

AMENDED IN SENATE MAY 31, 2011

SENATE BILL

No. 945

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

March 31, 2011

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 amended, 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~~ records (EHR) technology
7 using federal funds made available through Section 4201 of the
8 federal American Recovery and Reinvestment Act of 2009 (Public
9 Law 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:

18

19 Article 1.5. Electronic Medical Records

20

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

1 for Medicare and Medicaid Services. Upon federal approval, the
2 department shall provide copies of the plan to the appropriate fiscal
3 and policy committees of the Legislature.

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

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

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

11 (3) Specify timeframes for technology modifications.

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

15 (5) Establish the audit and appeals processes.

16 (6) Participate in the National Level Registry.

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

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

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

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

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

1 10100) of Division 2 of the Public Contract Code, and any
2 associated policies, procedures, or regulations under these
3 provisions, and shall be exempt from review or approval by any
4 division of the Department of General Services.

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

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

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

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

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

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

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

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

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

37 14046.7. *General Fund moneys shall not be used for the*
38 *purposes of this article.*

1 ~~14046.7.~~

2 14046.8. This article shall become inoperative on July 1, 2021,
3 and, as of January 1, 2022, is repealed, unless a later enacted
4 statute, that is enacted before January 1, 2022, deletes or extends
5 the dates on which it becomes inoperative and is repealed.

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

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

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