

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

2

3 **Ordinance amending the Administrative Code to authorize the Director of Health to**
 4 **enter into managed care contracts for the provision of services to individuals covered**
 5 **under federal and state programs including subsidized health coverage for low income**
 6 **populations.**

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

11

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

13

14 Section 1. The Administrative Code is hereby amended by adding Section 21.44, to
 15 read as follows:

16 **SEC. 21.44. DEPARTMENT OF PUBLIC HEALTH MANAGED CARE CONTRACTS.**

17 **(a) Findings.**

18 **(1) The federal government and state government continue to increase the proportion of**
 19 **safety net health care services provided under a managed care model, by, among other things,**
 20 **transitioning Seniors and Persons with Disabilities to Medi-Cal managed care, expanding Medi-Cal**
 21 **managed care eligibility to individuals below 138 percent of the federal poverty level, establishing pilot**
 22 **programs to transition those persons who are dually eligible for Medicare and Medicaid into managed**
 23 **care, and establishing state health exchanges to provide federally-subsidized health insurance for**
 24 **persons with incomes up to 400 percent of the poverty level.**

25

1 (2) The Department of Public Health’s (“DPH”) mission includes the provision of high-
2 quality health care to all San Franciscans, including the uninsured and low-income individuals who
3 access health care through federally- and state-subsidized programs. Historically, DPH has fulfilled
4 its mission by providing services through a fee-for-service structure or in partnership with the San
5 Francisco Health Authority, also known as the San Francisco Health Plan (“SFHP”) authorized by
6 California Welfare & Institutions Code § 14087.36, and Administrative Code Chapter 69.

7 (3) Under the shift to a managed care-focused system for delivery of health care
8 services, to participate as a provider in certain programs, DPH will need to be a contracted partner
9 with insurers. Otherwise, current and prospective DPH clients will not have the option of selecting
10 DPH as a provider. If DPH cannot offer itself as a contracted provider, continuity of care will be
11 disrupted for those who have long histories with DPH health care providers, and DPH will lose
12 revenue due to reduced patient care.

13 (4) Both the federal and state governments acknowledge through policy and legislative
14 actions that county health care providers are expected to increase services to individuals newly eligible
15 for insurance under the Affordable Care Act (“ACA”) (see, 42 U.S.C.A §18091 and 26
16 U.S.C.A.§5000A). In 2016, the federal government plans to reduce the Disproportionate Share
17 Hospital program, which has been a source of funding for safety net providers, like DPH, for many
18 years. Similarly, under AB85 (June 27, 2013), the State of California will recoup indigent health care
19 realignment allocations, funds that formerly went to counties. In both cases, providers such as DPH
20 are expected to replace those revenues by increasing enrollment of persons who are newly eligible for
21 managed care insurance programs.

22 (5) Shortly after the passage of the ACA, DPH entered into a year-long Integrated
23 Delivery System planning process, which concluded that to remain financially viable under ACA, DPH
24 must transition from a “provider of last resort” to become a “provider of choice” to retain clients
25 newly enrolled in insurance under the ACA.

1 (6) In February 2013, DPH and the Controller’s Office jointly launched a Health
2 Reform Readiness Assessment project and engaged Health Management Associates, a consulting firm
3 specializing in healthcare. The Controller’s summary report of that effort, on file with the Clerk of the
4 Board of Supervisors in File No. 141097, concluded that in order to maintain excellence in patient
5 care and financial health, DPH should focus on increasing “the number of insured and covered clients,
6 by maximizing the current Medi-Cal expansion,” and “contracts with health plans.” The Health
7 Reform Readiness Assessment also recommended that DPH increase the number of insured patients in
8 its network by 30,000 over the next five years. The timely ability to enter into and modify managed care
9 contracts is critical to achieving these goals.

10 (7) In July 2013, the City convened the 41-member Universal Healthcare Council
11 (“UHC”), engaging a wide range of stakeholders to examine San Francisco’s implementation of the
12 ACA. The UHC Final Report 2013, on file with the Clerk of the Board of Supervisors in File No.
13 141097, adopted guiding principles, including: a commitment to “full implementation of the ACA in
14 San Francisco;” “maximizing enrollment of San Franciscans into the new insurance opportunities
15 created by the ACA;” and sharing responsibility among all sectors of society, including City
16 government, to “reduc[e] the number of uninsured residents and ensur[e] access to care.” To meet
17 these expectations, DPH must be given the administrative tools to fully engage in implementation of the
18 ACA.

19 (8) The ACA requires the creation of state health exchanges to provide options for
20 insurance coverage, including for the formerly uninsured. To meet this mandate, the State of California
21 established Covered California, which provides a marketplace where individuals can purchase health
22 insurance. Health insurers providing coverage under Covered California must offer health plans
23 compliant with federal and state regulations under the ACA and subsequent legislation.

24 (9) Covered California provides the key means for individuals to comply with the
25 individual mandate in the ACA. Through Healthy San Francisco and other programs, DPH has

1 historically provided health care for a large number of individuals, who are now required to have
2 health insurance under the ACA's individual mandate. For many of these individuals, obtaining
3 insurance through Covered California is the only affordable way to comply.

4 (10) The only way to become a health care provider to individuals insured under
5 Covered California is to enter into contractual arrangements with one or more of the state-authorized
6 insurance providers. DPH currently serves approximately 5,000 individuals who will be eligible for
7 Covered California subsidized insurance in 2015. If those individuals choose to enroll in insurance
8 under Covered California, they will no longer be able to receive primary care, preventative care,
9 specialty care, and other services from DPH, and will be forced to move to another provider, unless
10 DPH enters into contracts with those insurance companies.

11 (11) To participate in the new health care markets, DPH will need flexibility to enter
12 into and modify managed care contractual arrangements. Most insurers operate with an annual open
13 enrollment period. Time between these open enrollment periods is limited and health care contracts
14 are often negotiated and executed in a relatively short time period. Under current City procedures for
15 approving such contracts, DPH will struggle to meet timelines expected in the industry, which could
16 limit its ability to retain patients and revenue.

17 (b) Acting under Charter section 9.118, the Board of Supervisors authorizes the Director of
18 Health to enter into contracts anticipated to generate over \$1 million in reimbursements or revenue to
19 the City to provide health care services at DPH facilities, including, but not limited to, primary care,
20 specialty services, hospital services, and behavioral health services. These contracts may include fee-
21 for-service arrangements, fully capitated arrangements where DPH receives fixed monthly payments
22 per individual and is financially responsible for managing health care costs of its patients, or a hybrid
23 of the two. The term of such contracts may not exceed three years and shall be subject to the review and
24 approval of the Controller for consistency with the terms of this Section 21.14. The DPH annual budget
25

1 shall show the revenues from the contracts as capitation rates or patient fees (collectively “Rates of
2 Reimbursement”).

3 (c) Rates of Reimbursement for health services in contracts entered into under this Section
4 21.14, shall be equal to or higher than either (1) Fee for Service: the California Department Health
5 Care Services (DHCS) published Medi-Cal fee for service rates, which are updated monthly and posted
6 at <http://files.medi-cal.ca.gov/pubsdoco/rates/rateshome.asp>; or (2) Capitated Rates: the average of
7 per-member-per month rates for Medi-Cal managed care for Aid Codes Family and Medi-Cal
8 Expansion, or successor provisions, set by DHCS as authorized by federal and state law and posted at
9 <http://www.dhcs.ca.gov/dataandstats/reports/Pages/MMCDFinancialReports.aspx>. For the purposes of
10 determining whether the Capitation Rates in contracts are equal to, or exceed the minima specified in
11 this Section 21.44, the Controller shall consider net payments the City will receive for health services
12 provided by DPH after removing administrative fees and other amounts that state law allows the San
13 Francisco Health Authority or other provider to withhold.

14 (d) No later than January 1, 2016, and every two years, thereafter, the Controller, in
15 coordination with DPH, shall conduct an analysis of health care services payment rates to ensure that
16 the rates in the DPH contracts are within a reasonable range of the industry standard or that of
17 comparable helth systems, and identify opportunities to improve contract terms.

18 (e) The Director of Health shall provide quarterly reports, commencing on September 1,
19 2015, to the Health Commission of the contracts approved under this Section 21.44, and the aggregate
20 amount of reimbursement and revenue generated. The Director of Health shall provide an annual
21 report, no later than July 1, 2015, and each July first, thereafter, to the Mayor and the Board of
22 Supervisors, indentifies the contracts approved and the aggregate amount of reimbursement and
23 revenue generated.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
VIRGINIA DARIO ELIZONDO
Deputy City Attorney

n:\legana\as2014\1500221\00965544.doc