



June 15, 2007

TO: All Interested Parties

Pursuant to Chapter 14, Section 14.4 of the San Francisco Administrative Code, the San Francisco Department of Public Health ("DPH") has developed draft regulations to govern the Healthy San Francisco and Medical Reimbursement Account programs authorized in the San Francisco Health Care Security Ordinance adopted by the San Francisco Board of Supervisors as Ordinances 218-06 and 69-07.

The draft Regulations Implementing Healthy San Francisco and Medical Reimbursement Account Provisions of the San Francisco Health Care Security Ordinance are available for public comment.

DPH is inviting all interested parties to provide written comments on the draft regulations. Written comments should be submitted either electronically or via United States mail to:

Tangerine Brigham
San Francisco Department of Public Health
101 Grove Street, Room 310
San Francisco, CA 94102
E-mail: Tangerine.Brigham@sfdph.org

Written comments on the draft regulations will be taken from June 15, 2007 to June 29, 2007.

This letter and the draft regulations will be posted on the following websites: www.sfdph.org and www.sfhp.org/HealthySanFrancisco. The draft regulations will be accessible via the San Francisco Office of Labor Standards and Enforcement's Health Care Security Ordinance webpage: www.sfgov.org/site/olse_index.asp?id=45168.

The draft regulations have also been provided to the San Francisco Public Library Government Information Center for public review. The public can review documents in the Government Information Center, 5th Floor of the Main Library, 100 Larkin Street, during open hours. The Main Library is open Mondays 10 – 6; Tuesdays, Wednesdays and Thursdays 9-8; Fridays 12-6; Saturday 10-6; and Sundays 12-5.

Those without Internet access may obtain a copy of the draft regulations at 101 Grove Street, Room 308 between the hours of 8:00 am and 5:00 pm.

On July 17, 2007, the San Francisco Health Commission will consider the draft regulations for adoption at a public hearing and will provide the public with an opportunity to make oral comments and testimony. This public hearing will be noticed in accordance with the provisions of the San Francisco Administrative Code.

**REGULATIONS IMPLEMENTING HEALTHY SAN FRANCISCO AND
MEDICAL REIMBURSEMENT ACCOUNT PROVISIONS OF THE
SAN FRANCISCO HEALTH CARE SECURITY ORDINANCE**

1. Purpose

(a) The purpose of these Regulations is to implement Chapter 14, Sections 14.2 and 14.4 of the San Francisco Administrative Code, the San Francisco Health Care Security Ordinance (“HCSO” or “Ordinance”) which authorizes the Department of Public Health (“DPH”) to: (i) create and administer a program to provide health care services to San Francisco’s uninsured residents; and (ii) establish and maintain Medical Reimbursement Accounts for non-residents who work in San Francisco and other qualified individuals.

(b) The program referenced in subsection (a)(i) above is identified in the Ordinance as the “Health Access Program.” However, DPH has determined that the name “Health Access Program” creates confusion among San Francisco residents because of its similarity to other programs. Accordingly, the program shall be named “Healthy San Francisco,” and is hereinafter referred to in these regulations as “Healthy San Francisco.”

(c) The Healthy San Francisco program will fulfill the City and County of San Francisco’s obligation to provide services to indigent persons in need of medically necessary services as required by California Welfare and Institutions Code Section 17000. The Regulations in no way shall be construed as an expansion of the City and County of San Francisco’s existing obligations to provide health care under any California and/or federal law.

2. Definitions

(a) Applicant. Any person who applies to participate in the Healthy San Francisco program or the Medical Reimbursement Account program.

(b) Application. The form developed by DPH to determine applicant eligibility for Healthy San Francisco.

(c) City. The City and County of San Francisco.

(d) Clinical Site or Clinical Setting. Any licensed facility that provides health services.

(e) Covered Employee. Any person that meets the definition provided in Section 14.1(b)(2) of the Administrative Code and Regulation 3 of the Office of Labor Standards and Enforcement’s Regulations Implementing the Employer Spending Requirement of the San Francisco Health Care Security Ordinance.

(f) Covered Employer. An employer that meets the definition as set forth in Section 14.1(b)(3) and its inclusive subparts of the Administrative Code and Regulation 2 of the Office of Labor Standards and Enforcement's Regulations Implementing the Employer Spending Requirement of the San Francisco Health Care Security Ordinance.

(g) Federal Poverty Level. Level determined by the "Poverty Guidelines for the 48 Contiguous States and the District of Columbia" as contained in the Annual Update of the HHS Poverty Guidelines developed by the United States Department of Health and Human Services as published in the Federal Register.

(h) Healthy San Francisco Participant. Any uninsured San Francisco resident who fulfills all Healthy San Francisco eligibility provisions and is enrolled in the program.

(i) Health Services. Those services provided through the Healthy San Francisco program which a Participant will receive to treat a health or medical condition, promote health and/or prevent disease.

(j) Household Income. The total annual income of all family members in a household.

(k) Medical Home. The clinical site or clinical setting in which a Participant receives preventive and primary care services.

(l) Medical Reimbursement Account. An account established and maintained by DPH or its vendor from which eligible individuals may receive reimbursement for out-of-pocket medical expenses.

(m) Ordinance. The San Francisco Health Care Security Ordinance adopted by San Francisco Board of Supervisors as Ordinance 218-06, inclusive of any future and subsequent amendments.

(n) Participation Fee: A quarterly amount that Participants in Healthy San Francisco must pay to remain eligible for care under the program.

(o) Point-of-Service Fees: The amount(s) a Participant must pay for specific services at the time services are obtained.

(p) Provider: A California licensed health plan, hospital, clinic or clinician contracted to deliver health services to program Participants.

(q) Third-Party Administrator. A vendor or other entity that DPH enters into a contract with to perform specified administrative functions on behalf of the program.

3. Healthy San Francisco Program Eligibility

- (a) An eligible Participant is any person who:
- (i) resides in San Francisco and provides documentation of San Francisco residency based on the guidelines stated in the Healthy San Francisco program brochure provided to applicants;
 - (ii) is between the ages of 18 and 64 years old, or is an emancipated minor, or a minor not living in the home of a birth or adoptive parent, a legal guardian, caretaker relative, foster parent, or stepparent, and is applying for coverage on his or her own behalf;
 - (iii) has been without employer-based or individually-purchased health insurance for 90 days from the date of application for Healthy San Francisco eligibility, or has lost employer-based health care coverage within 90 days of date of application due to a change in employment status, or who has lost COBRA coverage within 90 days of date of application;
 - (iv) is ineligible for California and/or federally-funded health insurance or assistance programs, provided that the applicant's eligibility for the following programs shall not make the applicant ineligible for Healthy San Francisco:
 - 1) Pregnancy-Related Medi-Cal (Omnibus Budget Reconciliation Act);
 - 2) Pregnancy-Related Medi-Cal (Presumptive Eligibility);
 - 3) AIM Access for Infants and Mothers;
 - 4) Omnibus Budget Reconciliation Act Medi-Cal (non-pregnancy and emergency only);
 - 5) Family PACT (Planning, Access, Care, Treatment);
 - 6) Breast and Cervical Cancer Treatment Program (California-only); and
 - 7) Cancer Detection Program.
- (b) Neither employment status, immigration status nor the existence of pre-existing health conditions shall be used to exclude a person from eligibility for Healthy San Francisco.

(c) DPH will develop an application for participation in Healthy San Francisco and a process for obtaining a Medical Reimbursement Account for potential participants.

(d) The Healthy San Francisco application will collect information from the applicant necessary to determine program eligibility and eligibility for any subsidies for participation in the program, including, but not limited to name, address, household income, and employment status.

(e) An eligible Participant shall be enrolled for participation into the Healthy San Francisco program if he/she submits a completed application, fulfills the eligibility requirements and pays the required participation fees as established by DPH.

(f) DPH shall, from time to time, require participants to re-establish eligibility for participation in Healthy San Francisco.

4. Healthy San Francisco Program Fees

(a) Healthy San Francisco will have two fee components for its Participants: "participation fees" and "point-of-service fees." These fees shall be based on Participant income which is measured with reference to the Federal Poverty Level.

- (i) Participation fees shall be assessed on a quarterly basis for continued participation in the Healthy San Francisco program.
- (ii) Point-of-service fees shall be assessed on a sliding scale based on a Participant's Federal Poverty Level when a Participant receives services at a clinical site or clinical setting.
- (iii) Any person with an annual household income between 0% and 500% of the Federal Poverty Level shall be eligible for a subsidy for the participation fee, to be determined by DPH.

(b) Non-payment of the participation fee by the program Participant can result in cancellation of enrollment from the Healthy San Francisco program.

5. Healthy San Francisco Services

(a) The program shall provide health services for the treatment of medical conditions with an emphasis on wellness, preventive, and primary care. Services include: professional services by clinicians (i.e., doctors, nurse practitioners, physician assistants, and other licensed health care providers) including preventive, primary, diagnostic, and specialty services; inpatient and outpatient hospital services; diagnostic and laboratory services, including therapeutic radiological services; behavioral health services, including mental health and substance abuse services; prescription drugs,

excluding drugs for excluded services; home health care; urgent care; and emergency care provided in San Francisco.

(b) The following is a non-exclusive list of services that shall not be provided by Healthy San Francisco program:

- (i) Acupuncture;
- (ii) Allergy Testing and Injections;
- (iii) Audiology (including hearing aids);
- (iv) Chiropractic;
- (v) Cosmetic;
- (vi) Dental;
- (vii) Gastric By-Pass Surgery and Services;
- (viii) Genetic Testing and Counseling;
- (ix) Infertility;
- (x) Long-Term Care;
- (xi) Organ Transplants;
- (xii) Sexual Reassignment Surgery;
- (xiii) Transportation: Non-urgent; and
- (xiv) Vision.

(c) Healthy San Francisco does not cover any services, including emergency services, provided outside the City and County of San Francisco.

6. Healthy San Francisco Service Provision and Delivery Network

(a) Each Participant shall have a designated clinical site or clinical setting that shall serve as his/her primary care medical home. The primary care medical home shall coordinate a Participant's access to services in the program, monitor management of medical conditions and provide continuity of care.

- (i) Upon enrollment into the program, Participants shall select their primary care medical home from a list of participating Healthy San Francisco clinic sites or clinical settings.

- (ii) Participants may request a medical home change during their pre-determined program recertification and re-enrollment process.
- (iii) Participants may make requests to change their primary care provider (i.e., a physician, nurse practitioner or physician assistant) within their medical home.

(b) The network of providers delivering services to program Participants shall be confined to licensed providers who have a physical location and practice in the City and who have entered into agreements and/or contracts with DPH and/or its Third-Party Administrator to provide services under this program.

(c) Healthy San Francisco shall not cover or reimburse payment for services delivered to program Participants by providers that have not entered into agreements and/or contracts with DPH and/or its Third-Party Administrator to provide services to Participants under this program.

7. Covered Employee Participation Rules

(a) Covered Employers who chose to satisfy the Employer Spending Requirement under the Ordinance by making payments to the City shall deliver the payments to DPH's Third Party Administrator. Payments shall be made consistent with the provisions of Section 14.3(a) of the Administrative Code and Regulation 6 of the Office of Labor Standards and Enforcement's Regulations Implementing the Employer Spending Requirement of the San Francisco Health Care Security Ordinance.

(b) Along with its payments, the Covered Employer shall provide to DPH's Third-Party Administrator: (i) the name of the Covered Employee, (ii) the amount paid per Covered Employee and (iii) other information as needed by DPH to determine whether the Covered Employee is eligible for participation in Healthy San Francisco or for the establishment of a Medical Reimbursement Account. DPH or its Third-Party Administrator shall provide Covered Employers with a form upon which they may provide this information along with their payments.

(c) DPH's Third-Party Administrator will use the information provided by the Covered Employer pursuant to subsection 7(b) above to determine whether the payment made on behalf of a Covered Employee shall be used to fund the Covered Employee's participation in Healthy San Francisco or to establish a Medical Reimbursement Account for the Covered Employee.

(d) Covered Employees on whose behalf a payment has been made to satisfy the Employer Spending Requirement shall be notified by their Covered Employer that such a payment has been made in accordance with Regulation 7.1 of the Office of Labor Standards and Enforcement's Regulations Implementing the Employer Spending Requirement of the San Francisco Health Care Security Ordinance.

(e) DPH or its Third-Party Administrator shall inform Covered Employees where they may go to be screened for enrollment in Healthy San Francisco and/or establishment of Medical Reimbursement Accounts.

(f) A Covered Employee on whose behalf payment has been made to DPH must, in order to participate in Healthy San Francisco, meet program eligibility requirements and enroll in Healthy San Francisco.

- (i) A Covered Employee who is determined to be eligible for Healthy San Francisco shall receive a discount of 75% off the participation fee that s/he would otherwise be required to pay to participate in Healthy San Francisco. If as a result of the discount the fee is less than \$50 per quarter, the participation fee shall be waived.
- (ii) Payments by the Covered Employer shall entitle the Covered Employee to a discounted Participation Fee for six months from the date of enrollment. After six months from the date of enrollment, and every six months thereafter, DPH or its Third-Party Administrator shall determine whether the Participant's Covered Employer has continued payments on the Participant's behalf in the preceding six months. If the Covered Employer has continued to make such payments, the Participant shall remain eligible for a discounted Participation Fee for the following six months. If DPH or its Third-Party Administrator determines that the Covered Employer has not made payments on the Participant's behalf for the preceding six months, the Participant may remain enrolled in Healthy San Francisco by paying a non-discounted Participation Fee.

(g) A Covered Employee that does not meet the program eligibility requirements for participation in Healthy San Francisco but wishes to benefit from the payment made on his/her behalf by a Covered Employer, the Covered Employee may sign up for a Medical Reimbursement Account to be established and maintained by DPH's Third Party Administrator. Any funds collected on behalf of a Covered Employee during the calendar year shall be forfeited if the Covered Employee does not sign up for a Medical Reimbursement Account by July 1 of the subsequent calendar year. Any forfeited funds shall be used by DPH to fund the programs described in these regulations.

- (i) Covered Employees may obtain reimbursement from the Medical Reimbursement Account for medical care, services or goods that may qualify as tax deductible medical expenses under Section 213 of the Internal Revenue Code including the costs of diagnosis, cure, mitigation, treatment, or prevention of disease, and the costs for treatments affecting any part or function of the body, including

the costs of equipment, supplies and diagnostic devices needed for these purposes. Reimbursable medical expenses may also include dental expenses, premiums paid for insurance that covers the expenses of medical care and the amount paid for transportation to receive medical care.

- (ii) Any administrative fees charged to the City to establish and maintain the Covered Employee's Medical Reimbursement Account shall be deducted from the balance amount in that Covered Employee's Medical Reimbursement Account.
- (iii) A Covered Employee must use the money deposited into the Medical Reimbursement Account within a designated period of time as determined by DPH.

8. Public Information on Healthy San Francisco

(a) DPH shall make available to the public all information necessary to facilitate participation in the programs authorized by the Ordinance.

(b) Written program materials for applicants and participants will be offered, at a minimum in the following languages: Chinese, English and Spanish.

(c) DPH will maintain a program website and ensure that access to program information is available through the 311 System operated by the City.

9. Healthy San Francisco Administration

(a) DPH is responsible for the overall administration of the Healthy San Francisco and Medical Reimbursement Account programs. Its responsibilities include, but are not limited to: overseeing overall program development and implementation; defining program goals, design and policy objectives; ensuring adequate financing and evaluating the program's effectiveness.

(b) DPH may enter into a vendor/contract relationship with a Third-Party Administrator and/or other entities to perform to specific administrative or programmatic functions needed to appropriately operate and maintain the program.

10. Reporting

(a) DPH shall make annual reports to the San Francisco Health Commission on the status of the Healthy San Francisco and Medical Reimbursement Account programs.

(b) DPH shall comply with Section 14.4(f) of the Administrative Code with respect to Healthy San Francisco and Medical Reimbursement Account program reports to the San Francisco Board of Supervisors.