

Doula Access in Hospitals: What the Law Requires

June 6, 2024



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Questions



Online Questions: At any time, please submit your questions in the Q/A box at the bottom of your screen and press enter. We will take questions at the end of the presentation.

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Presenters



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California Birth Statistics

- There were 420,000 births in California in 2021.
- The number of births in California declined by 26% between 2007 and 2021.
- In 2021, 98% of births in California occurred in a hospital.
- Medi-Cal covered 40% of births in California.
- Significant racial/ethnic disparities existed across a variety of maternal quality measures in California, from prenatal visits to preterm births to maternal and infant mortality rates. For many of these measures, Black women / birthing people* and infants had lower scores than their peers in other racial/ethnic groups.



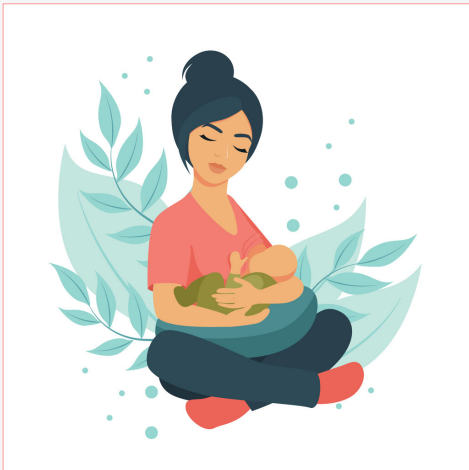
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Doula Background Information

- Doulas provide dedicated emotional support and are focused on the needs of the mother in prenatal care, during labor, birth and postpartum.
- Doulas are not considered healthcare professionals and cannot provide medical care or advice but serve primarily as a coach and companion.
- Doulas empower birthing moms and can provide a more satisfying experience throughout the labor and delivery experience, providing constant communication and encouragement during labor.
- From DHCS' APL 23-024, dated November 23, 2023 - Doulas provide person-centered, culturally competent care that supports the racial, ethnic, linguistic, and cultural diversity of Medi-Cal members while adhering to evidence-based best practices.

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Benefits of Using a Doula



Doula-assisted mothers are:

- 4 times less likely to have a low-birth-weight baby
- 2 times less likely to experience a birth complication
- More likely to initiate breastfeeding

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Department of Health Care Services (DHCS) Doula Benefit

- The Department of Health Care Services (DHCS) added doula services as a covered benefit on January 1, 2023. Doula services are available in fee-for-service and through managed care plans (MCPs). Services include personal support to individuals and families throughout pregnancy and one year postpartum. This includes emotional and physical support provided during pregnancy, labor, birth, and the postpartum period, as well as support for and after miscarriage and abortion.
- DHCS added doulas as a Medi-Cal benefit to help prevent perinatal complications and improve health outcomes for birthing parents and infants.
- To increase access to services, DHCS issued a [standing recommendation](#) for doula services from the DHCS Medical Director, Karen Mark, MD, PhD, that fulfills the requirement for a recommendation for an individual who is pregnant or was pregnant within the past year.

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ALL PLAN LETTER (APL) 23-024

APL 23-024 provides a written recommendation for doula coverage by managed care plans, including the following authorizations:

- 1 initial visit
- Up to 8 additional visits that can be provided in any combination of prenatal and postpartum visits
- Support during labor and delivery (including labor and delivery resulting in a stillborn, abortion, or miscarriage)
- Up to two extended three-hour postpartum visits after the end of a pregnancy

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Doula Guidance

- Doulas who meet the qualifications listed in the [Medi-Cal Provider Manual: Doula Services](#) may enroll in the [Provider Application and Validation for Enrollment \(PAVE\) portal](#) and submit their Medi-Cal application.
- Doulas interested in providing services to Medi-Cal MCP members will also need to enter into contracts with MCPs. Doulas must enter into contracts with MCPs to receive reimbursement for doula services provided to Medi-Cal MCP members.



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Doula Access in Hospitals

CHA actively participates in the Doula Implementation Workgroup, required by Senate Bill (SB) 65, (2021).

Purpose of the Workgroup:

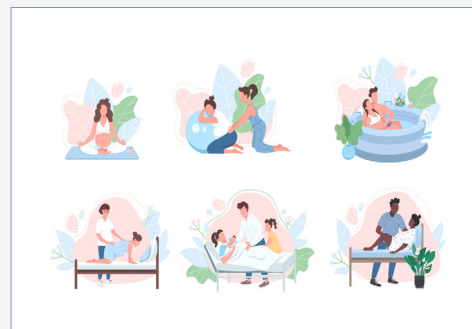
- Ensuring that doula services are available to Medi-Cal members who are eligible for and want doula services.
- Minimizing barriers and delays in payments to a Medi-Cal doula or in reimbursement to Medi-Cal recipients for doula services.
- Making recommendations for outreach efforts so that all Medi-Cal members who are eligible for services are aware of the option to use doula services.
- Helping to inform DHCS' report to the Legislature with data on Medi-Cal members using doula services and recommendations to reduce any identified barriers to doula services.

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Doula Access in Hospitals (cont.)

Through interactions in the Doula Implementation Workgroup, doula representatives have reported certain barriers to access they have encountered:

- Waiting in visitor lines while their clients are being admitted
- Limitations on the number of visitors birthing patients can have
- Not being allowed in the surgical suite if their client needs a Caesarean section



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How do Doulas Fit Into Our Patient Care Teams?



There's no "perfect fit" category for doulas

- Not an employee
- Not a medical staff member
- Not a hospital contractor/vendor
- The closest category is probably "visitor"

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Doulas and the Law



Question: Are we required to allow patients to have their doulas with them in the hospital?

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Answer: Yes*

* with very limited exceptions, discussed later

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Both CMS and CDPH have been clear in expressing their view that patients have a right to the visitors of their choosing.

“Visitation plays an important role in the care of hospital patients.”
State Operations Manual, Tag A-0215

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This applies to inpatients and outpatients (including ED patients)

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A patient in a general acute care hospital has the right to “designate visitors of his/her choosing” unless:

- No visitors are allowed -- *but see federal law*
- The facility reasonably determines that the presence of a **particular visitor** would endanger the health or safety of a patient, staff member, or other visitor or would significantly disrupt the operations of the facility. (*case-by-case assessment*)
- The patient has indicated to the health facility staff that s/he doesn't want this person to visit.

Title 22, California Code of Regulations, Section 70707

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The CMS Condition of Participation for Patient's Rights requires that:

- Every hospital must have a written P&P on patient visitation rights.
- The P&P must:
 - Address both the inpatient and outpatient settings
 - Include any clinically necessary or reasonable restrictions on visitation
 - Include the reasons for those restrictions

42 CFR 482.13(h) for hospitals, 485.635(f) for critical access hospitals

“When a hospital adopts policies that limit or restrict patients’ visitation rights, the burden of proof is upon the hospital to demonstrate that the visitation restriction is reasonably necessary to provide safe care.”

State Operations Manual, Tag A-0215

The *Interpretive Guidelines* permit flexibility, so that health care professionals may exercise their best clinical judgment when determining when visitation is and is not appropriate. Best clinical judgment takes into account all aspects of patient health and safety, including the benefits of visitation on a patient's care as well as potential negative impacts that visitors may have on other patients in the hospital

State Operations Manual, Tag A-0215

Caution: flexibility can also introduce inconsistent application of P&P

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- Hospitals must inform each patient *in writing* of the right to have the visitors s/he designates
- The medical record must contain documentation that the required notice was provided
- The P&P must address staff training “to assure appropriate implementation of the visitation policies and procedures and *avoidance of unnecessary restrictions* or limitations on patients’ visitation rights.” (*emphasis added*)

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- Does your hospital have a written P&P on visitation?
- What does it say?
- Does it address doulas – or do you have a separate policy for doulas?

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Does your hospital restrict visitors in triage, ED, OR, L&D, or postpartum?

If so:

- Are the restrictions *clinically* necessary and reasonable? Really?
- Does your policy give a good reason for the restrictions?
- Does your hospital *need* to implement these restrictions? What bad thing would happen if you allowed doulas in these areas?
- Would a judge, jury, or CDPH surveyor believe your reasons for any restrictions?
- Do you consistently apply these restrictions? If not, then do you really have a good reason for the restrictions?

Note: it is permissible for visitation policies to differ by unit (postpartum vs. OR, for example). However, the policy *must* address the clinical rationale for this differentiation explicitly.

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CHA has heard from doulas that hospital staff are frequently unaware of the hospital's P&P regarding doulas, or apply the P&P inconsistently.

Requirement: Train all staff who are responsible for implementing visitor policy.

Strong suggestion:

- Designate charge nurses in L&D, postpartum, ED, OR as the “doula experts” – that way, someone on each shift will know what to do if questions arise.
- Train appropriate medical staff, also. They should be aware of hospital policy too.
- In your doula packet, include the name/contact information of the person in charge of your doula program who can answer questions and resolve concerns/complaints.

Having a great P&P is worthless if your staff doesn't understand it or implement it.

- CDPH may question staff re: doula policy
- **Think of your patient satisfaction scores!**

When can a doula be excluded from the hospital (even though P&P usually allows doulas)?

After a case-by-case assessment, it is determined that:

- The doula is ill or intoxicated
- The doula is exhibiting disruptive, threatening, or violent behavior
- The doula is interfering in the patient's care
- The doula declines to comply with reasonable instructions re: masking, infection control, and other important hospital rules
- Allowing the doula will interfere with the care of another patient(s)

- For policy restrictions
- For excluding individual doulas
- Document both

Suggestions

- Occasionally, a personality conflict may arise between a staff nurse and a doula. Consider requiring the (trained) charge nurse to determine whether to exclude a doula after considering the facts and circumstances. If necessary, reassign the staff nurse.
- If a physician seems to have issues with a doula(s), bring in the Perinatal Medical Director or the hospital's CMO to address the issue with the physician.

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Questions

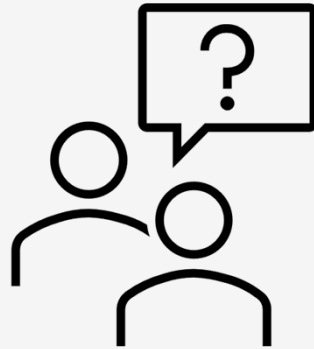
Q: Can we require doulas to take our hospital-provided training?

A: No. You can offer training and offer incentives to doulas who take it. But you cannot exclude a doula from the hospital because they declined to take your training.

Q: Can we require doulas to register with us in advance so we know who they are?

A: No. You can incentivize doulas to register with you in advance, though. For example, offer a "Quick Pass" (not a hospital employee ID badge) to bypass the visitor line.

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