

BOARD of SUPERVISORS



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MEMORANDUM

TO: Dr. Grant Colfax, Director, Department of Public Health
Ben Rosenfield, City Controller, Office of the Controller

FROM: Brent Jalipa, Assistant Clerk, Budget and Appropriations Committee

DATE: June 6, 2023

SUBJECT: PROPOSED ORDINANCE INTRODUCED

The Board of Supervisors' Budget and Appropriations Committee has received the following proposed Ordinance, introduced by Mayor London Breed:

File No. 230650

Ordinance amending the Administrative Code to extend the Board of Supervisors' delegation of authority under Charter, Section 9.118 to the Department of Public Health to approve managed care contracts to include contracts ending on December 31, 2028; and to exclude from the requirement of Controller review those managed care contracts that are based on rates set by the California Department Health Care Services or on actual healthcare delivery costs.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Greg Wagner, Department of Public Health
Dr. Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health
Ana Validzic, Department of Public Health
Todd Rydstrom, Office of the Controller

1 [Administrative Code - Department of Public Health Managed Care Contracts]

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3 **Ordinance amending the Administrative Code to extend the Board of Supervisors’**
4 **delegation of authority under Charter, Section 9.118 to the Department of Public Health**
5 **to approve managed care contracts to include contracts ending on December 31, 2028;**
6 **and to exclude from the requirement of Controller review those managed care**
7 **contracts that are based on rates set by the California Department Health Care Services**
8 **or on actual healthcare delivery costs.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

16 Be it ordained by the People of the City and County of San Francisco:

17

18 Section 1. The Administrative Code is hereby amended by revising Chapter 21A,
19 Section 21A.3, to read as follows:

20 * * * *

21 (b) Acting under Charter Section 9.118, the Board of Supervisors authorizes the
22 Director of Health to enter into contracts anticipated to generate over \$1 million in
23 reimbursements or revenue to the City to provide health care services at DPH facilities,
24 including, but not limited to, primary care, specialty services, hospital services, and behavioral
25 health services. These contracts may include fee-for-service arrangements, fully capitated
arrangements where DPH receives fixed monthly payments per individual and is financially
responsible for managing health care costs of its patients, or a hybrid of the two. *The term of*

1 ~~any such contracts shall terminate no later than December 31, 2025 and shall be subject to the review~~
2 ~~and approval of the Controller for consistency with the terms of this Section 21A.3.~~ The DPH annual
3 budget shall show the revenues from the contracts as capitation rates or patient fees
4 (collectively, "Rates of Reimbursement"). To be eligible for approval under this Section 21A.3, the
5 contract shall terminate no later than December 31, 2028, and shall be subject to the review and
6 approval of the Controller for consistency with the terms of this Section 21A.3. Notwithstanding the
7 forgoing, the following contracts shall not require Controller review under this subsection (b): (1)
8 contracts for the provision of services to Medi-Cal members, the rates of which are set by the
9 California Department Health Care Services ("DHCS"); and 2) contracts for the provision of services
10 to members of SFHP, such as Healthy Workers Health Maintenance Organization, the rates of which
11 are determined by the actual costs of medical, mental health, and pharmacy services, plus the latest
12 cost inflator as published by the Centers for Medicare & Medicaid.

13 (c) Establishing Rates of Reimbursement.

14 (1) Rates of Reimbursement for health services in contracts entered into under
15 this Section 21A.3 shall be equal to or higher than either (1A) Fee for Service: ~~the California~~
16 ~~Department Health Care Services~~ ("DHCS") published Medi-Cal fee for service rates, selected
17 and adjusted as needed to align with the pending contract specifications; or (2B) Capitated
18 Rates: the average of per-member-per month rates for Medi-Cal managed care for Aid Codes
19 Family and Medi-Cal Expansion, or successor provisions, set by DHCS as authorized by
20 federal and state law.

21 (2) For the purposes of determining whether the Capitation Rates in contracts
22 are equal to, or exceed the minima specified in subsection (c)(1) of this Section 21A.3, in
23 addition to the gross capitation rates specified by DHCS, the Controller shall consider net
24 payments the City will receive for health services provided by DPH after removing benefit
25 carve outs, capitation splits, and/or administrative fees and other amounts that state law

1 allows the ~~San Francisco Health Authority~~ SFHP or other provider to withhold, as applicable. For
2 either Fee for Service or Capitated Rate contracts, the Controller has the option of utilizing
3 other relevant comparison rates or benchmarks which may be obtained via outside healthcare
4 expertise, or through additional research by the Office of the Controller.

5 * * * *

6 (e) The Director of Health shall provide quarterly reports between September 1, 2015
7 and December 1, ~~2025~~ 2028 to the Health Commission of the contracts approved under this
8 Section 21A.3, and the aggregate amount of reimbursement and revenue generated. The
9 Director of Health shall provide annual reports, no later than September 1, 2015, September
10 1, 2016, September 1, 2017, September 1, 2018, September 1, 2019, September 1, 2020,
11 September 1, 2021, September 1, 2022, September 1, 2023, September 1, 2024, September
12 1, 2025, ~~and~~ September 1, 2026, September 1, 2027, and September 2028, to the Mayor and the
13 Board of Supervisors, identifying the contracts approved and the aggregate amount of
14 reimbursement and revenue generated.

15
16 Section 2. Effective Date. This ordinance shall become effective 30 days after
17 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
18 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
19 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance.

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8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10 By: /s/ Virginia Dario Elizondo
11 VIRGINIA DARIO ELIZONDO
12 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Department of Public Health Managed Care Contracts]

Ordinance amending the Administrative Code to extend the Board of Supervisors' delegation of authority under Charter, Section 9.118 to the Department of Public Health to approve managed care contracts to include contracts ending on December 31, 2028; and to exclude from the requirement of Controller review those managed care contracts that are based on rates set by the California Department Health Care Services or on actual healthcare delivery costs.

Existing Law

In 2014, the Board of Supervisors delegated authority under Charter Section 9.118, to the Director of Health to enter into managed care contracts where the City will be reimbursed for health care services provided at Department of Public Health ("DPH") facilities by insurance companies and other health care providers. It is anticipated that these reimbursements will exceed one million dollars.

The Controller and DPH conduct analyses of health care services payment rates to ensure that the rates in the DPH contracts are within a reasonable range of the industry standard or that of comparable health systems, and identify opportunities to improve contract terms.

The Director of Health provides quarterly reports to the Health Commission regarding the contracts approved under this ordinance and the aggregate amount of reimbursement and revenue generated, and an annual report to the Mayor and the Board of Supervisors, identifying the contracts approved and the aggregate amount of reimbursement and revenue generated.

The termination date of contracts approved under this section is currently December 31, 2025.

Amendments to Current Law

This amendment excludes from the Controller's Office review of managed care contracts those using rates that are set by the California Department of Health Care Services ("DHCS") (i.e. Medi-Cal rates) because the benchmark used for the rate review are those rates set by DHCS. As such, these Medi-Cal contracts by definition already reflect the DHCS benchmark rates.

This amendment also excludes from the Controller's Office review of managed care contracts those using rates determined by the actual costs of DPH rendering medical and mental health services and San Francisco Health Plan ("SFHP"), plus the latest cost inflator as published by

the Centers for Medicare & Medicaid Services because there is no relevant DHCS benchmark by which to compare these rates.

The termination date of managed care contracts approved under this section is extended to 2028, and the corresponding reporting dates are revised.

Background Information

The Controller's Office has been performing annual rate reviews of DPH contracts under the ordinance since 2016, working with DPH and the City Attorney's Office. Historically, contracts based on Medi-Cal or City-generated rates have been included in scope for rate review. This rate review has included: i) Medi-Cal and Healthy Workers HMO contracts with SFHP, ii) Medi-Cal contracts with Anthem Blue Cross, and iii) Medi-Cal contracts with the Health Plan of San Mateo, which are typically amended annually. The Controller's Office has found that all previous contracts based on Medi-Cal rates have faithfully and accurately presented the DHCS set rates, and DPH was not reimbursed at rates lower than Medi-Cal rates. As such, there is no anticipated risk to ceasing these reviews.

Except for the amendment to the Medi-Cal and Healthy Workers rates proposed and discussed above, all other provisions in Section 21A.3 remain unchanged.