clause (i) of subparagraph (B). This sanction is subject to the overall limit of one hundred thousand dollars (\$100,000) under subparagraph (B).
- (e) Notwithstanding the monetary sanctions imposed for the violations set forth in paragraph (6) of subdivision (d), the director may impose monetary sanctions in accordance with this section based on any of the following:
- (1) The contractor violates a federal or state statute or regulation.
 - (2) The contractor violates a provision of its contract with the department.
 - (3) The contractor violates a provision of the state plan or approved waivers.

(4) The contractor fails to meet quality metrics or benchmarks established by the department. Any changes to the minimum quality metrics or benchmarks made by the department that are effective on or after January 1, 2020, shall be established in advance of the applicable reporting or performance measurement period, unless required by the federal government.

(5) The contractor fails to demonstrate that it has an adequate network to meet anticipated utilization in its service area.

(6) The contractor fails to comply with network adequacy standards, including, but not limited to, time and distance, timely access, and provider-to-beneficiary ratio requirements pursuant to standards and formulae that are set forth in federal or state law, regulation, state plan, or contract and that are posted in advance to the department's internet website.

(7) The contractor fails to comply with the requirements of a corrective action plan.

(8) The contractor fails to submit timely and accurate network provider data.

(9) The director identifies deficiencies in the contractor's delivery of health care services.

(10) The director identifies deficiencies in the contractor's operations, including the timely payment of claims.

(11) The contractor fails to comply with reporting requirements, including, but not limited to, those set forth in [Section 53862 of Title 22 of the California Code of Regulations](#).

(12) The contractor fails to timely and accurately process grievances or appeals.

(f)(1) Monetary sanctions imposed pursuant to subdivision (e) may be separately and independently assessed and may also be assessed for each day the contractor fails to correct an identified deficiency. For a deficiency that impacts beneficiaries, each beneficiary impacted constitutes a separate violation. Monetary sanctions shall be assessed in the following amounts:

(A) Up to twenty-five thousand dollars (\$25,000) for a first violation.

(B) Up to fifty thousand dollars (\$50,000) for a second violation.

(C) Up to one hundred thousand dollars (\$100,000) for each subsequent violation.

(2) For monetary sanctions imposed on a contractor that is funded from one or more of the realigned accounts described in paragraphs (2) to (4), inclusive, of subdivision (n), the department shall calculate a percentage of the funds attributable to the contractor to be offset per month pursuant to paragraphs (2) to (4), inclusive, of subdivision (n) until the amount offset equals the amount of the penalty imposed pursuant to paragraph (1).

(g) When assessing sanctions pursuant to this section, the director shall determine the appropriate amount of the penalty for each violation based upon one or more of the following nonexclusive factors:

(1) The nature, scope, and gravity of the violation, including the potential harm or impact on beneficiaries.

- (2) The good or bad faith of the contractor.
 - (3) The contractor's history of violations.
 - (4) The willfulness of the violation.
 - (5) The nature and extent to which the contractor cooperated with the department's investigation.
 - (6) The nature and extent to which the contractor aggravated or mitigated any injury or damage caused by the violation.
 - (7) The nature and extent to which the contractor has taken corrective action to ensure the violation will not recur.
 - (8) The financial status of the contractor, including whether the sanction will affect the ability of the contractor to come into compliance.
 - (9) The financial cost of the health care service that was denied, delayed, or modified.
 - (10) Whether the violation is an isolated incident.
 - (11) The amount of the penalty necessary to deter similar violations in the future.
 - (12) Other mitigating factors presented by the contractor.
- (h)(1) Except in exigent circumstances in which there is an immediate risk to the health of beneficiaries, as determined by the department, the director shall give reasonable written notice to the contractor of the intention to impose any of the sanctions authorized by this section and others who may be directly interested, including any other persons and organizations the director may deem necessary.
- (2) The notice shall include the effective date for, the duration of, and the reason for each sanction proposed by the director.
 - (3) A contractor may request the department to meet and confer with the contractor to discuss information and evidence that may impact the director's final decision to impose sanctions authorized by this section.
 - (4) The director shall grant a request to meet and confer prior to issuance of a final sanction if the contractor submits the request in writing to the department no later than two business days after the contractor's receipt of the director's notice of intention to impose sanctions.
- (i) Notwithstanding subdivision (d), the director shall terminate a contract with a contractor that the United States Secretary of Health and Human Services has determined does not meet the requirements for participation in the Medicaid program contained in Subchapter XIX (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.
- (j)(1) The department may make one or more of the following temporary suspension orders as an immediate sanction:
- (A) Temporarily suspend enrollment activities.

- (B) Temporarily suspend marketing activities.
 - (C) Require the contractor to temporarily suspend specified personnel of the contractor.
 - (D) Require the contractor to temporarily suspend participation by a specified subcontractor.
- (2) The temporary suspension orders shall be effective no earlier than 20 days after the notice specified in subdivision (k).
- (k)(1) Prior to issuing a temporary suspension order, or temporarily withholding funds pursuant to subdivision (o), the department shall provide the contractor with a written notice.
- (2) The notice shall state the department's intent to impose a temporary suspension or temporary withhold and specify the nature and effective date of the temporary suspension or temporary withhold.
- (3) The contractor shall have 30 calendar days from the date of receipt of the notice to file a written appeal with the department.
- (4) Upon receipt of a written appeal filed by the contractor, the department shall, within 15 days, set the matter for hearing, which shall be held as soon as possible but not later than 30 days after receipt of the notice of hearing by the contractor.
- (5) The hearing may be continued at the request of the contractor if a continuance is necessary to permit presentation of an adequate defense.
- (6) The temporary suspension order shall remain in effect until the hearing is completed and the department has made a final determination on the merits. However, the temporary suspension order shall be deemed vacated if the director fails to make a final determination on the merits within 60 days of the close of the record for the matter.
- (7) The department shall stay imposition of a temporary withhold, pursuant to subdivision (o), until the hearing is completed and the department has made a final determination on the merits within 60 days of the close of the record for the matter.
- (l)(1) A contractor may request a hearing in connection with sanctions applied pursuant to subdivision (d) or (e) within 15 working days after the notice of the effective date of the sanctions has been given by sending a letter so stating to the address specified in the notice.
- (2) The department shall stay collection of monetary sanctions upon receipt of the request for a hearing.
- (3) Collection of the sanction shall remain stayed until the effective date of the final decision of the department.
- (m) Except as otherwise provided in this section, all hearings to review the imposition of sanctions, including temporary suspension orders, the withholding or offsetting of funds pursuant to subdivision (n), or the temporary withholding of funds pursuant to subdivision (o) shall be held pursuant to the procedures set forth in [Section 100171 of the Health and Safety Code](#).

(n)(1) If the director imposes monetary sanctions pursuant to this section on a contractor, except for a contractor described in paragraphs (2) to (5), inclusive, the amount of the sanction may be collected by withholding the amount from capitation or other associated payments owed to the contractor.

(2) If the director imposes monetary sanctions on a contractor that is funded from the Mental Health Subaccount, the Mental Health Equity Subaccount, the Vehicle License Collection Account of the Local Revenue Fund, or the Mental Health Account, the director may offset the monetary sanctions from the respective account. The offset is subject to paragraph (2) of subdivision (q).

(3) If the director imposes monetary sanctions on a contractor that is funded from the Behavioral Health Subaccount of the Local Revenue Fund 2011, the director may offset the monetary sanctions from that account from the distribution attributable to the applicable contractor. The offset is subject to paragraph (2) of subdivision (q).

(4) If the director imposes monetary sanctions on a contractor that is funded from another mental health or substance use disorder realignment fund from which the Controller is authorized to make distributions to the contractor, the director may offset the monetary sanctions from these funds if the funds described in paragraphs (2) and (3) are insufficient for the purposes described in this subdivision, as appropriate. The offset is subject to paragraph (2) of subdivision (q).

(5)(A) If the director imposes monetary sanctions pursuant to [subdivision \(e\) of Section 5963.04](#), the director may offset the monetary sanctions from the Behavioral Health Services Fund from the distribution attributable to the applicable contractor.

(B) With respect to an individual contractor, the department shall not collect via offset more than 25 percent of the total amount of the funds distributed from the Behavioral Health Services Fund that are attributable to the contractor in a given month.

(C) If the department is not able to collect the full amount of monetary sanctions imposed on a contractor in a given month, the department shall continue to offset the amounts attributable to the contractor in subsequent months until the full amount of monetary sanctions has been collected. The offset is subject to paragraph (3) of subdivision (q).

(o)(1)(A) Whenever the department determines that a mental health plan or an entity that contracts with the department to provide Drug Medi-Cal services has violated state or federal law, a requirement of this chapter, Chapter 8 (commencing with [Section 14200](#)), Chapter 8.8 (commencing with [Section 14600](#)), or Chapter 8.9 (commencing with [Section 14700](#)), or any regulations, the state plan, a term or condition of an approved waiver, or a provision of its contract with the department, the department may temporarily withhold payments of federal financial participation and payments from the accounts listed in paragraphs (2) to (4), inclusive, of subdivision (n).

(B) The department shall temporarily withhold amounts it deems necessary to ensure the mental health plan or the entity that contracts with the department to provide Drug Medi-Cal services promptly corrects the violation.

(C) The department shall release the temporarily withheld funds when it determines the mental health plan or the entity that contracts with the department to provide Drug Medi-Cal services has come into compliance.

(2)(A) A mental health plan or an entity that contracts with the department to provide Drug Medi-Cal services may appeal the imposition of a temporary withhold pursuant to this subdivision in accordance with the procedures described in subdivisions (k) and (m).

(B) Imposition of a temporary withhold shall be stayed until the effective date of the final decision of the department.

(p) This section shall be read in conjunction with, and apply in addition to, any other applicable law that authorizes the department to impose sanctions or otherwise take remedial action upon contractors.

(q)(1)(A) Notwithstanding any other law, nonfederal moneys collected by the department pursuant to this section, except for moneys collected from a contractor funded from one or more of the realigned accounts described in paragraphs (2) to (4), inclusive, of subdivision (n), shall be deposited into the General Fund for use and, upon appropriation by the Legislature, to address workforce issues in the Medi-Cal program and improve access to care in the Medi-Cal program.

(B) Beginning July 1, 2024, and continuing until June 30, 2027, unless otherwise specified in law, nonfederal moneys collected by the department pursuant to this section, except for moneys collected from a contractor funded from one or more of the realigned accounts described in paragraphs (2) to (4), inclusive, of subdivision (n), shall be deposited into the General Fund for use and, upon appropriation by the Legislature, for the nonfederal share of Medi-Cal costs for health care services furnished to children, adults, seniors, and persons with disabilities, and persons dually eligible for the Medi-Cal program and the Medicare Program.

(2)(A) Monetary sanctions imposed via offset on a contractor that is funded from one or more of the realigned accounts described in paragraphs (2) to (4), inclusive, of subdivision (n) shall be redeposited into the account from which the monetary sanctions were offset pursuant to paragraphs (2) to (4), inclusive, of subdivision (n).

(B) The department shall notify the Department of Finance of the percentage reduction for the affected county.

(C) The Department of Finance shall subsequently notify the Controller, and the Controller shall redistribute the monetary sanction amount to nonsanctioned counties based on each county's prorated share of the monthly base allocations from the realigned account.

(D) With respect to an individual contractor, the department shall not collect via offset more than 25 percent of the total amount of the funds distributed from the applicable account or accounts that are attributable to the contractor in a given month.

(E) If the department is not able to collect the full amount of monetary sanctions imposed on a contractor funded from one or more of the realigned accounts described in paragraphs (2) to (4), inclusive, of subdivision (n) in a given month, the department shall continue to offset the amounts

attributable to the contractor in subsequent months until the full amount of monetary sanctions has been collected.

(3) Monetary sanctions imposed via offset on a contractor pursuant to [subdivision \(e\) of Section 5963.04](#) shall be redeposited into the account from which the monetary sanctions were offset pursuant to paragraph (5) of subdivision (n).

(r) Notwithstanding Chapter 3.5 (commencing with [Section 11340](#)) of Part 1 of Division 3 of Title 2 of [the Government Code](#), the department may implement, interpret, or make specific this section, in whole or in part, by means of plan or county letters, information notices, plan or provider bulletins, or other similar instructions without taking any further regulatory action.

(s) This section shall be implemented only to the extent that necessary federal approvals have been obtained and that federal financial participation is available.

(t) For purposes of this section, “contractor” means an individual, organization, or entity that enters into a contract with the department to provide services to enrolled Medi-Cal beneficiaries or other individuals receiving behavioral health services, as applicable, pursuant to any of the following:

(1) Article 2.7 (commencing with [Section 14087.3](#)), including dental managed care programs developed pursuant to [Section 14087.46](#).

(2) Article 2.8 (commencing with [Section 14087.5](#)).

(3) Article 2.81 (commencing with [Section 14087.96](#)).

(4) Article 2.82 (commencing with [Section 14087.98](#)).

(5) Article 2.9 (commencing with [Section 14088](#)).

(6) Article 2.91 (commencing with [Section 14089](#)).

(7) Chapter 8 (commencing with [Section 14200](#)), including dental managed care plans.

(8) Chapter 8.9 (commencing with [Section 14700](#)).

(9) A county Drug Medi-Cal organized delivery system authorized under the California Medi-Cal 2020 Demonstration pursuant to Article 5.5 (commencing with [Section 14184](#)) or a successor demonstration or waiver, as applicable.

(10) Chapter 2 (commencing with [Section 5650](#)) of Part 2 of Division 5, solely for purposes of imposition of corrective action plans, monetary sanctions, or temporary withholds pursuant to [subdivision \(e\) of Section 5963.04](#).

(11) [Section 12534 of the Government Code](#).

(u) This section shall become operative on January 1, 2025, if amendments to the Mental Health Services Act 1 are approved by the voters at the March 5, 2024, statewide primary election.