

Assembly Bill No. 2608

Passed the Assembly August 29, 2012

Chief Clerk of the Assembly

Passed the Senate August 28, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 14115.8 and 14132.06 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 2608, Bonilla. Medi-Cal: local educational agency billing option.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides that specified services provided by local educational agencies (LEAs) are covered Medi-Cal benefits, and requires the department to perform various activities with respect to the billing option for services provided by LEAs. Existing law establishes the Local Educational Agency Medi-Cal Recovery Fund, which consists of proportionately reduced federal Medicaid funds allocable to LEAs, to be used, upon appropriation by the Legislature, only to support the department, until January 1, 2013, to meet the requirements relating to the LEA billing option, the annual amount of which may not exceed \$1,500,000. Existing law requires, as of January 1, 2013, that all moneys in the fund be returned proportionally to all LEAs whose federal Medicaid funds were used to create the fund.

This bill would delete the repeal of the provisions governing the fund and would provide that specified regulations do not apply to medical transportation eligible to be billed under these provisions until January 1, 2018, or until the date the director executes a declaration stating that its regulations have been updated. This bill would require the department to collaborate with the State Department of Education to help ensure LEA compliance with state and federal Medicaid requirements. This bill would require the department, no later than July 1, 2013, and every year thereafter, to make publicly accessible an annual accounting of all funds collected by the department from Medicaid payments allocable to LEAs, as specified.

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

SECTION 1. Section 14115.8 of the Welfare and Institutions Code is amended to read:

14115.8. (a) (1) The department shall amend the Medicaid state plan with respect to the billing option for services by local educational agencies (LEAs), to ensure that schools shall be reimbursed for all eligible services that they provide that are not precluded by federal requirements.

(2) The department shall examine methodologies for increasing school participation in the Medi-Cal billing option for LEAs so that schools can meet the health care needs of their students.

(3) The department, to the extent possible shall simplify claiming processes for LEA billing.

(4) The department shall eliminate and modify state plan and regulatory requirements that exceed federal requirements when they are unnecessary.

(b) If a rate study for the LEA Medi-Cal billing option is completed pursuant to Section 52 of Chapter 171 of the Statutes of 2001, the department, in consultation with the entities named in subdivision (c), shall implement the recommendations from the study, to the extent feasible and appropriate.

(c) In order to assist the department in formulating the state plan amendments required by subdivisions (a) and (b), the department shall regularly consult with the State Department of Education, representatives of urban, rural, large and small school districts, and county offices of education, the local education consortium, and local educational agencies. It is the intent of the Legislature that the department also consult with staff from Region IX of the federal Centers for Medicare and Medicaid Services, experts from the fields of both health and education, and state legislative staff.

(d) Notwithstanding any other law, or any other contrary state requirement, the department shall take whatever action is necessary to ensure that, to the extent there is capacity in its certified match, an LEA shall be reimbursed retroactively for the maximum period allowed by the federal government for any department change that results in an increase in reimbursement to local educational agency providers.

(e) The department may undertake all necessary activities to recoup matching funds from the federal government for

reimbursable services that have already been provided in the state's public schools. The department shall prepare and take whatever action is necessary to implement all regulations, policies, state plan amendments, and other requirements necessary to achieve this purpose.

(f) The department shall file an annual report with the Legislature that shall include at least all of the following:

(1) A copy of the annual comparison required by subdivision (i).

(2) A state-by-state comparison of school-based Medicaid total and per eligible child claims and federal revenues. The comparison shall include a review of the most recent two years for which completed data is available.

(3) A summary of department activities and an explanation of how each activity contributed toward narrowing the gap between California's per eligible student federal fund recovery and the per student recovery of the top three states.

(4) A listing of all school-based services, activities, and providers approved for reimbursement by the federal Centers for Medicare and Medicaid Services in other state plans that are not yet approved for reimbursement in California's state plan and the service unit rates approved for reimbursement.

(5) The official recommendations made to the department by the entities named in subdivision (c) and the action taken by the department regarding each recommendation.

(6) A one-year timetable for state plan amendments and other actions necessary to obtain reimbursement for those items listed in paragraph (4).

(7) Identification of any barriers to local educational agency reimbursement, including those specified by the entities named in subdivision (c), that are not imposed by federal requirements, and a description of the actions that have been, and will be, taken to eliminate them.

(g) (1) These activities shall be funded and staffed by proportionately reducing federal Medicaid payments allocable to LEAs for the provision of benefits funded by the federal Medicaid program under the billing option for services by LEAs specified in this section. Moneys collected as a result of the reduction in federal Medicaid payments allocable to LEAs shall be deposited into the Local Educational Agency Medi-Cal Recovery Fund,

which is hereby established in the Special Deposit Fund established pursuant to Section 16370 of the Government Code. These funds shall be used, upon appropriation by the Legislature, only to support the department to meet all the requirements of this section. If at any time this section is repealed, it is the intent of the Legislature that all funds in the Local Educational Agency Medi-Cal Recovery Fund be returned proportionally to all LEAs whose federal Medicaid funds were used to create this fund. The annual amount funded pursuant to this paragraph shall not exceed one million five hundred thousand dollars (\$1,500,000).

(2) Moneys collected under paragraph (1) shall be proportionately reduced from federal Medicaid payments to all participating LEAs so that no one LEA loses a disproportionate share of its federal Medicaid payments.

(h) (1) The department may enter into a sole source contract to comply with the requirements of this section.

(2) The level of additional staff to comply with the requirements of this section, including, but not limited to, staff for which the department has contracted for pursuant to paragraph (1), shall be limited to that level that can be funded with revenues derived pursuant to subdivision (g).

(i) The activities of the department shall include all of the following:

(1) An annual comparison of the school-based Medicaid systems in comparable states.

(2) Efforts to improve communications with the federal government, the State Department of Education, and local educational agencies.

(3) The development and updating of written guidelines to local educational agencies regarding best practices to avoid audit exceptions, as needed.

(4) The establishment and maintenance of a local educational agency user-friendly, interactive Internet Web site.

(5) Collaboration with the State Department of Education to help ensure LEA compliance with state and federal Medicaid requirements and to help improve LEA participation in the Medi-Cal billing option for LEAs.

SEC. 2. Section 14132.06 of the Welfare and Institutions Code is amended to read:

14132.06. (a) Services specified in this section that are provided by a local educational agency are covered Medi-Cal benefits, to the extent federal financial participation is available, and subject to utilization controls and standards adopted by the department, and consistent with Medi-Cal requirements for physician prescription, order, and supervision.

(b) Any provider enrolled on or after January 1, 1993, to provide services pursuant to this section may bill for those services provided on or after January 1, 1993.

(c) Nothing in this section shall be interpreted to expand the current category of professional health care practitioners permitted to directly bill the Medi-Cal program.

(d) Nothing in this section is intended to increase the scope of practice of any health professional providing services under this section or Medi-Cal requirements for physician prescription, order, and supervision.

(e) (1) For the purposes of this section, the local educational agency, as a condition of enrollment to provide services under this section, shall be considered the provider of services. A local educational agency provider, as a condition of enrollment to provide services under this section, shall enter into, and maintain, a contract with the department in accordance with guidelines contained in regulations adopted by the director and published in Title 22 of the California Code of Regulations.

(2) Notwithstanding paragraph (1), a local educational agency providing services pursuant to this section shall utilize current safety net and traditional health care providers, when those providers are accessible to specific schoolsites identified by the local educational agency to participate in this program, rather than adding duplicate capacity.

(f) For the purposes of this section, covered services may include all of the following local educational agency services:

(1) Health and mental health evaluations and health and mental health education.

(2) Medical transportation.

(A) The following provisions shall not apply to medical transportation eligible to be billed under this section:

(i) Section 51323(a)(2)(A) of Title 22 of the California Code of Regulations.

(ii) Section 51323(a)(3)(B) of Title 22 of the California Code of Regulations.

(iii) For students whose medical or physical condition does not require the use of a gurney, Section 51231.1(f) of Title 22 of the California Code of Regulations.

(iv) For students whose medical or physical condition does not require the use of a wheelchair, Section 51231.2(e) of Title 22 of the California Code of Regulations.

(B) (i) Subparagraph (A) shall become inoperative on January 1, 2018, or on the date the director executes a declaration stating that the regulations implementing subparagraph (A) and Section 14118.5 have been updated, whichever is later.

(ii) The department shall post the declaration executed under clause (i) on its Internet Web site and transmit a copy of the declaration to the Assembly Committee on Budget and the Senate Committee on Budget and Fiscal Review and the LEA Ad Hoc Workgroup.

(iii) If subparagraph (A) becomes inoperative on January 1, 2018, subparagraph (A) and this subparagraph shall be inoperative on January 1, 2018, unless a later enacted statute enacted before that date, deletes or extends that date.

(iv) If subparagraph (A) becomes inoperative on the date the director executes a declaration as described in clause (i), subparagraph (A) and this subparagraph shall be inoperative on the January 1 immediately following the date subparagraph (A) becomes inoperative, unless a later enacted statute enacted before that date, deletes or extends that date.

(3) Nursing services.

(4) Occupational therapy.

(5) Physical therapy.

(6) Physician services.

(7) Mental health and counseling services.

(8) School health aide services.

(9) Speech pathology services. These services may be provided by either of the following:

(A) A licensed speech pathologist.

(B) A credentialed speech-language pathologist, to the extent authorized by Chapter 5.3 (commencing with Section 2530) of Division 2 of the Business and Professions Code.

(10) Audiology services.

(11) Targeted case management services for children with an individualized education plan (IEP) or an individualized family service plan (IFSP).

(g) Local educational agencies may, but need not, provide any or all of the services specified in subdivision (f).

(h) For the purposes of this section, “local educational agency” means the governing body of any school district or community college district, the county office of education, a state special school, a California State University campus, or a University of California campus.

(i) Any local educational agency provider enrolled to provide service pursuant to this section on January 1, 1995, may bill for targeted case management services for children with an individualized education plan (IEP) or an individualized family service plan (IFSP), provided on or after January 1, 1995.

(j) Notwithstanding any other provision of law, a community college district, a California State University campus, or a University of California campus, consistent with the requirements of this section, may bill for services provided to any student, regardless of age, who is a Medi-Cal recipient.

(k) No later than July 1, 2013, and every year thereafter, the department shall make publicly accessible an annual accounting of all funds collected by the department from federal Medicaid payments allocable to local educational agencies, including, but not limited to, the funds withheld pursuant to subdivision (g) of Section 14115.8. The accounting shall detail amounts withheld from federal Medicaid payments to each participating local educational agency for that year. One-time costs for the development of this accounting shall not exceed two hundred fifty thousand dollars (\$250,000).

Approved _____, 2012

Governor