

AMENDED IN SENATE AUGUST 4, 2014
AMENDED IN SENATE JUNE 16, 2014
AMENDED IN ASSEMBLY JANUARY 6, 2014
AMENDED IN ASSEMBLY MAY 1, 2013
AMENDED IN ASSEMBLY APRIL 8, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 468

Introduced by Assembly Member Chávez
(Principal coauthors: Assembly Members Chesbro and Dahle)

February 19, 2013

An act to ~~add Sections 14166.152, 14166.153, and 14166.155 to, amend Section 14301.4 of, and to add Sections 14166.153 and 14301.56 to, the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately. Medi-Cal.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 468, as amended, Chávez. Medi-Cal: ~~delivery system reform incentive pool payments. nondesignated public hospitals.~~

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law requires the department to seek a successor demonstration project or federal waiver of Medicaid law to implement specified objectives, which may include better care coordination for seniors, persons with disabilities, and children with

special health care needs. Existing law provides that beginning with services provided on or after July 1, 2013, to the extent that additional federal funding is made available pursuant to the Special Terms and Conditions of the demonstration project or waiver, nondesignated public hospitals shall be eligible to receive safety net care pool payments for uncompensated care costs.

~~This bill would, beginning with the 2014–15 fiscal year, subject to federal approval and if specified conditions are met, require that nondesignated public hospitals receive delivery system reform incentive pool funding, as specified. The bill would also *would* require nondesignated public hospitals to report and certify specified information for each successor demonstration year: the 2012–13 fiscal year and each fiscal year thereafter.~~

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

Existing law authorizes a transferring entity, as defined, to make an intergovernmental transfer (IGT) to the state, and authorizes the department to accept all IGTs from a transferring entity for the purpose of providing support for the nonfederal share of risk-based payments to managed care health plans to enable those plans to compensate providers designated by the transferring entity for Medi-Cal health care services and support of the Medi-Cal program. Existing law, with some exceptions, authorizes the state to assess a fee of 20% on each IGT to reimburse the department for the administrative costs of operating the IGT program and for the support of the Medi-Cal program.

This bill would provide that the 20% assessment shall not apply to nondesignated public hospitals. The bill would also require the department to pay rate range increases, as defined, to Medi-Cal managed care plans that contract with the department to provide Medi-Cal services in specified counties for the purpose of providing additional payments to nondesignated public hospitals for purposes of equaling the amount of reimbursement the nondesignated public hospital would have received through certified public expenditures under the fee-for-service payment methodology.

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 ~~SECTION 1. Section 14166.152 is added to the Welfare and~~
2 ~~Institutions Code, to read:~~

3 ~~14166.152. (a) For dates of service on and after July 1, 2014,~~
4 ~~nondesignated public hospitals shall be eligible to receive delivery~~
5 ~~system reform incentive pool payments to the extent additional~~
6 ~~federal funding is made available for this purpose under the~~
7 ~~delivery system reform incentive pool in the successor~~
8 ~~demonstration project and if the nondesignated public hospitals~~
9 ~~comply with the delivery system reform incentive pool funding~~
10 ~~requirements set forth in Section 14166.155.~~

11 ~~(b) The amount of funds that may be received shall not exceed~~
12 ~~the additional federal funding made available for delivery system~~
13 ~~reform incentive pool payments to nondesignated public hospitals,~~
14 ~~and shall not reduce the amounts that would otherwise be made~~
15 ~~available to designated public hospitals in the absence of this~~
16 ~~section, including the amounts that designated public hospitals~~
17 ~~would be eligible to receive under their delivery system reform~~
18 ~~incentive pool plans approved as of January 1, 2012.~~

19 ~~(c) Notwithstanding subparagraph (B), if the designated public~~
20 ~~hospitals are unable to claim the full amount of federal funding~~
21 ~~made available to the designated public hospitals pursuant to~~
22 ~~Section 14166.77 and the Special Terms and Conditions, including~~
23 ~~through reallocations made pursuant to paragraph (3) of subdivision~~
24 ~~(a) of Section 14166.77 as authorized by the Special Terms and~~
25 ~~Conditions, and the unused amount of federal funding made~~
26 ~~available to the designated public hospitals cannot be used in a~~
27 ~~later demonstration year, the department may authorize the unused~~
28 ~~funding to be made available to the nondesignated public hospitals.~~

29 ~~SEC. 2.~~

30 ~~SECTION 1. Section 14166.153 is added to the Welfare and~~
31 ~~Institutions Code, to read:~~

32 ~~14166.153. (a) Beginning in the 2012-13 fiscal year, within~~
33 ~~five months after the end of a successor demonstration year, each~~
34 ~~For the 2012-13 fiscal year and each fiscal year thereafter, each~~
35 ~~of the nondesignated public hospitals shall submit to the department~~
36 ~~all of the following reports:~~

37 ~~(1) The hospital's Medicare cost report for the project year or~~
38 ~~successor demonstration year.~~

39 ~~(2) Other cost reporting and statistical data necessary for the~~
40 ~~determination of amounts due the hospital under the demonstration~~

1 project or successor demonstration project, as requested by the
2 department.

3 (b) For each project year or successor demonstration year, the
4 reports shall identify all of the following:

5 (1) To the extent applicable, the costs incurred in providing
6 inpatient hospital services to Medi-Cal beneficiaries on a
7 fee-for-service basis and physician and nonphysician practitioner
8 services costs.

9 (2) The costs incurred in providing hospital services to uninsured
10 individuals.

11 (c) Each nondesignated public hospital, or governmental entity
12 with which it is affiliated, that operates nonhospital clinics or
13 provides physician, nonphysician practitioner, or other health care
14 services that are not identified as hospital services under the Special
15 Terms and Conditions for the demonstration project and successor
16 demonstration project, shall report and certify all of the
17 uncompensated Medi-Cal and uninsured costs of the services
18 furnished. The amount of these uncompensated costs to be claimed
19 by the department shall be determined by the department in
20 consultation with the governmental entity so as to optimize the
21 level of claimable federal Medicaid reimbursement.

22 (d) Reports submitted under this section shall include all
23 allowable costs.

24 (e) The appropriate public official shall certify to all of the
25 following:

26 (1) The accuracy of the reports required under this section.

27 (2) That the expenditures to meet the reported costs comply
28 with Section 433.51 of Title 42 of the Code of Federal Regulations.

29 (3) That the sources of funds used to make the expenditures
30 certified under this section do not include impermissible provider
31 taxes or donations as defined under Section 1396b(w) of Title 42
32 of the United States Code or other federal funds. For this purpose,
33 federal funds do not include delivery system reform incentive pool
34 payments or patient care revenue received as payment for services
35 rendered under programs such as nondesignated state health
36 programs, the Low Income Health Program, Medicare, or
37 Medicaid.

38 (f) The certification of public expenditures made pursuant to
39 this section shall be based on a schedule established by the
40 department in accordance with federal requirements.

1 (1) The director may require the nondesignated public hospitals
2 to submit quarterly estimates of anticipated expenditures, if these
3 estimates are necessary to obtain interim payments of federal
4 Medicaid funds.

5 (2) All reported expenditures shall be subject to reconciliation
6 to allowable costs, as determined in accordance with applicable
7 implementing documents for the demonstration project and
8 successor demonstration project.

9 (g) The director shall seek Medicaid federal financial
10 participation for all certified public expenditures reported by the
11 nondesignated public hospitals and recognized under the successor
12 demonstration project.

13 (h) The timeframes for data submission and reporting periods
14 may be adjusted as necessary in accordance with federal
15 requirements.

16 ~~SEC. 3. Section 14166.155 is added to the Welfare and~~
17 ~~Institutions Code, to read:~~

18 ~~14166.155. (a) (1) Beginning in the 2014-15 fiscal year, if~~
19 ~~federal approval is obtained for an amendment to the successor~~
20 ~~demonstration project, nondesignated public hospitals shall receive~~
21 ~~payments pursuant to this section. The amount of delivery system~~
22 ~~reform incentive pool funding, consisting of both the federal and~~
23 ~~nonfederal share of payments, that is made available to each~~
24 ~~nondesignated public hospital system in the aggregate for the term~~
25 ~~of the successor demonstration project shall be based initially on~~
26 ~~the delivery system reform proposals that are submitted by the~~
27 ~~nondesignated public hospitals to the department for review and~~
28 ~~submission to the federal Centers for Medicare and Medicaid~~
29 ~~Services for final approval. The initial percentages of delivery~~
30 ~~system reform incentive pool funding among the nondesignated~~
31 ~~public hospitals for each successor demonstration year shall be~~
32 ~~determined based on the annual components as contained in the~~
33 ~~approved proposals.~~

34 ~~(2) The actual receipt of funds shall be conditioned on the~~
35 ~~nondesignated public hospital's progress toward, and achievement~~
36 ~~of, the specified milestones and other metrics established in its~~
37 ~~approved delivery system reform incentive pool proposal. A~~
38 ~~nondesignated public hospital may carry forward available~~
39 ~~incentive pool funding associated with milestones and metrics~~
40 ~~from one year to a subsequent period as authorized by the Special~~

1 ~~Terms and Conditions and the final delivery system reform~~
2 ~~incentive pool protocol.~~

3 ~~(3) The department may reallocate the incentive pool funding~~
4 ~~available under this section pursuant to conditions specified, and~~
5 ~~as authorized by, the Special Terms and Conditions and the final~~
6 ~~delivery system reform incentive pool protocol.~~

7 ~~(b) Each nondesignated public hospital shall be individually~~
8 ~~responsible for progress toward, and achievement of, milestones~~
9 ~~and other metrics in its proposal, as well as other applicable~~
10 ~~requirements specified in the Special Terms and Conditions and~~
11 ~~the final delivery system reform incentive pool protocol, in order~~
12 ~~to receive its specified allocation of incentive pool funding under~~
13 ~~this section.~~

14 ~~(1) The nondesignated public hospital shall submit semiannual~~
15 ~~reports and requests for payment to the department by March 31~~
16 ~~and the September 30 following the end of the second and fourth~~
17 ~~quarters of the successor demonstration year, or comply with any~~
18 ~~other process as approved by the federal Centers for Medicare and~~
19 ~~Medicaid Services.~~

20 ~~(2) Within 14 days after the semiannual report due date, the~~
21 ~~nondesignated public hospital system or its affiliated governmental~~
22 ~~entity shall make an intergovernmental transfer of funds equal to~~
23 ~~the nonfederal share that is necessary to claim the federal funding~~
24 ~~for the pool payment related to the achievement or progress metric~~
25 ~~that is certified. The intergovernmental transfers shall be deposited~~
26 ~~into the Public Hospital Investment, Improvement, and Incentive~~
27 ~~Fund, established pursuant to Section 14182.4.~~

28 ~~(3) The department shall claim the federal funding and pay both~~
29 ~~the nonfederal and federal shares of the incentive payment to the~~
30 ~~nondesignated public hospital system or other affiliated~~
31 ~~governmental provider, as applicable. If the intergovernmental~~
32 ~~transfer is made within the appropriate 14-day timeframe, the~~
33 ~~incentive payment shall be disbursed within seven days with the~~
34 ~~expedited payment process as approved by the federal Centers for~~
35 ~~Medicare and Medicaid Services, otherwise the payment shall be~~
36 ~~disbursed within 20 days of when the transfer is made.~~

37 ~~(4) The nondesignated public hospital system or other affiliated~~
38 ~~governmental provider is responsible for any fee or cost required~~
39 ~~to implement the expedited payment process in accordance with~~
40 ~~Section 8422.1 of the State Administrative Manual.~~

1 ~~(e) The department shall submit for federal approval an~~
2 ~~amendment to the successor demonstration project to implement~~
3 ~~this section.~~

4 ~~(d) In the event of a conflict between any provision of this~~
5 ~~section and the Special Terms and Conditions for the successor~~
6 ~~demonstration project and the final delivery system reform~~
7 ~~incentive pool protocol, the Special Terms and Conditions and the~~
8 ~~final delivery system reform incentive pool protocol shall control.~~

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

13 ~~In order to improve access to health care services for patients in~~
14 ~~underserved areas at the earliest possible time, it is necessary that~~
15 ~~this act take effect immediately.~~

16 ~~SEC. 2. Section 14301.4 of the Welfare and Institutions Code~~
17 ~~is amended to read:~~

18 14301.4. (a) It is the intent of the Legislature, to the extent
19 federal financial participation is not jeopardized and consistent
20 with federal law, that the intergovernmental transfers described in
21 this section provide support for the nonfederal share of risk-based
22 payments to managed care health plans to enable those plans to
23 compensate providers designated by the transferring entity for
24 Medi-Cal health care services and for support of the Medi-Cal
25 program.

26 (b) For the purposes of this section, the following definitions
27 apply:

28 (1) “Intergovernmental transfer” or “IGT” means the transfer
29 of public funds by the transferring entity to the state in accordance
30 with the requirements of this section.

31 (2) “Managed care health plan” means a Medi-Cal managed
32 care plan contracting with the department under this chapter or
33 Article 2.7 (commencing with Section 14087.3), Article 2.8
34 (commencing with Section 14087.5), Article 2.81 (commencing
35 with Section 14087.96), or Article 2.91 (commencing with Section
36 14089) of Chapter 7.

37 (3) “Public provider” means any provider that is able to certify
38 public expenditures under state and federal Medicaid law.

39 (4) “Rate range increases” means increases to risk-based
40 payments to managed care health plans to increase the payments

1 from the lower bound of the range determined to be actuarially
2 sound to the upper bound of that range, as determined by the
3 department's actuaries to take into account the variations in
4 underwriting, risk, return on investment, and contingencies.

5 (5) "Transferring entity" means a public entity, which may be
6 a city, county, special purpose district, or other governmental unit
7 in the state, regardless of whether the unit of government is also
8 a health care provider, except as prohibited by federal law.

9 (c) To the extent permitted by federal law, a transferring entity
10 may elect to make an intergovernmental transfer to the state, and
11 the department may accept all intergovernmental transfers from a
12 transferring entity, for the purposes of providing support for the
13 nonfederal share of risk-based payments to managed care health
14 plans to enable those plans to compensate providers designated
15 by the transferring entity for Medi-Cal health care services and
16 for the support of the Medi-Cal program. The transferring entity
17 shall certify to the department that the funds it proposes to transfer
18 satisfy the requirements of this section and are in compliance with
19 all federal rules and regulations.

20 (d) (1) Pursuant to paragraphs (2), (3), and (4), the state shall,
21 upon acceptance of the IGT described in subdivision (c), assess a
22 fee of 20 percent on each IGT subject to this section to reimburse
23 the department for the administrative costs of operating the IGT
24 program pursuant to this section and for the support of the
25 Medi-Cal program.

26 (2) The IGTs subject to the fee shall be limited to those made
27 by a transferring entity to provide the nonfederal share of rate
28 range increases.

29 (3) The 20-percent assessment shall not apply to IGTs
30 designated for increases to risk-based payments to managed care
31 health plans intended to increase reimbursement for designated
32 public providers *and nondesignated public hospitals* for purposes
33 of equaling the amount of reimbursement the public provider would
34 have received through certified public expenditures under the
35 fee-for-service payment methodology.

36 (4) The 20-percent assessment shall not apply to IGTs authorized
37 pursuant to Sections 14168.7 and 14182.15.

38 (e) Participation in the intergovernmental transfers pursuant to
39 this section is voluntary on the part of the transferring entities for
40 the purposes of all applicable federal laws.

1 (f) The director shall seek any necessary federal approvals for
2 the implementation of this section.

3 (g) To the extent that the director determines that the payments
4 made pursuant to this section do not comply with the federal
5 Medicaid requirements, the director retains the discretion to return
6 the IGTs or not accept the IGTs.

7 (h) This section shall be implemented only to the extent that
8 federal financial participation is not jeopardized.

9 (i) Notwithstanding Chapter 3.5 (commencing with Section
10 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
11 the department shall implement this section by means of policy
12 letters or similar instructions, without taking further regulatory
13 action.

14 (j) This section shall be implemented on July 1, 2011, or the
15 date on which all necessary federal approvals have been received,
16 whichever is later.

17 *SEC. 3. Section 14301.56 is added to the Welfare and*
18 *Institutions Code, to read:*

19 *14301.56. (a) (1) To the extent federal financial participation*
20 *is not jeopardized and consistent with federal law, the department*
21 *shall pay rate range increases, as defined in paragraph (4) of*
22 *subdivision (b) of Section 14301.4, to Medi-Cal managed care*
23 *plans that have a contract with the department under Section*
24 *14087.98, for the purposes specified in paragraph (2). If a*
25 *nonfederal share is necessary to fund the rate range increases, an*
26 *affiliated governmental entity may voluntarily provide*
27 *intergovernmental transfers as the nonfederal share. The*
28 *department shall not be required to pay rate range increases*
29 *pursuant to this section if intergovernmental transfers are not*
30 *received as the nonfederal share.*

31 *(2) The Medi-Cal managed care plans shall pay the rate range*
32 *increases provided under this section as additional payments to*
33 *nondesignated public hospitals for providing and making available*
34 *services to Medi-Cal enrollees of the plan for purposes of equaling*
35 *the amount of reimbursement the nondesignated public hospital*
36 *would have received through certified public expenditures under*
37 *the fee-for-service payment methodology.*

38 *(b) The increased payments to Medi-Cal managed care plans*
39 *that would be paid consistent with actuarial certification and*
40 *enrollment in the absence of this section, including, but not limited*

- 1 *to, payments described in Section 14182.15, shall not be reduced*
- 2 *as a consequence of payment under this section.*

O