

AMENDED IN SENATE JULY 1, 2009
AMENDED IN SENATE JUNE 25, 2009
AMENDED IN SENATE JUNE 17, 2009
AMENDED IN SENATE JUNE 11, 2009
AMENDED IN ASSEMBLY JUNE 1, 2009
AMENDED IN ASSEMBLY MAY 14, 2009
AMENDED IN ASSEMBLY APRIL 30, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1383

Introduced by Assembly Member Jones
(Principal coauthor: Senator Alquist)
(Coauthor: Assembly Member De Leon)

February 27, 2009

An act to add and repeal Articles 5.21 (commencing with Section ~~14167.1~~ 14167.2) and 5.22 (commencing with Section ~~14167.31~~ 14167.32) of, Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1383, as amended, Jones. Medi-Cal: hospitals: supplemental payments: coverage dividend fee.

Existing law establishes 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. Under

existing law, the Medi-Cal Hospital/Uninsured Care Demonstration Project Act, specified hospital reimbursement methodologies are applied in order to maximize the use of federal funds consistent with federal Medicaid law and stabilize the distribution of funding for hospitals that provide care to Medi-Cal beneficiaries and uninsured patients.

This bill would require the department to pay specified hospitals and Medi-Cal managed health care plans supplemental amounts for certain hospital services ~~provided on or before December 31, 2010.~~

~~This bill would require the Director of Health Care Services to promptly seek the federal approvals, waivers, waiver modifications, and any other federal action the federal approvals that may be necessary to implement the above-described supplemental payment provisions. The bill would, on or before June 30, 2009, require that the director have submitted any Medicaid state plan amendment necessary to implement the supplemental payment provisions of this bill for some or all of the federal fiscal year ending September 30, 2009. The bill would separately require the director to submit a Medicaid state plan amendment request on or before September 30, 2009, to implement the supplemental payment provisions of this bill for some or all of the period beginning October 1, 2009, and ending December 31, 2010.~~

~~The bill would require the director to request from the federal government certain written assurances from the Secretary of the United States Department of Health and Human Services:~~

~~*This bill would prohibit supplemental payments for some or all of the 2008–09 federal fiscal year until the director executes a declaration, which shall be submitted to the Legislature, containing statements relating to the impact this bill’s provisions will have on other Medi-Cal reimbursement methodologies.*~~

This bill would impose a coverage dividend fee on certain hospitals starting on the date that the bill becomes effective and continue through and, including December 31, 2010, as specified. This bill would require the director to seek federal approval of the fee. The bill would provide that no hospital shall be required to pay the coverage dividend fee to the department until the state receives and maintains federal approval of the fee and the above-described supplemental payments from the federal Centers for Medicare and Medicaid Services.

This bill would provide that the funds collected from the coverage dividend fee, and any matching federal funds, shall only be used for certain purposes, including providing the above-described supplemental payments and health care coverage for children.

This bill would require the director to negotiate the federal approvals required to implement the bill's provisions for the 2009–10 and 2010–11 federal fiscal years concurrently with the negotiation of a federal waiver that will replace the current Medi-Cal Hospital/Uninsured Care Demonstration Project. The bill would provide that its provisions shall not be implemented until the federal government approves a federal waiver for a demonstration that will replace the current Medi-Cal Hospital/Uninsured Care Demonstration Project and is not adversely impacted by the bill's provisions.

This bill would provide that its provisions shall become inoperative ~~during specified periods~~ if the federal Centers for Medicare and Medicaid Services deny approval for, or do not approve before January 1, 2012, the implementation of the supplemental payment or the coverage dividend fee ~~during those periods and the above-described provisions cannot be modified by the department in order to meet the requirements of federal law or to obtain federal approval.~~

This bill provides that it is the intent of the Legislature to enact additional legislation that will specify more precisely the calculation of the supplemental payment to individual hospitals and the amount of the coverage dividend fee due from individual hospitals. The bill provides that no supplemental payment shall be paid or coverage dividend fee made due or payable until the additional legislation has been enacted. If the additional legislation is not enacted, and ~~becomes~~ *does not become* effective, by October 1, 2009, the bill would provide that its provisions shall be repealed on October 1, 2009, but if the additional legislation is enacted, and becomes effective, by October 1, 2009, the bill would provide that its provisions shall be repealed on ~~October 1, 2009~~ *January 1, 2013*.

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. Article 5.21 (commencing with Section 14167.2)*
- 2 *is added to Chapter 7 of Part 3 of Division 9 of the Welfare and*
- 3 *Institutions Code, to read:*

1 Article 5.21. *Medi-Cal Hospital Provider Rate Stabilization*
2 Act

3
4 14167.2. (a) *Medi-Cal payments plus supplemental payments*
5 *made pursuant to this article for hospital outpatient services*
6 *furnished by private hospitals and hospital inpatient services*
7 *furnished by private hospitals and nondesignated public hospitals*
8 *shall equal the federal upper payment limit for that portion of the*
9 *2008–09, 2009–10, and 2010–11 federal fiscal years for which*
10 *federal approval of the supplemental payments described in this*
11 *article is obtained. Hospitals shall receive supplemental payments*
12 *funded by the coverage dividend fee set forth in Article 5.22*
13 *(commencing with Section 14167.32) and available matching*
14 *federal funds to comply with this subdivision.*

15 (b) *Designated public hospitals shall be paid direct grants in*
16 *support of health care expenditures, which shall be funded by the*
17 *coverage dividend fee set forth in Article 5.22 (commencing with*
18 *Section 14167.32). The aggregate amount of the grants shall be*
19 *the total amount of payments that would be made to designated*
20 *public hospitals if the nonfederal component of payments up to*
21 *the applicable federal upper payment limit and the payments*
22 *received by those hospitals under subdivision (c) was funded by*
23 *the coverage dividend fee set forth in Article 5.22 (commencing*
24 *with Section 14167.32), less the amount of those fees that would*
25 *have been paid by the designated public hospitals if the hospitals*
26 *were required to pay the fee.*

27 (c) *Medi-Cal managed care health plans shall receive*
28 *supplemental payments to the extent available from the funds*
29 *generated by the coverage dividend fee, including matching federal*
30 *funds. The Medi-Cal managed care health plans shall pay all of*
31 *the supplemental payments to hospitals in the form of increased*
32 *payments for hospital services.*

33 14167.3. (a) *The director shall do all of the following:*

34 (1) *Submit any Medicaid state plan amendment that may be*
35 *necessary to implement this article.*

36 (2) *Seek federal approval for the use of the entire federal upper*
37 *payment limit.*

38 (3) *Seek all federal approvals, waivers, waiver modifications,*
39 *and any other federal action as may be necessary to implement*

1 *and obtain federal financial participation to the maximum extent*
2 *possible.*

3 *(b) Supplemental payments for some or all of the 2008–09*
4 *federal fiscal year shall not be made until the director executes a*
5 *declaration, which shall be submitted to the Legislature, that*
6 *contains the following statements:*

7 *(1) Based on assurances from the Secretary of the United States*
8 *Department of Health and Human Services, the maximum federal*
9 *funds available annually pursuant to the Special Terms and*
10 *Conditions, as amended October 5, 2007, of California’s Medi-Cal*
11 *Hospital/Uninsured Care Section 1115 Waiver Demonstration,*
12 *shall not be reduced.*

13 *(2) Taking into account all relevant information available from*
14 *the federal government, there is no reasonable basis on which to*
15 *conclude that implementation of this article will adversely impact*
16 *funding that otherwise would be available for Medi-Cal and*
17 *uninsured services pursuant to the Medicaid state plan or waiver*
18 *that will replace California’s Medi-Cal Hospital/Uninsured Care*
19 *Section 1115 Waiver Demonstration in effect on the effective date*
20 *of this article.*

21 *(c) (1) The director shall negotiate the federal approvals*
22 *required to implement this article and Article 5.22 (commencing*
23 *with Section 14167.32) for the 2009–10 and 2010–11 federal fiscal*
24 *years concurrently with the negotiation of a federal waiver that*
25 *will replace California’s Medi-Cal Hospital/Uninsured Care*
26 *Section 1115 Waiver Demonstration in effect on the effective date*
27 *of this article.*

28 *(2) This article and Article 5.22 (commencing with Section*
29 *14167.32) shall not be implemented until the federal government*
30 *approves a federal waiver for a demonstration that will replace*
31 *California’s Medi-Cal Hospital/Uninsured Care Section 1115*
32 *Waiver Demonstration in effect on the effective date of this article.*

33 *(d) This article shall become inoperative if the federal Centers*
34 *for Medicare and Medicaid Services denies approval for, or does*
35 *not approve before January 1, 2012, the implementation of this*
36 *article or Article 5.22 (commencing with Section 14167.32).*

37 *14167.4. (a) It is the intent of the Legislature to enact*
38 *additional legislation that will specify more precisely the*
39 *calculation of the supplemental payments to hospitals and to*
40 *Medi-Cal managed care health plans under this article.*

1 (b) No supplemental payments shall be made pursuant to this
 2 article until the legislation described in subdivision (a) has been
 3 enacted.

4 14167.5. (a) If the legislation described in subdivision (a) of
 5 Section 14167.4 is not enacted, and does not become effective, by
 6 October 1, 2009, this article shall remain in effect only until
 7 October 1, 2009, and as of that date is repealed.

8 (b) If the legislation described in subdivision (a) of Section
 9 14167.4 is enacted, and becomes effective, by October 1, 2009,
 10 this article shall remain in effect only until January 1, 2013, and
 11 as of that date is repealed.

12 SEC. 2. Article 5.22 (commencing with Section 14167.32) is
 13 added to Chapter 7 of Part 3 of Division 9 of the Welfare and
 14 Institutions Code, to read:

15
 16 Article 5.22. Hospital Coverage Dividend Fee Act

17
 18 14167.32. (a) There shall be imposed a coverage dividend fee
 19 that is consistent with the principle of shared benefit and shared
 20 responsibility.

21 (b) The coverage dividend fee shall be assessed on hospitals
 22 licensed pursuant to subdivision (a) of Section 1250 of the Health
 23 and Safety Code, except for public hospitals, as defined in
 24 paragraph (25) of subdivision (a) of Section 14105.98, and
 25 hospitals that are designated as specialty hospitals in the hospital's
 26 annual financial disclosure reports for the hospital's latest fiscal
 27 year ending in 2008, commencing on the effective date of this
 28 article and shall continue through, and, including, December 31,
 29 2010.

30 (c) The director shall seek, in a timely manner, any and all
 31 federal approvals that may be necessary for the implementation
 32 of each element of this article.

33 (d) This article shall become inoperative if the federal Centers
 34 for Medicare and Medicaid Services denies approval for, or does
 35 not approve before January 1, 2012, the implementation of Article
 36 5.21 (commencing with Section 14167.2) or this article.

37 (e) No hospital shall be required to pay the coverage dividend
 38 fee to the department until the state receives and maintains federal
 39 approval of the coverage dividend fee and Article 5.21
 40 (commencing with Section 14167.2) from the federal Centers for

1 Medicare and Medicaid Services for the period for which the
2 coverage dividend fee is assessed.

3 14167.35. (a) The funds collected from the fees assessed
4 pursuant to this article, and any matching federal funds, shall be
5 available only for the following purposes:

6 (1) To provide supplemental payments and grants to hospitals
7 under subdivisions (a) and (b) of Section 14167.2.

8 (2) To provide supplemental payments to Medi-Cal managed
9 care health plans under subdivision (c) of Section 14167.2.

10 (3) To pay for health care coverage for children.

11 (4) To pay for the department's staffing costs directly
12 attributable to implementing Article 5.21 (commencing with Section
13 14167.2) or this article.

14 (b) The amount of the coverage dividend fee that shall be used
15 for health care coverage for children shall be eighty million dollars
16 (\$80,000,000) for each quarter during the federal fiscal year that
17 begins after the actual date on which all federal approvals are
18 obtained that are necessary to implement Article 5.21 (commencing
19 with Section 14167.2) and this article.

20 14167.38. (a) It is the intent of the Legislature to enact
21 additional legislation that will specify more precisely the
22 calculation of the amount of the coverage dividend fee due from
23 individual hospitals under this article.

24 (b) No coverage dividend fee shall be made due or payable
25 pursuant to this article until the legislation described in subdivision
26 (a) has been enacted.

27 14167.39. (a) If the legislation described in subdivision (a) of
28 Section 14167.38 is not enacted, and does not become effective,
29 by October 1, 2009, this article shall remain in effect only until
30 October 1, 2009, and as of that date is repealed.

31 (b) If the legislation described in subdivision (a) of Section
32 14167.38 is enacted, and becomes effective, by October 1, 2009,
33 this article shall remain in effect only until January 1, 2013, and
34 as of that date is repealed.

35 ~~SECTION 1. Article 5.21 (commencing with Section 14167.1)~~
36 ~~is added to Chapter 7 of Part 3 of Division 9 of the Welfare and~~
37 ~~Institutions Code, to read:~~

Article 5.21. ~~Medi-Cal Hospital Provider Rate Stabilization Act~~

~~14167.1. (a) “Current Section 1115 Waiver” means California’s Medi-Cal Hospital/Uninsured Care Section 1115 Waiver Demonstration in effect on the effective date of this article.~~

~~(b) “Designated public hospital” shall have the meaning set forth in subdivision (d) of Section 14166.1.~~

~~(c) “Federal upper payment limit” means the upper payment limit on the applicable category of hospitals pursuant to federal law that will be allowed for purposes of federal financial participation. The federal upper payment limit for hospital outpatient services is as set forth in Section 447.321 of Title 42 of the Code of Federal Regulations. The federal upper payment limit for hospital inpatient services is as set forth in Section 447.272 of Title 42 of the Code of Federal Regulations.~~

~~(d) “Nondesignated public hospital” means a public hospital that is licensed pursuant to subdivision (a) of Section 1250 of the Health and Safety Code, is not designated as a specialty hospital in the hospital’s annual financial disclosure report for the hospital’s latest fiscal year ending in 2008, and is defined in paragraph (25) of subdivision (a) of Section 14105.98, excluding designated public hospitals.~~

~~(e) “Phase 1” means the implementation of this article for some or all of the federal fiscal year ending September 30, 2009.~~

~~(f) “Phase 2” means the implementation of this article for some or all of the period beginning October 1, 2009, and ending December 31, 2010.~~

~~(g) “Private hospital” means a hospital licensed pursuant to subdivision (a) of Section 1250 of the Health and Safety Code, is not designated as a specialty hospital in the hospital’s annual financial disclosure report for the hospital’s latest fiscal year ending in 2008, and is a nonpublic hospital, nonpublic-converted hospital, or converted hospital as those terms are defined in paragraphs (26) to (28), inclusive, respectively, of subdivision (a) of Section 14105.98.~~

~~14167.2. (a) Medi-Cal payments plus supplemental payments made pursuant to this article for hospital outpatient services furnished by private hospitals and hospital inpatient services furnished by private hospitals and nondesignated public hospitals~~

1 shall equal the federal upper payment limit for that portion of phase
2 1 and phase 2 for which federal approval of the supplemental
3 payments described in this article is obtained. Hospitals shall
4 receive supplemental payments funded by the coverage dividend
5 fee set forth in Article 5.22 (commencing with Section 14167.31)
6 and available matching federal funds to comply with this
7 subdivision.

8 (b) Designated public hospitals shall be paid direct grants in
9 support of expenditures incurred under the Medi-Cal program, the
10 Current Section 1115 Waiver, or any new or replacement waiver.
11 The aggregate amount of the grants shall be the total amount of
12 payments that would be made to designated public hospitals if the
13 nonfederal component of payments up to the applicable federal
14 upper payment limit and the additional managed care payments
15 received by designated public hospitals as a consequence of
16 subdivision (c) was funded by the coverage dividend fee set forth
17 in Article 5.22 (commencing with Section 14167.31), less the
18 amount of those fees that would have been paid by the designated
19 public hospitals if the hospitals were required to pay the fee.

20 (c) Medi-Cal managed health care plans shall receive
21 supplemental payments to the extent available from the funds
22 generated by the coverage dividend fee, including matching federal
23 funds. The Medi-Cal managed care health plans shall pay all of
24 the supplemental payments to hospitals in the form of increased
25 payments for hospital services. The supplemental payments to
26 hospitals shall not affect the Medi-Cal managed care payment rates
27 to hospitals apart from the supplemental payments.

28 14167.3. (a) The director shall submit any Medicaid state plan
29 amendment that may be necessary to implement this article for
30 phase 1 on or before June 30, 2009, shall seek approval for the use
31 of the entire federal upper payment limit for the 2008-09 federal
32 fiscal year, and shall seek all federal approvals, waivers, waiver
33 modifications, and any other federal action as may be necessary
34 to implement phase 1 and obtain federal financial participation to
35 the maximum extent possible for the payments made with respect
36 to phase 1. The director shall request from the federal government,
37 in connection with obtaining federal approval for phase 1, the
38 following written assurances from the Secretary of the United
39 States Department of Health and Human Services:

1 ~~(1) The approval of phase 1 will not result in funding reductions~~
2 ~~to hospitals under the Current Section 1115 Waiver, and that the~~
3 ~~maximum federal funds available annually for the safety net care~~
4 ~~pool will be no less than the amount that would be available~~
5 ~~pursuant to the Current Section 1115 Waiver Special Terms and~~
6 ~~Conditions, as amended October 5, 2007.~~

7 ~~(2) The federal Centers for Medicare and Medicaid Services~~
8 ~~will explore, with the state, the need for growth in the safety net~~
9 ~~care pool established pursuant to the Current Section 1115 Waiver.~~

10 ~~(b) Phase 1 shall not be implemented unless both of the~~
11 ~~following have occurred:~~

12 ~~(1) Written assurances substantially as described in subdivision~~
13 ~~(a) are obtained from the federal government.~~

14 ~~(2) The director executes a declaration, which shall be submitted~~
15 ~~to the legislature, stating that, taking into account all relevant~~
16 ~~information available from the federal government, there is no~~
17 ~~reasonable basis on which to conclude that the implementation of~~
18 ~~phase 1 will adversely impact funding that otherwise would be~~
19 ~~available for Medi-Cal and uninsured services pursuant to the state~~
20 ~~plan or a waiver under Section 1115 of the federal Social Security~~
21 ~~Act (42 U.S.C. Sec. 1315) for a demonstration that will replace~~
22 ~~the Current Section 1115 Waiver.~~

23 ~~(c) (1) The director shall submit a Medicaid state plan~~
24 ~~amendment for phase 2 to the federal government on or before~~
25 ~~September 30, 2009, and shall seek all federal approvals, waivers,~~
26 ~~waiver modifications, and any other federal action as may be~~
27 ~~necessary to implement phase 2 and obtain federal financial~~
28 ~~participation to the maximum extent possible for the payments~~
29 ~~made with respect to phase 2.~~

30 ~~(2) The director shall negotiate the federal approvals required~~
31 ~~to implement phase 2 concurrently with the negotiation of a federal~~
32 ~~waiver under Section 1115 of the federal Social Security Act for~~
33 ~~a demonstration that will replace the Current Section 1115 Waiver.~~

34 ~~(3) Phase 2 shall not be implemented unless and until the federal~~
35 ~~government approves a federal waiver under Section 1115 of the~~
36 ~~federal Social Security Act (42 U.S.C. Sec. 1315) for a~~
37 ~~demonstration that will replace the Current Section 1115 Waiver~~
38 ~~and that is not adversely impacted by the provisions of this article~~
39 ~~and Article 5.22 (commencing with Section 14167.31).~~

1 ~~(4) In negotiating the terms of the replacement federal waiver~~
2 ~~under Section 1115 of the Social Security Act (42 U.S.C. Sec.~~
3 ~~1315), the department shall explore opportunities for reform of~~
4 ~~the Medi-Cal program. Subject to subsequent legislative approval,~~
5 ~~the department shall explore program reforms, which may include,~~
6 ~~but need not be limited to, strategies to accomplish the following~~
7 ~~goals:~~

8 ~~(A) Payment system reforms for hospital inpatient and outpatient~~
9 ~~care, including incentive-based payments, patient safety protocols,~~
10 ~~and quality measurement.~~

11 ~~(B) Improvements in the coordination of care for children,~~
12 ~~seniors, and adults with multiple chronic and complex medical~~
13 ~~conditions, to reduce the high-cost use of emergency and inpatient~~
14 ~~hospital services, including reimbursement for medical homes,~~
15 ~~enhanced access to primary and preventive care services, disease~~
16 ~~management, and case management programs.~~

17 ~~(C) Improvements in managed care delivery systems, including~~
18 ~~the measurement of health plan performance and~~
19 ~~pay-for-performance payment methodologies.~~

20 ~~(d) (1) This article shall become inoperative during phase 1 if~~
21 ~~both of the following conditions exist:~~

22 ~~(A) The federal Centers for Medicare and Medicaid Services~~
23 ~~denies approval for, or does not approve before January 1, 2012,~~
24 ~~the implementation of Article 5.22 (commencing with Section~~
25 ~~14167.31) or this article for phase 1.~~

26 ~~(B) Neither article can be modified by the department pursuant~~
27 ~~to subdivision (g) of Section 14167.32 in order to meet the~~
28 ~~requirements of federal law or to obtain federal approval.~~

29 ~~(2) This article shall become inoperative during phase 2 if both~~
30 ~~of the following conditions exist:~~

31 ~~(A) The federal Centers for Medicare and Medicaid Services~~
32 ~~denies approval for, or does not approve before January 1, 2012,~~
33 ~~the implementation of Article 5.22 (commencing with Section~~
34 ~~14167.31) or this article for phase 2.~~

35 ~~(B) Neither article can be modified by the department pursuant~~
36 ~~to subdivision (g) of Section 14167.32 in order to meet the~~
37 ~~requirements of federal law or to obtain federal approval.~~

38 ~~14167.4. (a) It is the intent of the Legislature to enact~~
39 ~~additional legislation that will specify more precisely the~~

1 calculation of the supplemental payments to hospitals and to
2 Medi-Cal managed health care plans under this article.

3 (b) No supplemental payments shall be made pursuant to this
4 article until the legislation described in subdivision (a) has been
5 enacted.

6 14167.5.—(a) If the legislation described in subdivision (a) of
7 Section 14167.4 is not enacted, and becomes effective, by October
8 1, 2009, this article shall remain in effect only until October 1,
9 2009, and as of that date is repealed.

10 (b) If the legislation described in subdivision (a) of Section
11 14167.4 is enacted, and becomes effective, by October 1, 2009,
12 this article shall remain in effect only until January 1, 2013, and
13 as of that date is repealed.

14 SEC. 2.—Article 5.22 (commencing with Section 14167.31) is
15 added to Chapter 7 of Part 3 of Division 9 of the Welfare and
16 Institutions Code, to read:

17
18 Article 5.22. Hospital Coverage Dividend Fee Act

19
20 14167.31.—For purposes of this article, the following definitions
21 shall apply:

22 (a) “Phase 1” means the implementation of this article for some
23 or all of the federal fiscal year ending September 30, 2009.

24 (b) “Phase 2” means the implementation of this article for some
25 or all of the period beginning October 1, 2009, and ending
26 December 31, 2010.

27 14167.32.—(a) There shall be imposed a coverage dividend fee
28 that is consistent with the principle of shared benefit and shared
29 responsibility.

30 (b) The coverage dividend fee shall be assessed on hospitals
31 licensed pursuant to subdivision (a) of Section 1250 of the Health
32 and Safety Code, except for public hospitals, as defined in
33 paragraph (25) of subdivision (a) of Section 14105.98, and
34 hospitals that are designated as specialty hospitals in the hospital’s
35 annual financial disclosure reports for the hospital’s latest fiscal
36 year ending in 2008, commencing on the effective date of this
37 article and shall continue through and, including December 31,
38 2010.

39 (c) In no case shall the aggregate fees collected in a subject
40 federal fiscal year pursuant to this section exceed the maximum

1 percentage of the annual aggregate net patient revenue for hospitals
2 subject to the fee that is prescribed pursuant to federal law and
3 regulations as necessary to preclude a finding that an indirect
4 guarantee has been created.

5 (d) The director shall seek, in a timely manner, any and all
6 federal approvals that may be necessary for the implementation
7 of each element of this article. The department may separately
8 seek approval for phase 1 and for phase 2.

9 (e) (1) This article shall become inoperative during phase 1 if
10 both of the following conditions exist:

11 (A) The federal Centers for Medicare and Medicaid Services
12 denies approval for, or does not approve before January 1, 2012,
13 the implementation of Article 5.21 (commencing with Section
14 14167.1) or this article for phase 1.

15 (B) Neither article can be modified by the department pursuant
16 to subdivision (g) in order to meet the requirements of federal law
17 or to obtain federal approval.

18 (2) This article shall become inoperative during phase 2 if both
19 of the following conditions exist:

20 (A) The federal Centers for Medicare and Medicaid Services
21 denies approval for, or does not approve before January 1, 2012,
22 the implementation of Article 5.21 (commencing with Section
23 14167.1) or this article for phase 2.

24 (B) Neither article can be modified by the department pursuant
25 to subdivision (g) in order to meet the requirements of federal law
26 or to obtain federal approval.

27 (f) No hospital shall be required to pay the coverage dividend
28 fee to the department until the state receives and maintains federal
29 approval of the coverage dividend fee and Article 5.21
30 (commencing with Section 14167.1) from the federal Centers for
31 Medicare and Medicaid Services for the period for which the
32 coverage dividend fee is assessed.

33 (g) Any methodology specified in Article 5.21 (commencing
34 with Section 14167.1) and this article may be modified by the
35 department, in consultation with the hospital community, to the
36 extent necessary to meet the requirements of federal law or
37 regulations or to obtain federal approval, provided the
38 modifications do not violate the intent of Article 5.21 (commencing
39 with Section 14167.1) or this article.

1 ~~14167.35.— (a) The funds collected from the fees assessed~~
2 ~~pursuant to this article, and any matching federal funds, shall be~~
3 ~~available only for the following purposes:~~

4 ~~(1) To provide supplemental payments and grants to hospitals~~
5 ~~under subdivisions (a) and (b) of section 14167.2.~~

6 ~~(2) To provide supplemental payments to Medi-Cal managed~~
7 ~~care health plans under subdivision (c) of Section 14167.2.~~

8 ~~(3) To pay for health care coverage for children.~~

9 ~~(4) To pay for the department's staffing costs directly~~
10 ~~attributable to implementing Article 5.21 (commencing with~~
11 ~~Section 14167.1) or this article.~~

12 ~~(b) The amount of the coverage dividend fee that shall be used~~
13 ~~for health care coverage for children shall be eighty million dollars~~
14 ~~(\$80,000,000) for each quarter during the 2008–09 federal fiscal~~
15 ~~year that begins after the actual date on which all federal approvals~~
16 ~~are obtained that are necessary to implement Article 5.21~~
17 ~~(commencing with Section 14167.1) and this article for phase 1,~~
18 ~~and each quarter that begins after the actual date on which all~~
19 ~~federal approvals are obtained that are necessary to implement~~
20 ~~Article 5.21 (commencing with Section 14167.1) and this article~~
21 ~~for phase 2 and ends on or before December 31, 2010.~~

22 ~~14167.38.— (a) It is the intent of the Legislature to enact~~
23 ~~additional legislation that will specify more precisely the~~
24 ~~calculation of the amount of the coverage dividend fee due from~~
25 ~~individual hospitals under this article.~~

26 ~~(b) No coverage dividend fee shall be made due or payable~~
27 ~~pursuant to this article until the legislation described in subdivision~~
28 ~~(a) has been enacted.~~

29 ~~14167.39.— (a) If the legislation described in subdivision (a) of~~
30 ~~Section 14167.38 is not enacted, and becomes effective, by October~~
31 ~~1, 2009, this article shall remain in effect only until October 1,~~
32 ~~2009, and as of that date is repealed.~~

33 ~~(b) If the legislation described in subdivision (a) of Section~~
34 ~~14167.38 is enacted, and becomes effective, by October 1, 2009,~~
35 ~~this article shall remain in effect only until January 1, 2013, and~~
36 ~~as of that date is repealed.~~

37 SEC. 3. This act is an urgency statute necessary for the
38 immediate preservation of the public peace, health, or safety within
39 the meaning of Article IV of the Constitution and shall go into
40 immediate effect. The facts constituting the necessity are:

1 In order to make the necessary statutory changes to increase
2 Medi-Cal payments to hospitals and improve access, at the earliest
3 possible time, so as to allow this act to be operative as soon as
4 approval from the federal Centers for Medicare and Medicaid
5 Services is obtained by the State Department of Health Care
6 Services, it is necessary that this act take effect immediately.

7

8

9 **CORRECTIONS:**

10 **Text—Pages 14 and 15.**

11

O