

**Introduced by Committee on Health (Senators Hernandez (Chair), Alquist, Anderson, Blakeslee, De León, DeSaulnier, Rubio, Strickland, and Wolk)**

March 31, 2011

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An act to add and repeal Article 1.5 (commencing with Section 14046) to 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

SB 945, as introduced, Committee on Health. Medi-Cal: electronic records.

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

This bill, until July 1, 2021, and only to the extent that federal participation is available, would require the department to establish and administer the Medi-Cal Electronic Health Records Incentive Program to provide federal incentive payments to Medi-Cal providers for the implementation and use of electronic health records systems. The bill would require the department to develop the State Medicaid Health Information Technology Plan, as specified, for federal approval, and would require the department to accept applications from, and make incentive payments to, eligible professionals and facilities that meet all of the standards of the federal Electronic Health Record Technology Program. The bill would require the department to provide annual reports to appropriate fiscal and policy committees of the Legislature

and the Legislative Analyst’s Office within 30 days of the close of each fiscal year, commencing July 1, 2012, on the implementation of this program.

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

Vote: 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. The Legislature finds and declares all of the  
2 following:

3 (a) The purpose of the Medi-Cal Electronic Health Records  
4 Incentive Program is to provide eligible professionals and hospitals  
5 incentive payments to adopt, implement, upgrade, and meaningfully  
6 use certified electronic health record (EHR) technology using  
7 federal funds made available through Section 4201 of the federal  
8 American Recovery and Reinvestment Act of 2009 (Public Law  
9 111-5).

10 (b) This program provides a source of funding to safety net  
11 providers to upgrade, incorporate and use EHR systems in their  
12 practice. An anticipated one billion four hundred million dollars  
13 (\$1,400,000,000) may be distributed to Medi-Cal providers over  
14 the next 10 years to support EHR adoption through this program.

15 SEC. 2. Article 1.5 (commencing with Section 14046) is added  
16 to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions  
17 Code, to read:

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19 Article 1.5. Electronic Medical Records

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21 14046. The department shall establish and administer the  
22 Medi-Cal Electronic Health Records Incentive Program for the  
23 purposes of providing federal incentive payments to Medi-Cal  
24 providers for the implementation and use of electronic health  
25 records systems.

26 14046.1. (a) The program shall be administered in accordance  
27 with the State Medicaid Health Information Technology Plan, as  
28 developed by the department and approved by the federal Centers  
29 for Medicare and Medicaid Services. Upon federal approval, the

1 department shall provide copies of the plan to the appropriate fiscal  
2 and policy committees of the Legislature.

3 (b) The State Medicaid Health Information Technology Plan  
4 shall address all of the following:

5 (1) Identify and establish the planning, policies, and procedures  
6 required to operationalize the Medi-Cal Electronic Health Record  
7 Incentive Program.

8 (2) Specify the criteria for enrollment, eligibility, and data  
9 collection.

10 (3) Specify timeframes for technology modifications.

11 (4) Specify the process for provider outreach and department  
12 coordination with established regional extension centers in the  
13 state, established to provide technical support to providers.

14 (5) Establish the audit and appeals processes.

15 (6) Participate in the National Level Registry.

16 14046.2. (a) Upon receipt of all necessary federal approvals,  
17 and in accordance with the State Medicaid Health Information  
18 Technology Plan, the department shall accept applications from,  
19 and make incentive payments to, eligible professionals and  
20 facilities.

21 (b) Each eligible professional and each eligible facility seeking  
22 to receive incentive payments under this article shall meet all of  
23 the standards of the federal Electronic Health Record Technology  
24 Program, including criteria for meaningful use pursuant to Part  
25 495 of Title 42 of the Code of Federal Regulations or any other  
26 applicable federal Medicaid laws and regulations.

27 (c) Appeals under this article shall be conducted pursuant to  
28 Section 14043.65.

29 14046.3. (a) To implement this article, the department may  
30 contract with public or private entities and may utilize existing  
31 health care service provider enrollment and payment mechanisms,  
32 including the Medi-Cal program's fiscal intermediary.

33 (b) Contracts entered into for the purpose of implementing this  
34 article, including any contract amendment, any system change  
35 pursuant to a change order, and any project or systems development  
36 notice, may be developed using a competitive process established  
37 by the department and shall be exempt from Article 4 (commencing  
38 with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title  
39 2 of the Government Code and Part 2 (commencing with Section  
40 10100) of Division 2 of the Public Contract Code, and any

1 associated policies, procedures, or regulations under these  
2 provisions, and shall be exempt from review or approval by any  
3 division of the Department of General Services.

4 14046.4. Notwithstanding the Administrative Procedure Act  
5 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
6 Division 3 of Title 2 of the Government Code), the department  
7 may implement this article through provider bulletins or similar  
8 instructions without taking regulatory action.

9 14046.5. The department shall provide the appropriate fiscal  
10 and policy committees of the Legislature and the Legislative  
11 Analyst's Office with annual reports on the implementation of this  
12 article. These reports shall be provided within 30 days of the close  
13 of each fiscal year, commencing July 1, 2012, and continuing  
14 throughout the life of the program. These reports shall include all  
15 of the following information:

16 (a) A project status summary that identifies the progress or key  
17 milestones and objectives for the quarter on transition and takeover  
18 efforts by the prime contractor and the legacy contractor.

19 (b) An assessment of provider uptake of the program, barriers  
20 faced by eligible providers not participating in the program, and  
21 strategies to address those barriers.

22 (c) Copies of reports or updates developed by the department  
23 for submission to the federal government relating to this program.

24 (d) Copies of oversight reports developed by department  
25 contractors and any subsequent responses from the department.

26 (e) A description of changes made to the program, including  
27 those required by federal law or regulations.

28 14046.6. (a) It is the intent of the Legislature that the activities  
29 associated with health information exchange be funded solely  
30 through federal funds and private contributions identified by the  
31 department.

32 (b) Notwithstanding any other law, and only when all necessary  
33 federal approvals have been obtained, this article shall be  
34 implemented only to the extent federal financial participation is  
35 available.

36 14046.7. This article shall become inoperative on July 1, 2021,  
37 and, as of January 1, 2022, is repealed, unless a later enacted  
38 statute, that is enacted before January 1, 2022, deletes or extends  
39 the dates on which it becomes inoperative and is repealed.

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

5 In order to make the necessary statutory changes to authorize  
6 the state to disburse incentive payments to eligible professionals  
7 and hospitals, issue provider bulletins or similar instructions  
8 without regulatory action, and administer an appeals process at  
9 the earliest possible time, it is necessary that this act take effect  
10 immediately.

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