

ASSEMBLY BILL

No. 2702

Introduced by Assembly Member Nunez

February 22, 2008

An act to amend Sections 1797.98a and 1797.98e of the Health and Safety Code, and to amend Section 16953 of the Welfare and Institution Code, relating to emergency medical services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2702, as introduced, Nunez. Maddy Emergency Medical Services Fund: hospital and physician and surgeon reimbursement: Los Angeles County.

Existing law, the Emergency Medical Services System and Prehospital Emergency Medical Care Personnel Act (the EMS Act), establishes the Emergency Medical Services Authority (the authority) California to administer the emergency medical services system to coordinate and integrate effective and efficient emergency medical services throughout the 58 counties of the state.

Existing law establishes the Maddy Emergency Medical Services (EMS) Fund, authorizing each county to establish an emergency medical services fund and provides for deposit of certain penalties, forfeitures, and fines into the fund.

Existing law requires use of the local fund for reimbursement of physicians and surgeons and hospitals for uncompensated emergency medical services pursuant to a prescribed schedule. Under this schedule, 58% of the balance in the fund is to be used for emergency medical services provided by all physicians and surgeons, except those employed in county hospitals, in general acute care hospitals that provide basic

or comprehensive emergency medical services up to the time the patient is stabilized.

This bill would, instead, require distribution of 58% of the balance in the fund for emergency medical services provided by all physicians and surgeons, except those employed in county hospitals, in general acute care hospitals that provide basic, comprehensive, or standby emergency medical services pursuant to prescribed provisions of law relating to standby emergency rooms or departments in certain small and rural hospitals and hospitals located in Los Angeles County that meet prescribed requirements, up to the time the patient is stabilized, and would make conforming changes.

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

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

- 1 SECTION 1. Section 1797.98a of the Health and Safety Code
- 2 is amended to read:
- 3 1797.98a. (a) The fund provided for in this chapter shall be
- 4 known as the Maddy Emergency Medical Services (EMS) Fund.
- 5 (b) (1) Each county may establish an emergency medical
- 6 services fund, upon the adoption of a resolution by the board of
- 7 supervisors. The moneys in the fund shall be available for the
- 8 reimbursements required by this chapter. The fund shall be
- 9 administered by each county, except that a county electing to have
- 10 the state administer its medically indigent services program may
- 11 also elect to have its emergency medical services fund administered
- 12 by the state.
- 13 (2) Costs of administering the fund shall be reimbursed by the
- 14 fund, based on the actual administrative costs, not to exceed 10
- 15 percent of the amount of the fund.
- 16 (3) All interest earned on moneys in the fund shall be deposited
- 17 in the fund for disbursement as specified in this section.
- 18 (4) Each administering agency may maintain a reserve of up to
- 19 15 percent of the amount in the portions of the fund reimbursable
- 20 to physicians and surgeons, pursuant to subparagraph (A) of, and
- 21 to hospitals, pursuant to subparagraph (B) of, paragraph (5). Each
- 22 administering agency may maintain a reserve of any amount in
- 23 the portion of the fund that is distributed for other emergency

1 medical services purposes as determined by each county, pursuant
2 to subparagraph (C) of paragraph (5).

3 (5) The amount in the fund, reduced by the amount for
4 administration and the reserve, shall be utilized to reimburse
5 physicians and surgeons and hospitals for patients who do not
6 make payment for emergency medical services and for other
7 emergency medical services purposes as determined by each county
8 according to the following schedule:

9 (A) Fifty-eight percent of the balance of the fund shall be
10 distributed to physicians and surgeons for emergency services
11 provided by all physicians and surgeons, except those physicians
12 and surgeons employed by county hospitals, in general acute care
13 hospitals that provide basic—~~or~~, comprehensive, *or standby*
14 emergency services *pursuant to paragraph (3) or (5) of subdivision*
15 *(f) of Section 1797.98e* up to the time the patient is stabilized.

16 (B) Twenty-five percent of the fund shall be distributed only to
17 hospitals providing disproportionate trauma and emergency medical
18 care services.

19 (C) Seventeen percent of the fund shall be distributed for other
20 emergency medical services purposes as determined by each
21 county, including, but not limited to, the funding of regional poison
22 control centers. Funding may be used for purchasing equipment
23 and for capital projects only to the extent that these expenditures
24 support the provision of emergency services and are consistent
25 with the intent of this chapter.

26 (c) The source of the moneys in the fund shall be the penalty
27 assessment made for this purpose, as provided in Section 76000
28 of the Government Code.

29 (d) Any physician and surgeon may be reimbursed for up to 50
30 percent of the amount claimed pursuant to subdivision (a) of
31 Section 1797.98c for the initial cycle of reimbursements made by
32 the administering agency in a given year, pursuant to Section
33 1797.98e. All funds remaining at the end of the fiscal year in excess
34 of any reserve held and rolled over to the next year pursuant to
35 paragraph (4) of subdivision (b) shall be distributed proportionally,
36 based on the dollar amount of claims submitted and paid to all
37 physicians and surgeons who submitted qualifying claims during
38 that year.

39 (e) Of the money deposited into the fund pursuant to Section
40 76000.5 of the Government Code, 15 percent shall be utilized to

1 provide funding for all pediatric trauma centers throughout the
2 county, both publicly and privately owned and operated. The
3 expenditure of money shall be limited to reimbursement to
4 physicians and surgeons, and to hospitals for patients who do not
5 make payment for emergency care services in hospitals up to the
6 point of stabilization, or to hospitals for expanding the services
7 provided to pediatric trauma patients at trauma centers and other
8 hospitals providing care to pediatric trauma patients, or at pediatric
9 trauma centers, including the purchase of equipment. Local
10 emergency medical services (EMS) agencies may conduct a needs
11 assessment of pediatric trauma services in the county to allocate
12 these expenditures. Counties that do not maintain a pediatric trauma
13 center shall utilize the money deposited into the fund pursuant to
14 Section 76000.5 of the Government Code to improve access to,
15 and coordination of, pediatric trauma and emergency services in
16 the county, with preference for funding given to hospitals that
17 specialize in services to children, and physicians and surgeons
18 who provide emergency care for children. Funds spent for the
19 purposes of this section, shall be known as Richie's Fund. This
20 subdivision shall remain in effect only until January 1, 2009, and
21 shall have no force or effect on or after that date, unless a later
22 enacted statute, that is chaptered before January 1, 2009, deletes
23 or extends that date.

24 (f) Costs of administering money deposited into the fund
25 pursuant to Section 76000.5 of the Government Code shall be
26 reimbursed from the money collected, not to exceed 10 percent.
27 This subdivision shall remain in effect only until January 1, 2009,
28 and shall have no force or effect on or after that date, unless a later
29 enacted statute, that is chaptered before January 1, 2009, deletes
30 or extends that date.

31 SEC. 2. Section 1797.98e of the Health and Safety Code is
32 amended to read:

33 1797.98e. (a) It is the intent of the Legislature that a simplified,
34 cost-efficient system of administration of this chapter be developed
35 so that the maximum amount of funds may be utilized to reimburse
36 physicians and surgeons and for other emergency medical services
37 purposes. The administering agency shall select an administering
38 officer and shall establish procedures and time schedules for the
39 submission and processing of proposed reimbursement requests
40 submitted by physicians and surgeons. The schedule shall provide

1 for disbursements of moneys in the Emergency Medical Services
2 Fund on at least a quarterly basis to applicants who have submitted
3 accurate and complete data for payment. When the administering
4 agency determines that claims for payment for physician and
5 surgeon services are of sufficient numbers and amounts that, if
6 paid, the claims would exceed the total amount of funds available
7 for payment, the administering agency shall fairly prorate, without
8 preference, payments to each claimant at a level less than the
9 maximum payment level. Each administering agency may
10 encumber sufficient funds during one fiscal year to reimburse
11 claimants for losses incurred during that fiscal year for which
12 claims will not be received until after the fiscal year. The
13 administering agency may, as necessary, request records and
14 documentation to support the amounts of reimbursement requested
15 by physicians and surgeons and the administering agency may
16 review and audit the records for accuracy. Reimbursements
17 requested and reimbursements made that are not supported by
18 records may be denied to, and recouped from, physicians and
19 surgeons. Physicians and surgeons found to submit requests for
20 reimbursement that are inaccurate or unsupported by records may
21 be excluded from submitting future requests for reimbursement.
22 The administering officer shall not give preferential treatment to
23 any facility, physician and surgeon, or category of physician and
24 surgeon and shall not engage in practices that constitute a conflict
25 of interest by favoring a facility or physician and surgeon with
26 which the administering officer has an operational or financial
27 relationship. A hospital administrator of a hospital owned or
28 operated by a county of a population of 250,000 or more as of
29 January 1, 1991, or a person under the direct supervision of that
30 person, shall not be the administering officer. The board of
31 supervisors of a county or any other county agency may serve as
32 the administering officer. The administering officer shall solicit
33 input from physicians and surgeons and hospitals to review
34 payment distribution methodologies to ensure fair and timely
35 payments. This requirement may be fulfilled through the
36 establishment of an advisory committee with representatives
37 comprised of local physicians and surgeons and hospital
38 administrators. In order to reduce the county's administrative
39 burden, the administering officer may instead request an existing
40 board, commission, or local medical society, or physicians and

1 surgeons and hospital administrators, representative of the local
2 community, to provide input and make recommendations on
3 payment distribution methodologies.

4 (b) Each provider of health services that receives payment under
5 this chapter shall keep and maintain records of the services
6 rendered, the person to whom rendered, the date, and any additional
7 information the administering agency may, by regulation, require,
8 for a period of three years from the date the service was provided.
9 The administering agency shall not require any additional
10 information from a physician and surgeon providing emergency
11 medical services that is not available in the patient record
12 maintained by the entity listed in subdivision (f) where the
13 emergency medical services are provided, nor shall the
14 administering agency require a physician and surgeon to make
15 eligibility determinations.

16 (c) During normal working hours, the administering agency
17 may make any inspection and examination of a hospital's or
18 physician and surgeon's books and records needed to carry out
19 this chapter. A provider who has knowingly submitted a false
20 request for reimbursement shall be guilty of civil fraud.

21 (d) Nothing in this chapter shall prevent a physician and surgeon
22 from utilizing an agent who furnishes billing and collection services
23 to the physician and surgeon to submit claims or receive payment
24 for claims.

25 (e) All payments from the fund pursuant to Section 1797.98c
26 to physicians and surgeons shall be limited to physicians and
27 surgeons who, in person, provide onsite services in a clinical
28 setting, including, but not limited to, radiology and pathology
29 settings.

30 (f) All payments from the fund shall be limited to claims for
31 care rendered by physicians and surgeons to patients who are
32 initially medically screened, evaluated, treated, or stabilized in
33 any of the following:

34 (1) A basic or comprehensive emergency department of a
35 licensed general acute care hospital.

36 (2) A site that was approved by a county prior to January 1,
37 1990, as a paramedic receiving station for the treatment of
38 emergency patients.

39 (3) A standby emergency department that was in existence on
40 January 1, 1989, in a hospital specified in Section 124840.

1 (4) For the ~~1991-92~~ 1991-92 fiscal year and each fiscal year
2 thereafter, a facility which contracted prior to January 1, 1990,
3 with the National Park Service to provide emergency medical
4 services.

5 (5) *A standby emergency room in existence on January 1, 2007,*
6 *in a hospital located in Los Angeles County that meets the*
7 *requirement in Section 70415 of Title 22 of the California Code*
8 *of Regulations of providing physician staffing for emergency*
9 *services 24 hours per day who are experienced in emergency*
10 *medical care.*

11 (g) Payments shall be made only for emergency medical services
12 provided on the calendar day on which emergency medical services
13 are first provided and on the immediately following two calendar
14 days.

15 (h) Notwithstanding subdivision (g), if it is necessary to transfer
16 the patient to a second facility providing a higher level of care for
17 the treatment of the emergency condition, reimbursement shall be
18 available for services provided at the facility to which the patient
19 was transferred on the calendar day of transfer and on the
20 immediately following two calendar days.

21 (i) Payment shall be made for medical screening examinations
22 required by law to determine whether an emergency condition
23 exists, notwithstanding the determination after the examination
24 that a medical emergency does not exist. Payment shall not be
25 denied solely because a patient was not admitted to an acute care
26 facility. Payment shall be made for services to an inpatient only
27 when the inpatient has been admitted to a hospital from an entity
28 specified in subdivision (f).

29 (j) The administering agency shall compile a quarterly and
30 yearend summary of reimbursements paid to facilities and
31 physicians and surgeons. The summary shall include, but shall not
32 be limited to, the total number of claims submitted by physicians
33 and surgeons in aggregate from each facility and the amount paid
34 to each physician and surgeon. The administering agency shall
35 provide copies of the summary and forms and instructions relating
36 to making claims for reimbursement to the public, and may charge
37 a fee not to exceed the reasonable costs of duplication.

38 (k) Each county shall establish an equitable and efficient
39 mechanism for resolving disputes relating to claims for
40 reimbursements from the fund. The mechanism shall include a

1 requirement that disputes be submitted either to binding arbitration
 2 conducted pursuant to arbitration procedures set forth in Chapter
 3 3 (commencing with Section 1282) and Chapter 4 (commencing
 4 with Section 1285) of Part 3 of Title 9 of the Code of Civil
 5 Procedure, or to a local medical society for resolution by neutral
 6 parties.

7 (l) Physicians and surgeons shall be eligible to receive payment
 8 for patient care services provided by, or in conjunction with, a
 9 properly credentialed nurse practitioner or physician’s assistant
 10 for care rendered under the direct supervision of a physician and
 11 surgeon who is present in the facility where the patient is being
 12 treated and who is available for immediate consultation. Payment
 13 shall be limited to those claims that are substantiated by a medical
 14 record and that have been reviewed and countersigned by the
 15 supervising physician and surgeon in accordance with regulations
 16 established for the supervision of nurse practitioners and physician
 17 assistants in California.

18 SEC. 3. Section 16953 of the Welfare and Institutions Code is
 19 amended to read:

20 16953. (a) For purposes of this chapter “emergency services”
 21 means physician services in one of the following:

22 (1) A general acute care hospital which provides basic or
 23 comprehensive emergency services for emergency medical
 24 conditions.

25 (2) A site which was approved by a county prior to January 1,
 26 1990, as a paramedic receiving station for the treatment of
 27 emergency patients, for emergency medical conditions.

28 (3) Beginning in the 1991–92 fiscal year and each fiscal year
 29 thereafter, in a facility which contracted prior to January 1, 1990,
 30 with the National Park Service to provide emergency medical
 31 services, for emergency medical conditions.

32 (4) A standby emergency room in a hospital specified in Section
 33 124840 of the Health and Safety Code, for emergency medical
 34 conditions.

35 (5) *A standby emergency room in a hospital in existence on*
 36 *January 1, 2007, located in Los Angeles County that meets the*
 37 *requirement in Section 70415 of Title 22 of the California Code*
 38 *of Regulations of providing physician staffing for emergency*
 39 *services 24 hours per day who are experienced in emergency*
 40 *medical care.*

- 1 (b) For purposes of this chapter, “emergency medical condition”
2 means a medical condition manifesting itself by acute symptoms
3 of sufficient severity, including severe pain, which in the absence
4 of immediate medical attention could reasonably be expected to
5 result in any of the following:
- 6 (1) Placing the patient’s health in serious jeopardy.
 - 7 (2) Serious impairment to bodily functions.
 - 8 (3) Serious dysfunction to any bodily organ or part.
- 9 (c) It is the intent of this section to allow reimbursement for all
10 inpatient and outpatient services which are necessary for the
11 treatment of an emergency medical condition as certified by the
12 attending physician or other appropriate provider.