

IMPORTANT: Read instructions on back of last page (Certification Page) before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations

State of Connecticut
REGULATION
of

NAME OF AGENCY

Department of Social Services

Concerning

SUBJECT MATTER OF REGULATION

Provider Participation- Medical Foundations

Section 17b-262-524 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 17b-262-524. Provider participation

(a) To enroll in the Medical Assistance Program and receive payment from the department for the provision of goods or services to Medical Assistance Program clients, providers shall:

- (1) [~~meet~~] Meet and maintain all applicable licensing, accreditation and certification requirements;
- (2) meet and maintain all departmental enrollment requirements including the timely submission of a completed provider enrollment or reenrollment form and submission of all enrollment information and such affidavits as the department may require; and
- (3) have a valid provider agreement on file which is signed by the provider and the department. This agreement, which shall be periodically updated, shall continue to be in effect for the duration specified in the agreement. The provider agreement specifies conditions and terms that govern the program and to which the provider is mandated to adhere in order to participate in the program.

(b) Additionally, the department shall at its discretion:

- (1) [~~require~~] Require documentation or other information necessary to ensure that requirements for enrollment in a type of service and specialty have been met pursuant to all applicable statutes and regulations;
- (2) require that an out-of-state or border provider submit such supplemental documentation as it requires in the event their licenses, certificates, permits[,] or other credentials do not disclose the required information, or if the criteria for attainment of such credentials is different from similarly situated in-state providers;
- (3) require submission of a schedule of charges to the general public or any other pertinent data or information necessary to facilitate review of new or existing services;
- (4) approve or disapprove enrollment or reenrollment of any provider based upon the department's requirements. The department in its sole discretion shall determine whether the provider meets the requirements for enrollment;

- (5) deny initial enrollment or reenrollment of any provider when such enrollment or reenrollment is determined not to be in the best interests of the Medical Assistance Program;
- (6) deny enrollment or reenrollment of any provider who does not offer coverable Medical Assistance Program goods or services regardless of whether the provider meets all other enrollment requirements; and
- (7) enroll [out of state] out-of-state providers if they provide services to clients who are out-of-state in accordance with section 17b-262-532 of the Regulations of Connecticut State Agencies.
- (c) At the discretion of the department, out-of-state providers shall be eligible for enrollment or reenrollment into the Medical Assistance Program based on documentation of current enrollment in the Medical Assistance Program in another state.
- (d) Failure by the provider to submit any required documents or information for reenrollment, at such times and in such a manner as the department shall require, may result in the loss of the provider's eligibility to participate in the Medical Assistance Program.
- (e) Specific enrollment requirements for provider types and specialties are set forth in the Regulations of Connecticut State Agencies dealing with the specific provider type and specialty. The department in accordance with the governing Regulations of Connecticut State Agencies shall, in its sole discretion, determine the category of provider type and specialty into which a provider falls.
- (f) For purposes of this section, the terms “institution” or “general hospital” include (1) any wholly or partially owned subsidiary of the institution or general hospital; (2) any entity that is related to the institution or general hospital, including, but not limited to, a parent company, or wholly or partially owned subsidiary of the institution or general hospital; and (3) any other entity, such as a partnership, that is established by (A) the institution or general hospital or (B) any entity related to the institution or general hospital, including a parent company and its wholly or partially owned subsidiaries.
- (g) Notwithstanding any provisions of the Regulations of Connecticut State Agencies or any medical services policy, any provider who is (1) compensated directly or indirectly by an institution or general hospital or (2) located within an institution or general hospital, which includes being located in an institution or general hospital complex, campus or auxiliary or satellite location, may bill the department for services rendered to the provider's medical assistance program private practice clients who receive services at the institution or general hospital location if all of the following criteria are met:
- (1) The provider maintains a practice at a location other than the location which is within the institution or general hospital complex, campus or auxiliary or satellite location;
 - (2) [The] the provider is enrolled as a medical assistance program provider at the location that is separate from the institution or general hospital location and actively bills, as determined by the department, the Medical Assistance Program for services rendered at that separate location;
 - (3) [The] the operations of the provider are entirely separate and independent from the institution or general hospital. The department considers the operations of a provider as entirely separate and independent if the following criteria are met:

- (A) [The] the provider does not utilize space that is directly or indirectly owned by the institution or general hospital unless the space is rented at fair market value;
- (B) [The] the provider and provider staff do not receive compensation in any form from the institution or general hospital for any reason for clinical services at the institution or general hospital;
- (C) [The] the provider and the institution or general hospital do not share administrative and support staff; and
- (D) [The] the provider and the institution or general hospital have no direct or indirect relationship relative to ownership or control;
- (4) [Any] any direct and indirect costs associated with the services performed by the provider or provider staff are not included in the annual cost report of the institution or general hospital; and
- (5) [The] the provider has performed an evaluation and management service for the client at its separate location within the previous year.
- (h) Notwithstanding the criteria identified in subdivision (3) of subsection (g) of this section, the provider may bill if the provider can demonstrate to the satisfaction of the department that the arrangements between the provider and the institution or general hospital do not result in duplication of payments. Evidence of lack of duplication of payments may include, but is not limited to, a copy of the provider-facility contract.
- (i) Notwithstanding the requirements of subsections (f), (g) and (h) of this section, a medical foundation established pursuant to sections 33-182aa to 33-182ff, inclusive, of the Connecticut General Statutes, may bill the department for goods or services provided to Medical Assistance Program clients only after obtaining the department's approval. In order to obtain such approval, and as requested by the department from time to time, the medical foundation shall demonstrate, to the department's satisfaction, that mechanisms are in place to ensure that there will be no duplicate billing to or payment by the department relating to the provision of such goods or services. Within three months after the medical foundation begins billing the department, and as requested by the department from time to time, the medical foundation shall demonstrate to the department that no such duplicate billing in fact occurs. Duplicate billing includes, but is not limited to, claims for costs associated with related party transactions between the medical foundation, the hospital and any other related parties, as defined in and limited by subsection (o) of section 17b-262-531 of the Regulations of Connecticut State Agencies.

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

Statement of Purpose: The purpose of the proposed regulation is to amend section 17b-262-524 of the Regulations of Connecticut State in recognition of Public Act 09-212, now codified at sections 33-182aa to 33-182ff, inclusive, of the Supplement to the General Statutes, which authorizes the establishment of medical foundations. This change, which adds subsection (i) to section 17b-262-524 of the Regulations of Connecticut State Agencies, allows billing by and payment to a medical foundation for the services it provides to medical assistance program clients and allows the Department of Social Services to monitor that such billing and payment are not duplicative of those made to those entities that are related to the medical foundation.

(B) The Department is proposing this amendment to harmonize its current regulation relating to billing by a related party with the statute, enacted in 2009, which allows a hospital to have a direct or indirect ownership interest in a medical foundation that seeks to bill the Department of Social Services for services it provides to medical assistance clients. The existing regulation does not contemplate the medical foundation model. Accordingly, the proposed regulation permits such billing and payment as long as the Department approves the mechanisms the medical foundation has in place to ensure that there will be no duplicate billing to or payment by the Department of Social Services. In addition, the proposed regulation requires the medical foundation to demonstrate, within three months after it starts billing the Department of Social Services, and as requested by the Department from time to time, that no such billing occurs. The proposed regulation explains that duplicate billing includes, but is not limited to, claims for costs associated with related party transactions (between the medical foundation, the hospital and any other related parties), as referenced in subsection (o) of section 17b-262-531 of the Regulations of Connecticut State Agencies.

(C) The legal effect of the proposed amendment is that it will give effect to the statute authorizing the establishing of medical foundations by allowing the medical foundations to bill the Department of Social Services for services provided to medical assistance clients. At the same time, the proposed amendment requires the Department of Social Services to approve the mechanisms established by the medical foundations to avoid duplicate billing and to monitor billings by and payments to medical foundations to ensure that no duplicate billing occurs.

CERTIFICATION

This certification statement must be completed in full, including items 3 and 4, if they are applicable.

- 1) I hereby certify that the above (check one) Regulations Emergency Regulations
- 2) are (check all that apply) adopted amended repealed by this agency pursuant to the following authority(ies): (complete all that apply)
- a. Connecticut General Statutes section(s) _____.
- b. Public Act Number(s) 9-212.
(Provide public act number(s) if the act has not yet been codified in the Connecticut General Statutes.)
- 3) And I further certify that notice of intent to adopt, amend or repeal said regulations was published in the **Connecticut Law Journal** on 11/15/11;
(Insert date of notice publication if publication was required by CGS Section 4-168.)
- 4) And that a public hearing regarding the proposed regulations was held on _____;
(Insert date(s) of public hearing(s) held pursuant to CGS Section 4-168(a)(7), if any, or pursuant to other applicable statute.)
- 5) And that said regulations are **EFFECTIVE** (check one, and complete as applicable)
- When filed with the Secretary of the State
- OR on (insert date) _____

DATE	SIGNED (Head of Board, Agency or Commission)	OFFICIAL TITLE, DULY AUTHORIZED Commissioner
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APPROVED by the Attorney General as to legal sufficiency in accordance with CGS Section 4-169, as amended

DATE	SIGNED (Attorney General or AG's designated representative)	OFFICIAL TITLE, DULY AUTHORIZED
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*Proposed regulations are **DEEMED APPROVED** by the Attorney General in accordance with CGS Section 4-169, as amended, if the attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation.*

(For Regulation Review Committee Use ONLY)

- Approved Rejected without prejudice
- Approved with technical corrections Disapproved in part, (Indicate Section Numbers disapproved only)
- Deemed approved pursuant to CGS Section 4-170(c)

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	DATE	SIGNED (Administrator, Legislative Regulation Review Committee)
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Two certified copies received and filed and one such copy forwarded to the Commission on Official Legal Publications in accordance with CGS Section 4-172, as amended.

DATE	SIGNED (Secretary of the State)	BY
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(For Secretary of the State Use ONLY)

GENERAL INSTRUCTIONS

1. All regulations proposed for adoption, amendment or repeal, *except* emergency regulations, must be presented to the Attorney General for his/her determination of legal sufficiency. (See CGS Section 4-169.)
2. After approval by the Attorney General, the original and one electronic copy (in Word format) of all regulations proposed for adoption, amendment or repeal must be presented to the Legislative Regulation Review Committee for its action. (See CGS Sections 4-168 and 4-170 as amended by Public Act 11-150, Sections 18 and 19.)
3. Each proposed regulation section must include the appropriate regulation section number and a section heading. (See CGS Section 4-172.)
4. New language added to an existing regulation must be in underlining or CAPITAL LETTERS, as determined by the Regulation Review Committee. (See CGS 4-170(b).)
5. Existing language to be deleted must be enclosed in brackets []. (See CGS 4-170(b).)
6. A completely new regulation or a new section of an existing regulation must be preceded by the word "(NEW)" in capital letters. (See CGS Section 4-170(b).)
7. The proposed regulation must have a statement of its purpose following the final section of the regulation. (See CGS Section 4-170(b).)
8. The Certification Statement portion of the form must be completed, including all applicable information regarding *Connecticut Law Journal* notice publication date(s) and public hearing(s). (See more specific instructions below.)
9. Additional information regarding rules and procedures of the Legislative Regulation Review Committee can be found on the Committee's web site: <http://www.cga.ct.gov/rr/>.
10. A copy of the Legislative Commissioners' Regulations Drafting Manual is located on the LCO website at http://www.cga.ct.gov/lco/pdfs/Regulations_Drafting_Manual.pdf.

CERTIFICATION STATEMENT INSTRUCTIONS

(Numbers below correspond to the numbered sections of the statement)

1. Indicate whether the regulation is a regular or an emergency regulation adopted under the provisions of CGS Section 4-168(f).
2.
 - a) Indicate whether the regulations contains newly adopted sections, amendments to existing sections, and/or repeals existing sections. Check all cases that apply.
 - b) Indicate the specific legal authority that authorizes or requires adoption, amendment or repeal of the regulation. If the relevant public act has been codified in the most current biennial edition of the *Connecticut General Statutes*, indicate the relevant statute number(s) instead of the public act number. If the public act has not yet been codified, indicate the relevant public act number.
3. Except for emergency regulations adopted under CGS 4-168(f), and technical amendments to an existing regulation adopted under CGS 4-168(g), an agency must publish notice of its intent to adopt a regulation in the *Connecticut Law Journal*. Enter the date of notice publication.
4. CGS Section 4-168(a)(7) prescribes requirements for the holding of an agency public hearing regarding proposed regulations. Enter the date(s) of the hearing(s) held under that section, if any; also enter the date(s) of any hearing(s) the agency was required to hold under the provisions of any other law.
5. As applicable, enter the effective date of the regulation here, or indicate that it is effective upon filing with the Secretary of the State. Please note the information below.

Regulations are effective upon filing with the Secretary of the State or at a later specified date. See CGS Section 4-172(b) which provides that each regulation is effective upon filing, or, if a later date is required by statute or specified in the regulation, the later date is the effective date. An effective date may not precede the effective date of the public act requiring or permitting the regulation. Emergency regulations are effective immediately upon filing with the Secretary of the State, or at a stated date less than twenty days thereafter.