

ASSEMBLY BILL

No. 1149

Introduced by Assembly Member Beall

February 23, 2007

An act to amend Section 14085.5 of, and to add Section 14085.57 to, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1149, as introduced, Beall. Medi-Cal: disproportionate share hospitals and trauma centers: seismic safety requirements.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits, including hospital services. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Existing law authorizes the California Medical Assistance Commission to negotiate selective provider contracts with eligible hospitals to provide inpatient hospital services to Medi-Cal beneficiaries.

Existing law generally defines a disproportionate share hospital as a hospital that has disproportionately higher costs, volume, or services related to the provision of services to Medi-Cal or other low-income patients than the statewide average. Under existing law, an eligible disproportionate share hospital may receive supplemental Medi-Cal reimbursement for debt service on revenue bonds used for financing eligible capital projects. Under existing law, eligible projects include new capital projects funded by new debt for which final plans have been submitted to the Office of the State Architect (OSA) and the Office of Statewide Health Planning and Development (OSHPD) after September 1, 1988, and prior to June 30, 1994, except as specified.

This bill would, instead, apply these supplemental reimbursement provisions to new capital projects funded by new debt for which final plans have been submitted to OSA and OSHPD after January 1, 2007, and prior to December 31, 2011. In addition, the bill would extend the same supplemental reimbursement provisions to capital projects of trauma centers submitted to OSA and OSHPD, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14085.5 of the Welfare and Institutions
2 Code is amended to read:
3 14085.5. (a) Each disproportionate share hospital contracting
4 to provide services under this article or contracting with a county
5 organized health system, and which has or would have met the
6 state criteria developed pursuant to the federal medicaid
7 requirements regarding disproportionate hospitals for the three
8 most recent years prior to submitting final plans for an eligible
9 project in accordance with subparagraph (C) of paragraph (1) of
10 subdivision (b), may, in addition to the rate of payment provided
11 for in the contract entered into under this article, receive
12 supplemental reimbursement to the extent provided for in this
13 section.

14 (b) (1) (A) A hospital qualifying pursuant to subdivision (a)
15 shall submit documentation regarding debt service on revenue
16 bonds used for financing the construction, renovation, or
17 replacement of hospital facilities, including buildings and fixed
18 equipment.

19 (B) Qualified hospitals may submit debt service instruments to
20 the department and to the commission regarding debt issued for
21 new capital projects.

22 (C) Eligible projects shall include those new capital projects
23 funded by new debt for which final plans have been submitted to
24 the Office of the State Architect and the Office of Statewide Health
25 Planning and Development after ~~September 1, 1988~~ *January 1,*
26 *2007,* and prior to ~~June 30, 1994~~ *December 31, 2011,* except that
27 projects submitted between September 1, 1988, and June 30, 1989,
28 shall be eligible only if the submitting hospital had all of the
29 following additional characteristics during the 1989 calendar year:

- 1 (i) No less than 400 general acute care licensed beds.
2 (ii) An average Medi-Cal patient census of not less than 30
3 percent of the total patient days.
4 (iii) No less than 50,000 emergency department visits.
5 (iv) An existing basic emergency department, obstetrical
6 services, and a neonatal intensive care unit.
7 (D) The department shall confirm in writing hospital and project
8 eligibility for partial financing under this section.
9 (E) Department advisory letters, conditioned on hospital and
10 project conformity to plans, may be requested by hospitals prior
11 to final plan submission.
12 (F) Capital projects receiving partial financing under this section
13 shall finance the upgrading or construction of buildings and
14 equipment to a level required by currently accepted medical
15 practice standards, including projects designed to correct Joint
16 Commission on Accreditation of Hospitals and Health Systems
17 fire and life safety, seismic, or other related regulatory standards.
18 (2) Projects may also expand service capacity as needed to
19 maintain current or reasonably foreseeable necessary bed capacity
20 to meet the needs of Medi-Cal beneficiaries after giving
21 consideration to bed capacity needed for other patients, including
22 unsponsored patients.
23 (3) (A) Debt service shall only be paid for projects, or for that
24 portion of projects, that are available and accessible to patients
25 treated under this article or by successor programs.
26 (B) Each project shall cost at least five million dollars
27 (\$5,000,000) or, if less than five million dollars (\$5,000,000), the
28 project shall be necessary for retention of federal and state licensing
29 and certification and for meeting fire and life safety, seismic, or
30 other related regulatory standards.
31 (4) Supplemental reimbursement payments shall commence no
32 later than 30 days after receipt of the certificate of occupancy by
33 the hospital.
34 (5) (A) The state shall pledge to, and agree with, the holders
35 of any revenue bonds issued to finance projects qualifying under
36 this section that until debt service on the revenue bonds is fully
37 paid, or until the supplemental rate is no longer required as
38 provided by this section, the state will not limit or alter the rights
39 vested in the hospital to receive supplemental reimbursement
40 pursuant to this section.

1 (B) The state shall pledge, and the hospital shall, as a condition
2 of encumbering supplemental reimbursement payments received
3 pursuant to this section, pledge that supplemental reimbursement
4 payments shall be used for the payment of debt service on the
5 revenue bonds. The hospital shall include its pledge and the
6 agreement with the state in any agreement with the holders of the
7 revenue bonds.

8 (c) The hospital's supplemental reimbursement for a project
9 qualifying pursuant to subdivisions (a) and (b) shall be calculated
10 as follows:

11 (1) For any fiscal year for which the hospital is eligible to
12 receive reimbursement, the hospital shall report to the department
13 the amount of debt service on the revenue bonds issued to finance
14 the project.

15 (2) (A) The department shall use the medicaid inpatient
16 utilization rate as determined pursuant to Section 4112 of the
17 Omnibus Budget Reconciliation Act of 1987 (~~Public Law~~ *P.L.*
18 100-203) to determine the ratio of the hospital's total paid Medi-Cal
19 patient days to total patient days.

20 (B) (i) Notwithstanding any other provision of law, in
21 determining the hospital's medicaid inpatient utilization rate for
22 the purposes of this section, the department shall include in both
23 the numerator and denominator all Medi-Cal inpatient days of care
24 provided by the hospital after December 31, 1994, to Medi-Cal
25 beneficiaries who are enrolled in prepaid health plans contracting
26 with the department. Where reliable data regarding those days are
27 available from Medi-Cal prepaid health plans contracting with
28 participating hospitals for services rendered prior to January 1,
29 1995, that data may be used by the department in the calculations.

30 (ii) For purposes of this section, Medi-Cal prepaid health plan
31 programs, and the days relating thereto, shall include, but not be
32 limited to, the programs listed in paragraph (1) of subdivision (b)
33 of Section 14105.985, Section 14089, and any prepaid programs
34 implemented under Section 14087.3, including the two-plan model
35 described in the report issued on March 31, 1993, by the
36 department, entitled "The State Department of Health Services'
37 Plan for Expanding Medi-Cal Managed Care: Protecting
38 Vulnerable Populations."

39 (3) (A) (i) The supplemental Medi-Cal reimbursement to the
40 hospital for each fiscal year shall equal the amount determined

1 annually in paragraph (1) multiplied by the percentage figure
2 determined in paragraph (2). In no instance shall the percentage
3 figure determined pursuant to the ratio derived under paragraph
4 (2) be decreased by more than 10 percent of the initial ratio
5 determined pursuant to paragraph (2) prior to the retirement of the
6 debt.

7 (ii) Hospitals whose Medi-Cal ratio falls below 90 percent of
8 the initial level established at the point of final plan submission
9 shall at least maintain the volume of Medi-Cal utilization which
10 was recorded at the time of final plan submission unless forces
11 beyond the hospital's control have decreased the absolute volume
12 of care.

13 (B) (i) In no instance shall the total amount of reimbursement
14 received under this section combined with that received from all
15 other sources dedicated exclusively to debt service exceed 100
16 percent of the debt service over the life of the loan.

17 (ii) A hospital qualifying for and receiving supplemental
18 Medi-Cal reimbursement shall continue to receive the
19 reimbursement until the qualifying loan is paid off, or the hospital
20 is terminated as a Medi-Cal selective contractor and the hospital
21 does not contract with a county organized health system.

22 (iii) It is the intent of the Legislature that the state and the
23 qualifying hospital shall negotiate in good faith for rates sufficient
24 to ensure continued hospital participation in the program and to
25 ensure adequate access to services for Medi-Cal beneficiaries.

26 (iv) The state shall not terminate a contract with a qualified
27 provider for the purpose of terminating the capital supplement.

28 (v) If negotiations fail to permit continuation of a contract of a
29 hospital qualifying for the supplemental Medi-Cal reimbursement,
30 the supplemental Medi-Cal reimbursement shall cease as of the
31 date of discontinuance of the selective provider contract.

32 (4) In order to ensure provision of qualified supplemental
33 payments to disproportionate share hospitals contracting with
34 county organized health systems, the department shall make the
35 qualified supplemental payments directly to these hospitals.

36 (5) Funding for these supplemental payments shall be separately
37 appropriated as a line item in the Budget Act for each fiscal year
38 for any project for which a request for payment is received after
39 April 1 of each fiscal year. The department shall request a

1 deficiency appropriation if funds for the payment are not
2 appropriated in the Budget Act.

3 (6) (A) Paragraphs (1) to (4), inclusive, shall be incorporated
4 into an amendment to any contract entered into by a hospital
5 pursuant to this article.

6 (B) (i) Any contract amendment required by paragraph (A)
7 shall include a payment methodology based on inpatient hospital
8 services rendered to Medi-Cal patients, either on a per diem basis,
9 a per-discharge basis, or any other federally permissible basis, and
10 which is consistent with the hospital’s Medi-Cal contract.

11 (ii) The payment methodology specified in clause (i) shall ensure
12 that the hospital, on an annual basis, receives the amount of
13 supplemental reimbursement calculated pursuant to paragraph (3),
14 excluding only the federal portion of costs which have been
15 determined by the federal government not to be allowable under
16 Title XIX of the federal Social Security Act (Subchapter 19
17 (commencing with Section 1396) of Chapter 7 of Title 42 of the
18 United States Code).

19 (iii) The payment methodology specified in clause (i) shall
20 contain a retrospective adjustment mechanism to ensure that,
21 regardless of the payment methodology, the department shall pay
22 the hospital the full amount owed to the hospital for the year, as
23 determined pursuant to this section.

24 (7) In negotiating contracts with hospitals receiving payments
25 under this section, the commission shall take appropriate steps to
26 ensure the duplicate payments are not made to the hospital for the
27 debt service costs relating to the eligible project.

28 (d) All reimbursement received by a hospital pursuant to this
29 section shall be placed in a special account, the funds in which
30 shall be used exclusively for the payment of debt service on the
31 revenue bonds issued to finance the project.

32 (e) If contracting under this section is superseded by other
33 arrangements for payment of inpatient hospital services, the
34 successor program shall include separate reimbursement, as
35 determined pursuant to paragraph (3) of subdivision (c).

36 (f) (1) For purposes of this section, “revenue bonds” are defined
37 as that term is defined in subdivision (c) of Section 15459 of the
38 Government Code, and shall also include general obligation bonds
39 issued by or on behalf of eligible hospitals for projects of more
40 than five million dollars (\$5,000,000).

1 (2) (A) The aggregate principal amount of general obligation
2 bonds to be issued as revenue bonds under this subdivision for the
3 anticipated allowable portion of projects shall not, in any fiscal
4 year, exceed a statewide amount established in the Medi-Cal
5 estimates submitted to the fiscal committees of the Legislature
6 pursuant to Section 14100.5, or as otherwise statutorily determined
7 by the Legislature.

8 (B) In preparing Medi-Cal estimates, the department shall
9 consider, but need not include, all actual and anticipated projects.

10 (g) (1) The department shall promptly seek any necessary
11 federal approvals for the implementation of this section, and, if
12 necessary to obtain federal approval, the department may, for
13 federal purposes, limit the program to those costs which are
14 allowable expenditures under Title XIX of the federal Social
15 Security Act (Subchapter 19 (commencing with Section 1396) of
16 Chapter 7 of Title 42 of the United States Code), subject to
17 paragraph (2).

18 (2) The department shall continue to be responsible for the
19 reimbursement of eligible providers from state funds for the amount
20 of supplemental reimbursement pursuant to paragraph (3) of
21 subdivision (c), excluding only the federal portion of costs which
22 have been determined by the federal government not to be
23 allowable under Title XIX of the federal Social Security Act.

24 (h) (1) A hospital receiving supplemental reimbursement
25 pursuant to this section shall be liable for any reduced federal
26 financial participation resulting from the implementation of this
27 section.

28 (2) The department shall submit claims for federal financial
29 participation for all elements of the supplemental reimbursements
30 which are allowable expenditures under federal law.

31 (3) The department shall, on an annual basis, submit any
32 necessary materials to the federal government to provide assurances
33 that claims for federal financial participation will include only
34 those expenditures which are allowable under federal law.

35 (4) (A) The department may require that hospitals receiving
36 supplemental reimbursement submit data necessary for the
37 department to determine the appropriate amounts to claim as
38 expenditures qualifying for federal financial participation.

39 (B) Unless otherwise permitted by federal law, the total
40 statewide payment under the selective provider contracting

1 program, in the aggregate on an annual basis, shall not exceed an
2 amount that would otherwise have been paid under the Medi-Cal
3 program on a statewide basis for the same services, in the aggregate
4 on an annual basis, if the contracting program were not
5 implemented.

6 (i) (1) Subject to paragraph (2), any hospital that met the criteria
7 specified in subdivision (a) at the time it submitted its final plans
8 for an eligible project in accordance with subparagraph (C) of
9 paragraph (1) of subdivision (b) shall continue to receive
10 reimbursement as set forth in this section irrespective of whether
11 or not the hospital qualifies as a disproportionate share hospital
12 after submission of its final plans.

13 (2) A hospital that fails to meet the criteria for disproportionate
14 share status on or before June 30, 2002, shall be required to submit
15 data to the department that demonstrates that the hospital failed to
16 meet the criteria for a disproportionate share hospital because its
17 low-income utilization rate, as determined pursuant to Section
18 4112 of the Omnibus Budget Reconciliation Act of 1987 (~~Public~~
19 ~~Law~~ (P.L. 100-203), does not exceed 25 percent due to one or
20 more of the following factors:

21 (A) An increase in outpatient utilization.

22 (B) A decrease in the average length of stay for Medi-Cal
23 beneficiaries or charity care patients due to technological advances
24 in the provision of care.

25 (C) Increased implementation within the state of Medi-Cal
26 prepaid health plan programs.

27 (D) The level of reimbursement that the hospital receives for
28 outpatient visits.

29 (E) Other circumstances beyond the hospital's control that affect
30 the hospital's ability to meet the criteria for disproportionate status,
31 even though the hospital continues to have a mission to provide
32 care to Medi-Cal and charity care patients.

33 SEC. 2. Section 14085.57 is added to the Welfare and
34 Institutions Code, to read:

35 14085.57. (a) Each trauma center in a high earthquake
36 propensity zone, as determined by the Office of Statwide Health
37 Planning and Development and the Seismic Safety Commission,
38 contracting to provide services under this article or contracting
39 with a county organized health system, and which has or would
40 have met the state criteria developed pursuant to the federal

1 medicaid requirements regarding disproportionate hospitals for
2 the three most recent years prior to submitting final plans for an
3 eligible project in accordance with paragraph (3) of subdivision
4 (b), may, in addition to the rate of payment provided for in the
5 contract entered into under this article, receive supplemental
6 reimbursement to the extent provided for in Section 14085.5.

7 (b) (1) A trauma center qualifying pursuant to subdivision (a)
8 shall submit documentation regarding debt service on revenue
9 bonds used for financing the construction, renovation, or
10 replacement of trauma center facilities, including buildings and
11 fixed equipment.

12 (2) A qualified trauma center may submit debt service
13 instruments to the department and to the commission regarding
14 debt issued for new capital projects.

15 (3) Eligible projects shall include those new capital projects
16 funded by new debt for which final plans have been submitted to
17 the Office of the State Architect and the Office of Statewide Health
18 Planning and Development after January 1, 2007, and prior to
19 December 31, 2011.