

AMENDED IN ASSEMBLY JUNE 5, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1750

Introduced by Committee on Health (Dymally (Chair), Bass, Berg, De Leon, Gaines, Hancock, Hayashi, Hernandez, Huff, Lieber, Ma, and Salas)

April 10, 2007

An act to *amend Section 12651 of the Government Code, to amend and renumber Section 11834 of the Health and Safety Code, and to amend Sections 14495.10, 16915, 16932, 16933, 16934.5, 16935, 16935.5, and 16952 of, and to add Section 14115.75 to, the Welfare and Institutions Code, relating to health, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1750, as amended, Committee on Health. Health.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. Existing law requires the department to establish a pilot program to provide continuous skilled nursing care as a benefit under the Medi-Cal program when those services are provided pursuant to a federal waiver and in accordance with prescribed requirements. This provision is repealed as of January 1, 2008.

This bill would extend the repeal date to January 1, 2011.

Existing law, the False Claims Act, provides that a person who commits any one of several enumerated acts relating to the submission to the state or a political subdivision of the state of a false claim for money, property or services, as specified, may be liable to the state or

political subdivision for a civil penalty of up to \$10,000 for the submission of the false claim.

This bill would establish a minimum civil penalty of \$5,000 for making a false claim, as specified, and would retain the maximum penalty of \$10,000. This bill would also require designated providers under the Medi-Cal program to comply with specified federal False Claims Act employee training and policy requirements as a condition of payment for services, goods, supplies, and merchandise provided to Medi-Cal beneficiaries.

Existing law provides that the board of supervisors of a county that contracted with the State Department of Health Care Services pursuant to a specified provision of law during the 1990–91 fiscal year and any county with a population under 300,000, as determined in accordance with the 1990 decennial census, by adopting a resolution to that effect, may elect to participate in the County Medical Services Program (CMSP) for state administration of health care services to eligible persons in the county. Existing law requires the department to allocate funds from various sources to CMSP counties.

This bill would make technical, nonsubstantive changes to these provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 12651 of the Government Code is
 2 amended to read:
 3 12651. (a) Any person who commits any of the following acts
 4 shall be liable to the state or to the political subdivision for three
 5 times the amount of damages which the state or the political
 6 subdivision sustains because of the act of that person. A person
 7 who commits any of the following acts shall also be liable to the
 8 state or to the political subdivision for the costs of a civil action
 9 brought to recover any of those penalties or damages, and may be
 10 liable to the state or political ~~subdivision~~ *subdivision* for a civil
 11 penalty of ~~up to~~ *not less than five thousand dollars (\$5,000) and*
 12 *not more than ten thousand dollars (\$10,000) for each false claim:*

1 (1) Knowingly presents or causes to be presented to an officer
2 or employee of the state or of any political subdivision thereof, a
3 false claim for payment or approval.

4 (2) Knowingly makes, uses, or causes to be made or used a false
5 record or statement to get a false claim paid or approved by the
6 state or by any political subdivision.

7 (3) Conspires to defraud the state or any political subdivision
8 by getting a false claim allowed or paid by the state or by any
9 political subdivision.

10 (4) Has possession, custody, or control of public property or
11 money used or to be used by the state or by any political
12 subdivision and knowingly delivers or causes to be delivered less
13 property than the amount for which the person receives a certificate
14 or receipt.

15 (5) Is authorized to make or deliver a document certifying receipt
16 of property used or to be used by the state or by any political
17 subdivision and knowingly makes or delivers a receipt that falsely
18 represents the property used or to be used.

19 (6) Knowingly buys, or receives as a pledge of an obligation or
20 debt, public property from any person who lawfully may not sell
21 or pledge the property.

22 (7) Knowingly makes, uses, or causes to be made or used a false
23 record or statement to conceal, avoid, or decrease an obligation to
24 pay or transmit money or property to the state or to any political
25 subdivision.

26 (8) Is a beneficiary of an inadvertent submission of a false claim
27 to the state or a political subdivision, subsequently discovers the
28 falsity of the claim, and fails to disclose the false claim to the state
29 or the political subdivision within a reasonable time after discovery
30 of the false claim.

31 (b) Notwithstanding subdivision (a), the court may assess not
32 less than two times and not more than three times the amount of
33 damages which the state or the political subdivision sustains
34 because of the act of the person described in that subdivision, and
35 no civil penalty, if the court finds all of the following:

36 (1) The person committing the violation furnished officials of
37 the state or of the political subdivision responsible for investigating
38 false claims violations with all information known to that person
39 about the violation within 30 days after the date on which the
40 person first obtained the information.

1 (2) The person fully cooperated with any investigation by the
2 state or a political subdivision of the violation.

3 (3) At the time the person furnished the state or the political
4 subdivision with information about the violation, no criminal
5 prosecution, civil action, or administrative action had commenced
6 with respect to the violation, and the person did not have actual
7 knowledge of the existence of an investigation into the violation.

8 (c) Liability under this section shall be joint and several for
9 any act committed by two or more persons.

10 (d) This section does not apply to any controversy involving an
11 amount of less than five hundred dollars (\$500) in value. For
12 purposes of this subdivision, “controversy” means any one or more
13 false claims submitted by the same person in violation of this
14 article.

15 (e) This section does not apply to claims, records, or statements
16 made pursuant to Division 3.6 (commencing with Section 810) of
17 Title 1 or to workers’ compensation claims filed pursuant to
18 Division 4 (commencing with Section 3200) of the Labor Code.

19 (f) This section does not apply to claims, records, or statements
20 made under the Revenue and Taxation Code.

21 ~~SECTION 1.~~

22 *SEC. 1.5.* Section 11834 of the Health and Safety Code is
23 amended and renumbered to read:

24 11832.1. The department shall encourage the development of
25 educational courses that provide core knowledge concerning
26 alcohol and drug abuse problems and programs to personnel
27 working within alcohol and drug abuse programs.

28 *SEC. 2. Section 14115.75 is added to the Welfare and*
29 *Institutions Code, to read:*

30 *14115.75. (a) As a condition of payment for goods, supplies,*
31 *and merchandise provided to beneficiaries in the Medi-Cal*
32 *program, a provider shall comply with the federal False Claims*
33 *Act employee training and policy requirements contained in Section*
34 *1902(a) of the Social Security Act (42 U.S.C. Sec. 1396a(a)(68)),*
35 *and as the United States Secretary of Health and Human Services*
36 *may specify.*

37 *(b) For purposes of this section, “provider” has the same*
38 *meaning as that term is defined in Section 14043.1, and also*
39 *includes any Medi-Cal managed care plan authorized under this*
40 *chapter or Chapter 8.75 (commencing with Section 14590).*

1 ~~SEC. 2.~~

2 *SEC. 2.5.* Section 14495.10 of the Welfare and Institutions
3 Code is amended to read:

4 14495.10. (a) The department shall establish a pilot program
5 to provide continuous skilled nursing care as a benefit of the
6 Medi-Cal program, when those services are provided in accordance
7 with an approved federal waiver meeting the requirements of
8 subdivision (b). “Continuous skilled nursing care” means medically
9 necessary care provided by, or under the supervision of, a registered
10 nurse within his or her scope of practice, seven days a week, 24
11 hours per day, in a health facility participating in the pilot program.
12 This care shall include a minimum of eight hours per day provided
13 by or under the direct supervision of a registered nurse. Each health
14 facility providing continuous skilled nursing care in the pilot
15 program shall have a minimum of one registered nurse or one
16 licensed vocational nurse awake and in the facility at all times.

17 (b) The department shall submit to the federal Centers for
18 Medicare and Medicaid Services, no later than April 1, 2000, a
19 federal waiver request developed in consultation with the State
20 Department of Developmental Services and the Association of
21 Regional Center Agencies, pursuant to Section 1915(b) of the
22 federal Social Security Act to provide continuous skilled nursing
23 care services under the pilot program.

24 (c) (1) The pilot program shall be conducted to explore more
25 flexible models of health facility licensure to provide continuous
26 skilled nursing care to developmentally disabled individuals in the
27 least restrictive health facility setting, and to evaluate the effect of
28 the pilot program on the health, safety, and quality of life of
29 individuals, and the cost-effectiveness of this care. The evaluation
30 shall include a review of the pilot program by an independent
31 agency.

32 (2) Participation in the pilot program shall include 10 health
33 facilities provided that the facilities meet all eligibility
34 requirements. The facilities shall be approved by the department,
35 in consultation with the State Department of Developmental
36 Services and the appropriate regional center agencies, and shall
37 meet the requirements of subdivision (e). Priority shall be given
38 to facilities with four to six beds, to the extent those facilities meet
39 all other eligibility requirements.

1 (d) Under the pilot program established in this section, a
2 developmentally disabled individual is eligible to receive
3 continuous skilled nursing care if all of the following conditions
4 are met:

5 (1) The developmentally disabled individual meets the criteria
6 as specified in the federal waiver.

7 (2) The developmentally disabled individual resides in a health
8 facility that meets the provider participation criteria as specified
9 in the federal waiver.

10 (3) The continuous skilled nursing care services are provided
11 in accordance with the federal waiver.

12 (4) The continuous skilled nursing care services provided to the
13 developmentally disabled individual do not result in costs that
14 exceed the fiscal limit established in the federal waiver.

15 (e) A health facility seeking to participate in the pilot program
16 shall provide care for developmentally disabled individuals who
17 require the availability of continuous skilled nursing care, in
18 accordance with the terms of the pilot program. During
19 participation in the pilot program, the health facility shall comply
20 with all the terms and conditions of the federal waiver described
21 in subdivision (b), and shall not be subject to licensure or inspection
22 under Chapter 2 (commencing with Section 1250) of Division 2
23 of the Health and Safety Code. Upon termination of the pilot
24 program and verification of compliance with Section 1265 of the
25 Health and Safety Code, the department shall immediately reinstate
26 the participating health facility's previous license for the balance
27 of time remaining on the license when the health facility began
28 participation in the pilot program.

29 (f) The department shall implement this pilot program only to
30 the extent it can demonstrate fiscal neutrality, as required under
31 the terms of the federal waiver, and only if the department has
32 obtained the necessary approvals to implement the pilot program
33 and receives federal financial participation from the federal Centers
34 for Medicare and Medicaid Services.

35 (g) In implementing this article, the department may enter into
36 contracts for the provision of essential administration and other
37 services. Contracts entered into under this section may be on a
38 noncompetitive bid basis and shall be exempt from the
39 requirements of Chapter 2 (commencing with Section 10290) of
40 Part 2 of Division 2 of the Public Contract Code.

1 (h) This section shall remain in effect only until January 1, 2011,
2 and as of that date is repealed, unless a later enacted statute that
3 becomes effective on or before January 1, 2011, deletes or extends
4 that date.

5 SEC. 3. Section 16915 of the Welfare and Institutions Code is
6 amended to read:

7 16915. (a) Any county receiving an allocation pursuant to this
8 part shall, at a minimum, report to the department all indigent
9 health care program demographic, expenditure, and utilization
10 data, in a manner that will provide an unduplicated count of users,
11 as follows:

12 (1) The following patient demographic data:

13 (A) Age.

14 (B) Sex.

15 (C) Ethnicity.

16 (D) Family size.

17 (E) Monthly income.

18 (F) Source of income, according to the following categories:

19 (i) Disability income.

20 (ii) Employment.

21 (iii) Retirement.

22 (iv) General assistance.

23 (v) Other.

24 (G) Type of employment, according to the following categories:

25 (i) Agriculture.

26 (ii) Labor and production.

27 (iii) Professional and technical.

28 (iv) Service.

29 (v) Nonemployed.

30 (H) Payer source, according to the following categories:

31 (i) Private insurance.

32 (ii) County program.

33 (iii) Self-pay.

34 (iv) Other.

35 (I) ZIP Code of residence.

36 (2) Indigent health care expenditure data, including all of the
37 following:

38 (A) Inpatient hospital services, according to the following
39 categories:

40 (i) County hospital.

- 1 (ii) Contract hospital.
- 2 (iii) University teaching hospital.
- 3 (iv) Other, noncontract hospital.
- 4 (v) Diagnostic category, as defined by the International
- 5 Classification of Diseases, 9th Revision, Clinical Modification
- 6 (ICD-9-CM).
- 7 (B) Outpatient services, according to the following categories:
- 8 (i) Hospital outpatient.
- 9 (ii) Freestanding community clinic.
- 10 (iii) Primary care physician.
- 11 (iv) Nonemergency services rendered in an emergency room
- 12 environment.
- 13 (v) Type of service.
- 14 (C) Emergency room services, according to the following
- 15 categories:
- 16 (i) Emergency services.
- 17 (ii) Emergency services which result in a hospital admission.
- 18 (iii) Emergency services, which are rendered in a noncounty,
- 19 noncontract hospital and result in a transfer of the patient to a
- 20 county or contract hospital.
- 21 (3) Indigent health care utilization data.
- 22 (A) Inpatient hospital services, according to the following
- 23 categories:
- 24 (i) County hospital days and discharges.
- 25 (ii) Contract hospital days and discharges.
- 26 (iii) University teaching hospital days and discharges.
- 27 (iv) Other, noncontract hospital days and discharges.
- 28 (B) Outpatient services, according to the following categories:
- 29 (i) Hospital outpatient visits.
- 30 (ii) Freestanding community clinic visits.
- 31 (iii) Primary care physician visits.
- 32 (iv) Visits to a hospital emergency room for nonemergency
- 33 services.
- 34 (C) Emergency room services, according to the following
- 35 categories:
- 36 (i) Visits for emergency services in a county hospital.
- 37 (ii) Visits for emergency services in a contract hospital.
- 38 (iii) Visits for emergency services in a noncounty, noncontract
- 39 hospital.

- 1 (iv) Visits for emergency services which result in an admission
- 2 in a county hospital.
- 3 (v) Visits for emergency services which result in an admission
- 4 to a contract hospital.
- 5 (vi) Visits for emergency services which result in an admission
- 6 to a noncounty, noncontract hospital.
- 7 (D) Visits for emergency services which are rendered in a
- 8 noncounty, noncontract hospital and result in a transfer of the
- 9 patient to a county or contract hospital.
- 10 (4) Geographic location of rendered services.
- 11 (A) Inpatient hospital services, according to the following
- 12 categories:
- 13 (i) County hospital.
- 14 (ii) Contract hospital.
- 15 (iii) University teaching hospital.
- 16 (iv) Other, noncontract hospital.
- 17 (B) Outpatient services, according to the following categories:
- 18 (i) Hospital outpatient.
- 19 (ii) Freestanding community clinic.
- 20 (iii) Primary care physician.
- 21 (iv) Nonemergency services rendered in an emergency room
- 22 environment.
- 23 (C) Emergency room services.
- 24 (5) Expenditure and utilization data for persons with acquired
- 25 immunodeficiency syndrome (AIDS) and AIDS-related complex.
- 26 (A) Total number of patients.
- 27 (B) Number of inpatient users.
- 28 (C) Number of discharges.
- 29 (D) Total inpatient days.
- 30 (E) Total inpatient expenditures.
- 31 (F) Number of outpatient users.
- 32 (G) Number of outpatient visits.
- 33 (H) Total outpatient expenditures.
- 34 (I) Number of emergency room users.
- 35 (J) Number of emergency room visits.
- 36 (K) Total emergency room expenditures.
- 37 (b) Counties shall report demographic, cost and utilization data
- 38 on indigent health care to the department as follows:
- 39 (1) An actual annual report no later than 360 days after the last
- 40 day of the year to be reported.

1 (2) Counties shall maintain all patient-specific data collected
2 through the medically indigent care reporting system for a period
3 of 24 months after the last day of the fiscal year for which the data
4 was collected.

5 (3) Reports shall be submitted on machine readable media, on
6 5¼ inch or 3½ inch diskette, in the format specified by the
7 department.

8 (c) Counties that elect to participate in the CMSP pursuant to
9 Section 16809 that do not operate a county hospital and that also
10 elect to enter into a contract with the department to administer the
11 noncounty hospital portion of the Hospital Services Account,
12 pursuant to Section 16934.7, and the Physician Services Account,
13 pursuant to subdivision (c) of Section 16952, are not required to
14 report indigent health care program demographic, cost, and
15 utilization data pursuant to this section.

16 (d) The department shall collect the data specified in subdivision
17 (a) for services paid for through the hospital contract-back and
18 physician services contract-back programs specified in Section
19 16934.7 and subdivision (c) of Section 16952.

20 (e) The data specified in subparagraphs (D), (E), (F), and (G)
21 of paragraph (1) of subdivision (a) for services paid for with funds
22 specified under subparagraph (A) of paragraph (1) of subdivision
23 (b) of Section 16946 and funds administered pursuant to Article
24 3.5 (commencing with Section 16951) of Chapter 5 are not required
25 to be reported to the department pursuant to this section.

26 SEC. 4. Section 16932 of the Welfare and Institutions Code is
27 amended to read:

28 16932. The department shall allocate money derived from the
29 Hospital Services Account in the fund to each county that elects
30 to participate in the CMSP pursuant to Section 16809 in the
31 following manner:

32 (a) The combined total of hospital uncompensated care costs
33 for all county and noncounty hospitals in each county that elects
34 to participate in the CMSP pursuant to Section 16809 shall be
35 calculated by using the definitions, procedures, and data elements
36 specified in Section 16945.

37 (b) (1) The office shall determine each county’s 1989–90 fiscal
38 year share by using the 1988 calendar year data, as adjusted by
39 the office, existing on the statewide file on September 1, 1989.

1 (2) The office shall determine each county's share for the fiscal
2 years after the 1989–90 fiscal year by using the data from the
3 quarterly reports for the calendar year preceding the fiscal year,
4 as adjusted by the office and existing on the statewide file on April
5 15 immediately preceding the fiscal year.

6 (3) The office shall determine each county's share based on that
7 county's total hospital uncompensated care costs, divided by the
8 total hospital uncompensated care costs for all counties that elect
9 to participate in the CMSP pursuant to Section 16809, and by
10 multiplying that product by the amount appropriated from the
11 Hospital Services Account in the fund for purposes of this chapter.

12 (4) The amounts calculated pursuant to paragraphs (2) and (3)
13 shall be each county's allocation from the total amount available
14 for allocation to the counties under this chapter.

15 (c) The amounts calculated pursuant to paragraph (4) of
16 subdivision (b) shall be divided and allocated in accordance with
17 Section 16946. Sections 16946, 16947, 16948, and 16949 shall be
18 applicable to counties and hospitals receiving these funds.

19 SEC. 5. Section 16933 of the Welfare and Institutions Code is
20 amended to read:

21 16933. (a) The department shall distribute those moneys
22 appropriated from the Physician Services Account and the
23 Unallocated Account in the fund to counties that elect to participate
24 in the CMSP pursuant to Section 16809 on the basis of the
25 percentages obtained by dividing the population of each county
26 that elects to participate in the CMSP pursuant to Section 16809
27 by the total population of all counties that elect to participate in
28 the CMSP pursuant to Section 16809, as reported in the most recent
29 annual Department of Finance Research Unit report E-1.

30 (b) Each county shall use moneys allocated from the Unallocated
31 Account in the fund pursuant to, and for the purposes specified in,
32 Article 4 (commencing with Section 16960) of Chapter 5, and to
33 expand emergency medical transportation services.

34 (c) Counties shall use moneys allocated from the Physician
35 Services Account in the fund the following ways to provide
36 medically necessary emergency, obstetric, or pediatric services,
37 or all of them, to patients who cannot afford to pay for those
38 services, and for whom payment will not be made through any
39 private coverage or by any program funded in whole or in part by
40 the federal government:

1 (1) Establishment and administration of a Physician Services
2 Account in the county emergency medical services fund in
3 accordance with Article 3.5 (commencing with Section 16951) of
4 Chapter 5.

5 (2) Contracting with the department for the administration of
6 all Physician Services Account moneys specified in this subdivision
7 pursuant to subdivision (c) of Section 16952.

8 (3) The reimbursement or support of services, either directly or
9 by contract, which are provided by physicians or groups of
10 physicians.

11 (d) Moneys allocated from the Physician Services Account in
12 the fund shall be used to provide reimbursement for services
13 provided on or after July 1, 1989.

14 SEC. 6. Section 16934.5 of the Welfare and Institutions Code
15 is amended to read:

16 16934.5. (a) For the 1990–91 fiscal year and subsequent fiscal
17 years, each county that elects to participate in the CMSP pursuant
18 to Section 16809 may enter into a contract with the department in
19 which the department agrees to assume the responsibility to pay
20 for the cost of treatment service provided on or after July 1, 1990,
21 to children pursuant to Section 16934. If a county that elects to
22 participate in the CMSP pursuant to Section 16809 does not apply
23 for or rescinds its application for funds under this chapter, the
24 department may use all or part of that county's allocation, as
25 calculated pursuant to paragraph (3), to pay for the costs of
26 treatment services to children pursuant to Section 16934.

27 (1) Each county intending to contract with the department shall
28 submit to the department a notice of intent to contract adopted by
29 the board of supervisors no later than June 1, 1990. For each fiscal
30 year thereafter a notice adopted by the board of supervisors shall
31 be submitted no later than April 1 of the fiscal year preceding the
32 fiscal year for which the agreement will be in effect, in accordance
33 with procedures established by the department. As a condition of
34 contracting with the department, the department may establish
35 uniform standards, forms, and procedures for the processing and
36 payment of claims for treatment services.

37 (2) (A) Each county contracting with the department pursuant
38 to this subdivision for the 1991–92 fiscal year that has previously
39 contracted with the department pursuant to this section shall agree
40 that the department shall retain 10 percent of the allocation it would

1 otherwise have received under this chapter. The department shall
2 transfer amounts retained on a monthly basis to the CHDP
3 Treatment Account established in subdivision (b).

4 (B) Any county that contracts with the department pursuant to
5 this subdivision during the 1991–92 fiscal year that has not
6 previously contracted with the department pursuant to this section
7 shall agree that the department shall retain 20 percent of the
8 allocation the county would otherwise have received under this
9 chapter for that portion of the year for which it contracts under
10 this section.

11 (3) In future fiscal years the percentage retained by the
12 department may be adjusted to reflect actual payments, projected
13 expenditures, funds appropriated by the Legislature for treatment
14 services, and the overall status of the account established in
15 subdivision (b).

16 (b) Beginning with the 1990–91 fiscal year, the department shall
17 establish a separate Child Health and Disability Prevention
18 Treatment Account. For purposes of this chapter “CHDP Treatment
19 Account” means the account established pursuant to this
20 subdivision.

21 (1) The following funds shall be deposited into the CHDP
22 Treatment Account:

23 (A) Funds appropriated by the Legislature to fund the
24 reinsurance account established in subdivision (b) of Section
25 16934.2 which are not expended or encumbered for that purpose.

26 (B) Any funds recouped from those counties electing to establish
27 a 15 percent reserve pursuant to subdivision (a) of Section 16934.2.

28 (C) Funds retained by the department pursuant to subdivision
29 (a).

30 (D) Interest earnings on funds.

31 (E) Any additional funds appropriated by the Legislature.

32 (2) Funds deposited in the CHDP Treatment Account shall be
33 administered on an accrual basis and notwithstanding any other
34 provision of law, except as provided in this chapter, shall not be
35 transferred to any other fund or account except for purposes of
36 investment as provided in Article 4 (commencing with Section
37 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the
38 Government Code.

39 (3) Moneys deposited into the account shall constitute a risk
40 pool which shall be used for any or all of the following purposes:

1 (A) Payment for services provided pursuant to Section 16934
2 in counties which have contracted with the department pursuant
3 to subdivision (a).

4 (B) State administrative costs, including any costs associated
5 with a contract for processing claims.

6 (C) If the projected expenditure of funds from the CHDP
7 Treatment Account for any fiscal year exceeds available revenues,
8 the department may adjust payments for the remainder of the fiscal
9 year to providers on a pro rata basis in order to ensure that
10 expenditures do not exceed available revenues.

11 SEC. 7. Section 16935 of the Welfare and Institutions Code is
12 amended to read:

13 16935. (a) A county that elects to participate in the CMSP
14 pursuant to Section 16809 may also elect to have the state
15 administer its physician services account. Each county that elects
16 to participate in the CMSP pursuant to Section 16809 and electing
17 to have the state administer its physician services account shall do
18 all of the following:

19 (1) Enter into a contract with the department to administer its
20 county physician services account.

21 (2) Authorize the department to act on its behalf and to assume
22 all responsibilities for the distribution and monitoring of funds in
23 its physician services account pursuant to subdivision (c) of Section
24 16952.

25 (3) Agree to comply with uniform policies, procedures, and
26 program standards, including, but not limited to, eligibility levels
27 established mutually by the department and the participating
28 counties.

29 (4) Transfer funds allocated to the county for purposes of the
30 county physician services account, less any funds retained pursuant
31 to subdivision (a) of Section 16934.5 to the department under such
32 conditions as the department may require.

33 (b) The department may use funds retained or transferred to it
34 by the county pursuant to this subdivision for purposes of
35 administering the county’s physician services account in
36 accordance with Sections 16952 to 16958, inclusive.

37 (c) For the 1989–90 fiscal year, any county which intends to
38 contract with the department for the administration of moneys
39 allocated from the Physician Services Account in the fund pursuant
40 to subdivision (c) of Section 16952 shall submit, to the department,

1 a notice of intent to contract which has been adopted by the county
2 board of supervisors, not later than November 15, 1989.

3 (d) For the 1990–91 fiscal year and subsequent fiscal years, any
4 county which intends to contract with the department for the
5 administration of moneys allocated from the Physician Services
6 Account in the fund shall submit to the department a notice of
7 intent to contract, which has been adopted by the county board of
8 supervisors, not later than April 1 of the fiscal year preceding the
9 fiscal year for which the contract will be in effect and in accordance
10 with procedures established by the department.

11 SEC. 8. Section 16935.5 of the Welfare and Institutions Code
12 is amended to read:

13 16935.5. The department may administer the distribution and
14 monitoring of funds allocated from the Hospital Services Account
15 pursuant to subdivision (b) of Section 16946 and from the
16 Physician Services Account pursuant to subdivision (c) of Section
17 16952, less funds retained by the department for the administration
18 of the children’s treatment program pursuant to Section 16934,
19 for any county that elects to participate in the CMSP pursuant to
20 Section 16809 that does not apply for, or rescinds its application
21 for, funds under this chapter. Allocations for a particular county
22 shall generally be utilized for payments to eligible providers in
23 that county.

24 SEC. 9. Section 16952 of the Welfare and Institutions Code is
25 amended to read:

26 16952. (a) (1) Each county shall establish within its emergency
27 medical services fund a Physician Services Account. Each county
28 shall deposit in the Physician Services Account those funds
29 appropriated by the Legislature for the purposes of the Physician
30 Services Account of the fund.

31 (2) (A) Each county may encumber sufficient funds to
32 reimburse physician losses incurred during the fiscal year for which
33 bills will not be received until after the fiscal year.

34 (B) Each county shall provide a reasonable basis for its estimate
35 of the necessary amount encumbered.

36 (C) All funds that are encumbered for a fiscal year shall be
37 expended or disencumbered prior to the submission of the report
38 of actual expenditures required by Sections 16938 and 16980.

39 (b) (1) Funds deposited in the Physician Services Account in
40 the county emergency medical services fund shall be exempt from

1 the percentage allocations set forth in subdivision (a) of Section
2 1797.98. However, funds in the county Physician Services Account
3 shall not be used to reimburse for physician services provided by
4 physicians employed by county hospitals.

5 (2) No physician who provides physician services in a primary
6 care clinic which receives funds from this act shall be eligible for
7 reimbursement from the Physician Services Account for any losses
8 incurred in the provision of those services.

9 (c) The county physician services account shall be administered
10 by each county, except that a county that elects to participate in
11 the CMSP pursuant to Section 16809, may also elect to have its
12 county physician services account administered by the state.

13 (d) Costs of administering the account, whether by the county
14 or by the department through the emergency medical services
15 contract-back program, shall be reimbursed by the account based
16 on actual administrative costs, not to exceed 10 percent of the
17 amount of the account.

18 (e) For purposes of this article “administering agency” means
19 the agency designated by the board of supervisors to administer
20 this article, or the department, in the case of those counties that
21 elect to participate in the CMSP pursuant to Section 16809, and
22 to have the state administer this article on their behalf.

23 (f) The county Physician Services Account shall be used to
24 reimburse physicians for losses incurred for services provided
25 during the fiscal year of allocation due to patients who do not have
26 health insurance coverage for emergency services and care, who
27 cannot afford to pay for those services, and for whom payment
28 will not be made through any private coverage or by any program
29 funded in whole or in part by the federal government with the
30 exception of claims submitted for reimbursement through Section
31 1011 of the federal Medicare Prescription Drug, Improvement and
32 Modernization Act of 2003.

33 (g) Physicians shall be eligible to receive payment for patient
34 care services provided by, or in conjunction with, a properly
35 credentialed nurse practitioner or physician’s assistant for care
36 rendered under the direct supervision of a physician and surgeon
37 who is present in the facility where the patient is being treated and
38 who is available for immediate consultation. Payment shall be
39 limited to those claims that are substantiated by a medical record
40 and that have been reviewed and countersigned by the supervising

1 physician and surgeon in accordance with regulations established
2 for the supervision of nurse practitioners and physician assistants
3 in California.

4 (h) (1) Reimbursement for losses shall be limited to emergency
5 services as defined in Section 16953, obstetric, and pediatric
6 services as defined in Sections 16905.5 and 16907.5, respectively.

7 (2) It is the intent of this subdivision to allow reimbursement
8 for all of the following:

9 (A) All inpatient and outpatient obstetric services which are
10 medically necessary, as determined by the attending physician.

11 (B) All inpatient and outpatient pediatric services which are
12 medically necessary, as determined by the attending physician.

13 (i) Any physician may be reimbursed for up to 50 percent of
14 the amount claimed pursuant to Section 16955 for the initial cycle
15 of reimbursements made by the administering agency in a given
16 year. All funds remaining at the end of the fiscal year shall be
17 distributed proportionally, based on the dollar amount of claims
18 submitted and paid to all physicians who submitted qualifying
19 claims during that year. The administering agency shall not
20 disburse funds in excess of the total amount of a qualified claim.

21 SEC. 10. This act is an urgency statute necessary for the
22 immediate preservation of the public peace, health, or safety within
23 the meaning of Article IV of the Constitution and shall go into
24 immediate effect. The facts constituting the necessity are:

25 In order to adequately protect the public health and safety, ~~its~~ *it*
26 *is* necessary that this act take effect immediately.