

## NOTICE OF ERRATA

Issued on February 13, 2024

APL 23-020 (October 26, 2023)  
Amendments to 28 CCR § 1300.67.2.2

The Department of Managed Health Care hereby provides notice of the following typographical errors in Amendments to title 28 Cal. Code Regs § 1300.67.2.2, attached to the All Plan Letter (APL) APL 23-020 - Amendments to Rule 1300.67.2.2 and the Incorporated Annual Network Submission Instruction Manual and Annual Network Report Forms for Reporting Year 2024 (Issued on October 26, 2023):

The Department identified typographical and formatting errors impacting the language in Rule 1300.67.2.2, subsections (b)(22), (D) and (E). This also impacts the lettering within this subsection for all provisions after subsections (b)(22), (D) and (E). Below is an updated version of Rule 1300.67.2.2, subsection (b)(22), with the formatting and typographical errors corrected and the subsequent provisions renumbered. The corrections do not impact the substance of the previously noticed amendments.

Within the Amendments to Rule 1300.67.2.2 (b)(22), the corrected language reads as follows:

(b) Definitions.  
[...]

(b)(22) “Lowest cost-sharing tier” means a network tier or tiers, that comprise the lowest cost-sharing available to all enrollees in the network for each provider type or covered service within a tiered network.

(A) “Network tier” means a discrete set of network providers within a tiered network that are available at a distinct cost-sharing level to all enrollees who use the network. Pursuant to subsection (b)(10)(D) of this Rule, a network tier does not include providers accessible to enrollees through an out-of-network benefit.

(B) A “tiered network” means a network in which enrollees have access to network providers of the same provider types, delivering the same category of services, at

different copayment, coinsurance, deductible, or any other form of cost-sharing levels.

(C) The lowest cost-sharing tier shall meet the following criteria:

(i) The lowest cost-sharing tier shall be comprised of network providers of such types, numbers, and locations that comply with timely access and network adequacy standards set forth in the Knox-Keene Act and this Title, without relying on any network providers offered at higher cost-sharing levels or a different network tier of providers within the network;

(ii) The lowest cost-sharing tier shall be comprised of the same discrete set of providers available to all enrollees using the network; and

(iii) The lowest cost-sharing tier shall comprise the discrete set of providers considered when a plan is determining whether it must submit a network filing pursuant to Health and Safety Code sections 1352 and 1367.27(r), and Rules 1300.52(f), and 1300.67.2.1. For purposes of calculating the change in the number of providers under Health and Safety Code section 1367.27(r), and Rule 1300.52(f), for a tiered network, the plan shall calculate the change using only the network providers included in the lowest cost-sharing tier.

(D) A plan may offer a subset of network providers or covered services at a cost-sharing rate reduced below the lowest cost-sharing tier to some or all enrollees that use the designated network. Reduced cost-sharing shall be subject to the following requirements:

(i) The reduced cost-sharing rate shall be separately identified from the lowest cost-sharing rate in all enrollee-facing and marketing materials, including the schedule of benefits;

(ii) Enrollee-facing and marketing materials shall clearly indicate that a complete network is not available at the reduced cost-sharing rate;

(iii) Network providers available at a reduced cost-sharing rate may be included in a plan's lowest cost-sharing tier for the purposes of assessing compliance with timely access and network adequacy standards only if all enrollees have access to these providers either within the lowest cost-sharing tier, or at the reduced cost-sharing rate described in this subsection; and

(iv) A plan offering reduced a cost-sharing rate shall ensure it complies with all requirements set forth in Health and Safety Code section 1374.72.

(E) Pursuant to Health and Safety Code section 1367.03 (a)(1), a plan's compliance with timely access and network adequacy standards shall be determined at the lowest cost-sharing tier, as described in subsections (b)(22)(C) and (b)(22)(D) of

this Rule. A plan shall ensure that all plan operations, including internal monitoring processes, comply with this requirement. If an enrollee is unable to obtain a covered service in the lowest cost-sharing tier of a network within geographic and timely access standards set by law or regulation, a plan shall arrange for that service to be provided by a network provider in another tier or an out-of-network provider and ensure the enrollee is responsible for paying no more than the cost-sharing established for the lowest cost-sharing tier.

- (F) Pursuant to Health and Safety Code section 1367.27(h)(12), a plan shall include information in the provider directory identifying the network tier to which the network provider is assigned, and whether a reduced cost-sharing rate is available.
- (G) A plan shall not place restrictions on an enrollee's access to network providers or covered services within a tiered network, other than the established processes identified within subsection (b)(10)(C) of this Rule.
- (H) A plan that is unable to meet network adequacy at the lowest cost-sharing tier under the definition set forth in this subsection may propose an alternative approach to determining which providers comprise the lowest cost-sharing tier. A plan shall justify any request for an alternative approach in accordance with the facts and circumstances set forth in subsection (c) of Rule 1300.67.2.1 and shall make the request via an initial application for licensure or a notice of material modification to the Department.

If you have any questions about this notice, please contact the Office of Plan Monitoring at [ANRTeam@dmhc.ca.gov](mailto:ANRTeam@dmhc.ca.gov).