AMENDED IN SENATE JULY 15, 2009

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CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 511

Introduced by Assembly Member De La Torre

February 24, 2009

An act to add and repeal Chapter 13 (commencing with Section 1799.300) of Division 2.5 of the Health and Safety Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 511, as amended, De La Torre. Medi-Cal: ambulance transportation services providers: quality assurance fees.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which health care services, including medical transportation services, are provided to qualified low-income persons. The Medi-Cal program is partially governed and funded under federal Medicaid provisions.

Existing law establishes a quality assurance fee program for skilled nursing and intermediate care facilities, as prescribed.

This bill would provide, as a condition of participation in the Medi-Cal program, that there be imposed a quality assurance fee on ambulance transportation services providers, to be administered by the Director of

Health Care Services. The proceeds from the fee would be required to be deposited into the Medi-Cal Ambulance Transportation Services Providers Fund, which the bill would create. The bill would provide that moneys in the fund shall, upon appropriation by the Legislature, be available exclusively to enhance federal financial participation for ambulance transportation services under the Medi-Cal program or to provide additional reimbursement to, and to support quality improvement efforts of, ambulance transportation services providers, including increased reimbursement for, and improvement of the quality of, the provision of advanced life support services, as defined. The bill would provide that these provisions are to be implemented only if, and as long as, the state receives federal approval for the fee and legislation is enacted during the 2009–10 Regular Session of the Legislature that makes an appropriation from the fund and from the Federal Trust Fund to fund a Medi-Cal rate increase for ambulance transportation services providers. The bill would provide that it shall remain operative only as long as certain conditions are met and if any one of the conditions is not met, its provisions shall become inoperative and be repealed.

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

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

SECTION 1. Chapter 13 (commencing with Section 1799.300) is added to Division 2.5 of the Health and Safety Code, to read:

Chapter 13. Ambulance Transportation Services Provider Quality Assurance Fee

1799.300. (a) As a condition of participation in the Medi-Cal program, for each ambulance transportation services provider that derives revenue from the provision of ambulance transportation services, there shall be imposed each state fiscal year a quality assurance fee based on the provision of ambulance transportation services. The quality assurance fee shall be assessed on all Medi-Cal ambulance transportation services providers, except for a Medi-Cal ambulance transportation services provider that is exempt pursuant to paragraph (2) of subdivision (a) of Section 1799.305.

(b) The amount of the quality assurance fee assessed on each Medi-Cal ambulance transportation services provider shall be based on the revenue received by the provider from the provision of ambulance transportation services and shall be calculated in accordance with the methodology outlined in subdivision (c), in the request for federal approval required by Section 1799.305, and in regulations, provider bulletins, or similar instructions.

(c) The quality assurance fee shall be calculated as follows:

(1) For the 2009–10 fiscal year, the quality assurance fee for each ambulance transportation services provider shall be calculated by multiplying the revenue that the ambulance transportation services provider derived from providing ambulance transportation services by 5.5 percent, as determined under the approved methodology. The amount so determined shall be the quality assurance fee for that ambulance transportation services provider.

(2) For the 2010–11 to 2015–16, inclusive, fiscal years, the quality assurance fee for each ambulance transportation services provider shall be calculated by multiplying the revenue that the ambulance transportation services provider derived from providing ambulance transportation services by 5.5 percent, as determined under the approved methodology. The amount so determined shall be the quality assurance fee for that ambulance transportation services provider, but in no case shall the fees calculated pursuant to this paragraph and collected pursuant to this article, taken together with applicable licensing fees, exceed the amounts allowable under federal law.

(d) If there is a delay in the implementation of this article for any reason, including a delay in the approval of the quality assurance fee and methodology by the federal Centers for Medicare and Medicaid Services, in the 2009–10 fiscal year or in any other fiscal year, all of the following shall apply:

(1) A provider subject to the fee may be assessed the amount the provider would be required to pay to the department if the methodology were already approved, but shall not be required to pay the fee until both the following occur:

(A) The methodology is approved.

(B) Medi-Cal rates are increased in accordance with paragraph (2) of subdivision (a) of Section 1799.306 and the increased rates are paid to Medi-Cal ambulance transportation services providers.

(2) The department may retroactively increase and make payment of rates to Medi-Cal ambulance transportation services providers.

(3) Providers that have been assessed a fee by the department shall pay the fee assessed within 60 days of the date rates are increased in accordance with paragraph (2) of subdivision (a) of Section 1799.306 and paid to those providers.

(4) The department shall accept a provider's payment even if the payment is submitted in a subsequent rate year than the rate year in which the fee was assessed.

1799.301. (a) The quality assurance fee, as calculated pursuant to Section 1799.300, shall be paid by the providers to the department on a quarterly basis on or before the last fiscal day of the fiscal quarter following the fiscal quarter for which the fee was imposed, except as provided in subdivision (d) of Section 1799.300.

(b) In order for the department to verify the accuracy of the quality assurance fee paid, each provider paying a quality assurance fee shall submit with the fee paid, in a form prescribed by the department, data on the gross receipts from the provision of ambulance transportation services provided during the fiscal quarter for which the fee is being paid.

(c) When a provider fails to pay all or part of the quality assurance fee within 60 days of the date that payment is due, the department may deduct the unpaid fee and interest owed from any Medi-Cal reimbursement payments owed to the provider until the full amount of the fee and interest are recovered. Any deduction made pursuant to this subdivision shall be made only after the department gives the provider written notification. Any deduction made pursuant to this subdivision may be deducted over a period of time that takes into account the financial condition of the provider.

(d) If all or any part of the quality assurance fee remains unpaid, the department may assess a penalty on the provider in an amount up to 50 percent of the unpaid fee amount.

1799.302. (a) The Director of Health Care Services, or his or her designee, shall administer this article.

(b) The director may adopt regulations as are necessary to implement this article. These regulations may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5

(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). For purposes of this article, the *first* adoption of regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. The regulations shall include, but need not be limited to, any regulations necessary for any of the following purposes:

(1) The administration of this article, including the proper imposition and collection of the quality assurance fee. The costs associated with the administration of this article are not to exceed the amounts reasonably necessary to administer this article.

(2) The development of any forms necessary to obtain required information from providers subject to the quality assurance fee.

(3) To provide details, definitions, formulas, and other requirements.

(c) As an alternative to subdivision (b), and notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the director may implement this article, in whole or in part, by means of a provider bulletin, or other similar instructions, without taking regulatory action, provided that no such bulletin or other similar instructions shall remain in effect after July 31, 2012. It is the intent of the Legislature that the regulations adopted pursuant to subdivision (b) be adopted on or before July 31, 2012.

1799.303. The department shall deposit the quality assurance fee collected pursuant to this article in the Medi-Cal Ambulance Transportation Services Providers Fund, which is hereby created in the State Treasury. Notwithstanding Section 16305.7 of the Government Code, the fund shall also include interest and dividends earned on moneys in the fund.

1799.304. Moneys in the Medi-Cal Ambulance Transportation Services Providers Fund shall, upon appropriation by the Legislature, be available to exclusively enhance federal financial participation for ambulance transportation services under the Medi-Cal program or to provide additional reimbursement to, and to support quality improvement efforts of, ambulance transportation services providers, including increased reimbursement for, and improvement of the quality of, the provision of advanced life support services as defined in Section 1797.52.

1799.305. (a) (1) The department shall request approval from the federal Centers for Medicare and Medicaid Services for the implementation of this article.

(2) The director may alter the methodology specified in this article, to the extent necessary to meet the requirements of federal law or regulations or to obtain federal approval. *If the director, after consulting with affected ambulance transportation services providers, determines that an alteration is needed, the director shall execute a declaration stating that this determination has been made. The director shall retain the declaration and provide a copy, within five working days of the execution of the declaration, to the fiscal and appropriate policy committees of the Legislature.* The director may also add categories of exempt ambulance transportation services providers or apply a nonuniform fee to ambulance transportation services providers that are subject to the fee in order to meet requirements of federal law or regulations. The director may exempt categories of ambulance transportation services providers from the fee, if necessary to obtain federal approval.

(b) The department shall make retrospective adjustments, as necessary, to the amounts calculated pursuant to Section 1799.300 in order to ensure that the quality assurance fee for any provider in a particular state fiscal year does not exceed 5.5 percent of the revenue derived by a provider subject to the fee from the provision of ambulance transportation services.

1799.306. (a) This article shall be implemented only if, and as long as, both of the following conditions are met:

(1) The state receives federal approval of the quality assurance fee from the federal Centers for Medicare and Medicaid Services.

(2) Legislation is enacted during the 2009–10 Regular Session of the Legislature that makes an appropriation from the Medi-Cal Ambulance Transportation Services Providers Fund and from the Federal Trust Fund to fund a Medi-Cal rate increase for ambulance transportation services providers.

(b) This article shall remain operative only as long as all of the following conditions are met:

(1) The federal Centers for Medicare and Medicaid Services continues to allow the use of the provider assessment provided in this article.

(2) The Medi-Cal rate increase referenced in paragraph (2) of subdivision (a) remains in effect.

(3) The full amount of the quality assurance fee assessed and collected pursuant to this article remains available for the purposes specified in Section 1799.304 and for related purposes.

(c) If all of the conditions in subdivision (a) are met, this article is implemented, and subsequently, any one of the conditions in subdivision (b) is not met, on and after the date that the director executes a declaration that makes the determination that any condition is not met, this article shall become inoperative notwithstanding that the condition or conditions subsequently may be met.

(d) Notwithstanding subdivisions (a), (b), and (c), in the event of a final judicial determination made by any state or federal court that is not appealed, or by a court of appellate jurisdiction that is not further appealed, in any action by any party, or a final determination by the administrator of the federal Centers for Medicare and Medicaid Services, that federal financial participation is not available with respect to any payment made under the methodology implemented pursuant to this article because the methodology is invalid, unlawful, or contrary to any provision of federal law or regulations, or of state law, this article shall become inoperative.

(e) This article shall be repealed on the date that it becomes inoperative.

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