**COVID 19 Flexibility Guidance for Inpatient Acute Rehabilitation Days**

PER CMS

**Inpatient Rehabilitation Facility–Intensity of Therapy Requirement (“3-HourRule”)**

As required by section 3711(a)of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, during the COVID-19 public health emergency, the Secretary has waived 42CFR §412.622(a)(3)(ii) which provides that payment generally requires that patients of an inpatient rehabilitation facility receive at least 15 hours of therapy per week. This waiver clarifies information provided in “Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency” (CMS-1744-IFC). (85FederalRegister 19252, 19287, April6, 2020). The information in that rulemaking (CMS-1744-IFC) about Inpatient Rehabilitation Facilities was contemplated prior to the passage of the CARES Act.

**Further, per the DHCS public document dated April 2, 2020 in regards to the Public Health Emergency – (in part)**

The need for a TAR/SAR should not negatively affect providing the covered benefit to the beneficiary as the TAR/SAR can be submitted retrospectively. As noted above, providers and suppliers must still provide and maintain documentation indicating the need for the benefit and, in the instance of DME, indicate that the equipment was lost, destroyed, irreparably damaged or otherwise rendered unusable or unavailable as a result of the COVID-19 emergency.

Providers are instructed to incorporate the statement, “Patient impacted by COVID-19” within the *Miscellaneous Information* field.

TARs/SARs with the above designations may be submitted after services have been rendered and will be expedited and approved, as appropriate, if the TAR/SAR indicates that the beneficiary is impacted by COVID-19, and the provider will be reimbursed for the claim for the Medi-Cal benefits and services. Providers must still maintain documentation of medical necessity in the patient’s medical file and, when appropriate, submit supporting documentation to justify the need or medical necessity for the extension.

**Per the guidance stated above, Treatment Authorization Request (TARs) for inpatient rehabilitation days will be reviewed for consideration of authorization when therapy hours may not have met prior criteria as defined in the Manual of Criteria and or the Medi-Cal Provider Manual for inpatient Medi-Cal Fee-for-Service rehabilitation days. Please note, the provider is required to state “Patient impacted by Covid-19” and document within the chart the reason for the reduced provision of therapy services. This flexibility is effective for dates of service on or after March 18th, 2020, and will also be applicable to future DPH paid claim reviews.**