

Senate Bill No. 945

CHAPTER 433

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.

[Approved by Governor October 2, 2011. Filed with
Secretary of State October 2, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 945, 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.

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

SECTION 1. The Legislature finds and declares all of the following:

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

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

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

Article 1.5. Electronic Medical Records

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

14046.1. (a) The program shall be administered in accordance with the State Medicaid Health Information Technology Plan, as developed by the department and approved by the federal Centers for Medicare and Medicaid Services. Upon federal approval, the department shall provide copies of the plan to the appropriate fiscal and policy committees of the Legislature.

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

- (1) Identify and establish the planning, policies, and procedures required to operationalize the Medi-Cal Electronic Health Record Incentive Program.
- (2) Specify the criteria for enrollment, eligibility, and data collection.
- (3) Specify timeframes for technology modifications.
- (4) Specify the process for provider outreach and department coordination with established regional extension centers in the state, established to provide technical support to providers.
- (5) Establish the audit and appeals processes.
- (6) Participate in the National Level Registry.

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

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

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

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

(b) Contracts entered into for the purpose of implementing this article, including any contract amendment, any system change pursuant to a change order, and any project or systems development notice, may be developed using a competitive process established by the department and shall be exempt from Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and any associated policies, procedures, or regulations under these provisions, and shall be exempt from review or approval by any division of the Department of General Services.

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

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

(a) A project status summary that identifies the progress or key milestones and objectives.

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

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

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

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

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

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

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

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

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

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