

## Amendments to 28 CCR § 1300.67.2.2:

The following amendments to 28 CCR § 1300.67.2.2 are noticed pursuant to the exemption to the Administrative Procedures Act (APA) set forth in Health and Safety Code section 1367.03(f). Amendments to existing law adding text are identified in underline and deletions are identified by strikethrough.

### § 1300.67.2.2 Timely Access to Non-Emergency Health Care Services and Annual Timely Access and Network Reporting Requirements.

[...]

(b) Definitions.

For purposes of this section, the following definitions apply.

[...]

(12) “Patterns of non-compliance,” with respect to the standards set forth in subsection (c) of this Rule, means any of the following:

(A) For purposes of the Provider Appointment Availability Survey, as calculated in accordance with the Provider Appointment Survey Manual, pursuant to subsection (f) of this Rule, for a specific network:

(i) Fewer than 70% of the network providers had an urgent appointment available within the time-elapsd standards set forth in subsection (c)(5)(A)-(B) for the measurement year.

(ii) Fewer than 70% of the network providers, ~~as calculated on the Provider Appointment Availability Survey Results Report Form, for a specific network~~ had a non-urgent ~~or urgent~~ appointment available within the time-elapsd standards set forth in subsection (c)(5)(~~CA~~)-(F) and (G) for the measurement year.

(iii) Fewer than 80% of the network providers had a non-urgent follow-up appointment available within the time elapsd standards set forth in subsection (c)(5)(F) for the measurement year.

(iv) A pattern of non-compliance shall be identified using the Provider Appointment Availability Survey rate of compliance information reported to the Department in accordance with subsection (f). ~~the “Rate of Compliance Urgent Care Appointments (All Provider Survey Types)” field and the Rate of Compliance Non Urgent Appointments (All Provider Survey Types)” field in the Summary of Rate of Compliance Tab of the Results Report Form.~~

[...]

(f) Provider Appointment Availability Survey.

(1) Beginning January 1, 2023, and annually thereafter, a plan shall demonstrate that each of its networks has adequate capacity and availability of network providers sufficient to offer enrollees appointments within the standards set forth in subsection (c)(5)(A)-(G) by administering the Provider Appointment Availability Survey, and reporting rates of compliance for each network. When conducting the Provider Appointment Availability Survey, the plan shall follow all requirements in the Provider Appointment Availability Survey Manual, which is hereby incorporated by reference, and the Timely Access Submission Instruction Manual, which is hereby incorporated by reference. A plan shall use the versions of the Provider Appointment Availability Survey Manual and the Timely Access Submission Instruction Manual noticed on the Department's website at [www.dmh.ca.gov](http://www.dmh.ca.gov), on or before May 1 of the measurement year. In conducting the Provider Appointment Availability Survey, a plan must do all of the following:

[...]

(l) Identify whether each network met or exceeded the threshold rates of compliance set forth in subsection (b)(12)(A): and obtained a sufficient sampling error. A sampling error greater than 5% for each appointment type is insufficient. For non-urgent non-physician mental health care provider follow-up appointments, if the network includes fewer than 100 non-physician mental health care providers a sampling error greater than 10% is insufficient. If a network failed to meet or exceed the threshold rates of compliance, or obtained an insufficient sampling error, the plan shall implement prompt investigation and corrective action, as required by ~~subsection~~ subsections (d)(3) and (h)(6)(C), to bring the network into compliance with this section;

[...]