

AMENDED IN SENATE FEBRUARY 14, 2014

AMENDED IN SENATE JANUARY 17, 2014

AMENDED IN SENATE JULY 2, 2013

AMENDED IN ASSEMBLY MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1124

Introduced by Assembly Member Muratsuchi

February 22, 2013

An act to amend Section 14105.22 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1124, as amended, Muratsuchi. Medi-Cal: reimbursement rates.

Existing law states the intent of the Legislature that the State Department of Health Care Services develop Medi-Cal reimbursement rates for clinical laboratory or laboratory services in accordance with specified criteria. Existing law exempts from compliance with a specified regulation laboratory providers reimbursed pursuant to any payment reductions implemented pursuant to these provisions for 21 months following the date of implementation of this reduction, and requires the department to adopt emergency regulations by July 1, 2014.

This bill would instead exempt these laboratory providers from compliance with the specified regulation until July 1, 2015, and would require the department to adopt emergency regulations by ~~January 1, 2015~~. *June 30, 2016*.

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. Section 14105.22 of the Welfare and Institutions
2 Code is amended to read:

3 14105.22. (a) (1) Reimbursement for clinical laboratory or
4 laboratory services, as defined in Section 51137.2 of Title 22 of
5 the California Code of Regulations, shall not exceed 80 percent
6 of the lowest maximum allowance established by the federal
7 Medicare Program for the same or similar services.

8 (2) This subdivision shall be implemented only until the new
9 rate methodology under subdivision (b) is approved by the federal
10 Centers for Medicare and Medicaid Services (CMS).

11 (b) (1) It is the intent of the Legislature that the department
12 develop reimbursement rates for clinical laboratory or laboratory
13 services that are comparable to the payment amounts received
14 from other payers for clinical laboratory or laboratory services.
15 Development of these rates will enable the department to reimburse
16 clinical laboratory or laboratory service providers in compliance
17 with state and federal law.

18 (2) (A) The provisions of Section 51501(a) of Title 22 of the
19 California Code of Regulations shall not apply to laboratory
20 providers reimbursed under the new rate methodology developed
21 for clinical laboratories or laboratory services pursuant to this
22 subdivision.

23 (B) In addition to subparagraph (A), laboratory providers
24 reimbursed under any payment reductions implemented pursuant
25 to this section shall not be subject to the provisions of Section
26 51501(a) of Title 22 of the California Code of Regulations until
27 July 1, 2015.

28 (3) Reimbursement to providers for clinical laboratory or
29 laboratory services shall not exceed the lowest of the following:

30 (A) The amount billed.

31 (B) The charge to the general public.

32 (C) Eighty percent of the lowest maximum allowance established
33 by the federal Medicare Program for the same or similar services.

1 (D) A reimbursement rate based on an average of the lowest
2 amount that other payers and other state Medicaid programs are
3 paying for similar clinical laboratory or laboratory services.

4 (4) (A) In addition to the payment reductions implemented
5 pursuant to Section 14105.192, payments shall be reduced by up
6 to 10 percent for clinical laboratory or laboratory services, as
7 defined in Section 51137.2 of Title 22 of the California Code of
8 Regulations, for dates of service on and after July 1, 2012. The
9 payment reductions pursuant to this paragraph shall continue until
10 the new rate methodology under this subdivision has been approved
11 by CMS.

12 (B) Notwithstanding subparagraph (A), the Family Planning,
13 Access, Care, and Treatment (Family PACT) Program pursuant
14 to subdivision (aa) of Section 14132 shall be exempt from the
15 payment reduction specified in this section.

16 (5) (A) For purposes of establishing reimbursement rates for
17 clinical laboratory or laboratory services based on the lowest
18 amounts other payers are paying providers for similar clinical
19 laboratory or laboratory services, laboratory service providers shall
20 submit data reports within 11 months of the date the act that added
21 this paragraph becomes effective and annually thereafter. The data
22 initially provided shall be for the 2011 calendar year, and for each
23 subsequent year, shall be based on the previous calendar year and
24 shall specify the provider's lowest amounts other payers are paying,
25 including other state Medicaid programs and private insurance,
26 minus discounts and rebates. The specific data required for
27 submission under this subparagraph and the format for the data
28 submission shall be determined and specified by the department
29 after receiving stakeholder input pursuant to paragraph (7).

30 (B) The data submitted pursuant to subparagraph (A) may be
31 used to determine reimbursement rates by procedure code based
32 on an average of the lowest amount other payers are paying
33 providers for similar clinical laboratory or laboratory services,
34 excluding significant deviations of cost or volume factors and with
35 consideration to geographical areas. The department shall have
36 the discretion to determine the specific methodology and factors
37 used in the development of the lowest average amount under this
38 subparagraph to ensure compliance with federal Medicaid law and
39 regulations as specified in paragraph (10).

1 (C) For purposes of subparagraph (B), the department may
2 contract with a vendor for the purposes of collecting payment data
3 reports from clinical laboratories, analyzing payment information,
4 and calculating a proposed rate.

5 (D) The proposed rates calculated by the vendor described in
6 subparagraph (C) may be used in determining the lowest
7 reimbursement rate for clinical laboratories or laboratory services
8 in accordance with paragraph (3).

9 (E) Data reports submitted to the department shall be certified
10 by the provider’s certified financial officer or an authorized
11 individual.

12 (F) Clinical laboratory providers that fail to submit data reports
13 within 30 working days from the time requested by the department
14 shall be subject to the suspension provisions of subdivisions (a)
15 and (c) of Section 14123.

16 (6) Data reports provided to the department pursuant to this
17 section shall be confidential and shall be exempt from disclosure
18 under the California Public Records Act (Chapter 3.5 (commencing
19 with Section 6250) of Division 7 of Title 1 of the Government
20 Code).

21 (7) The department shall seek stakeholder input on the
22 ratesetting methodology.

23 (8) (A) Notwithstanding Chapter 3.5 (commencing with Section
24 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
25 the department shall, without taking any further regulatory action,
26 implement, interpret, or make specific this section by means of
27 provider bulletins or similar instructions until regulations are
28 adopted. It is the intent of the Legislature that the department have
29 temporary authority as necessary to implement program changes
30 until completion of the regulatory process.

31 (B) The department shall adopt emergency regulations no later
32 than ~~January 1, 2015~~ *June 30, 2016*. The department may readopt
33 any emergency regulation authorized by this section that is the
34 same as or substantially equivalent to an emergency regulation
35 previously adopted pursuant to this section. The initial adoption
36 of emergency regulations implementing the amendments to this
37 section and the one readoption of emergency regulations authorized
38 by this section shall be deemed an emergency and necessary for
39 the immediate preservation of the public peace, health, safety, or
40 general welfare. Initial emergency regulations and the one

1 readoption of emergency regulations authorized by this section
2 shall be exempt from review by the Office of Administrative Law.

3 (C) The initial emergency regulations and the one readoption
4 of emergency regulations authorized by this section shall be
5 submitted to the Office of Administrative Law for filing with the
6 Secretary of State and each shall remain in effect for no more than
7 180 days, by which time final regulations may be adopted.

8 (9) To the extent that the director determines that the new
9 methodology or payment reductions are not consistent with the
10 requirements of Section 1396a(a)(30)(A) of Title 42 of the United
11 States Code, the department may revert to the methodology under
12 subdivision (a) to ensure access to care is not compromised.

13 (10) (A) The department shall implement this section in a
14 manner that is consistent with federal Medicaid law and
15 regulations. The director shall seek any necessary federal approvals
16 for the implementation of this section. This section shall be
17 implemented only to the extent that federal approval is obtained.

18 (B) In determining whether federal financial participation is
19 available, the director shall determine whether the rates and
20 payments comply with applicable federal Medicaid requirements,
21 including those set forth in Section 1396a(a)(30)(A) of Title 42 of
22 the United States Code.

23 (C) To the extent that the director determines that the rates and
24 payments do not comply with applicable federal Medicaid
25 requirements or that federal financial participation is not available
26 with respect to any reimbursement rate, the director retains the
27 discretion not to implement that rate or payment and may revise
28 the rate or payment as necessary to comply with federal Medicaid
29 requirements. The department shall notify the Joint Legislative
30 Budget Committee 10 days prior to revising the rate or payment
31 to comply with federal Medicaid requirements.

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

36 In order to ensure that the State Department of Health Care
37 Services can establish a new pricing methodology by the statutory
38 deadline, it is necessary that this act take effect immediately.

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