

Assembly Bill No. 1233

Passed the Assembly August 19, 2013

Chief Clerk of the Assembly

Passed the Senate August 15, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 14132.47 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1233, Chesbro. Medi-Cal: Administrative Claiming process.

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 establishes an Administrative Claiming process under which local governmental agencies and local educational consortia contract with the department for the purpose of obtaining federal matching funds to assist with the performance of administrative activities relating to the Medi-Cal program. Under existing law, a participating local governmental agency may include a Native American Indian tribe, a tribal organization, or a subgroup of a Native American Indian tribe or tribal organization.

This bill would authorize a Native American Indian tribe, a tribal organization, or a subgroup of a Native American Indian tribe or tribal organization to claim, as a Medi-Cal Administrative Activity, facilitating Medi-Cal applications, which includes, but is not limited to, using the California Healthcare Eligibility, Enrollment, and Retention System.

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. Section 14132.47 of the Welfare and Institutions Code is amended to read:

14132.47. (a) It is the intent of the Legislature to provide local governmental agencies the choice of participating in either or both of the Targeted Case Management (TCM) and Administrative

Claiming process programs at their option, subject to the requirements of this section and Section 14132.44.

(b) The department may contract with each participating local governmental agency or each local educational consortium to assist with the performance of administrative activities necessary for the proper and efficient administration of the Medi-Cal program, pursuant to Section 1903a of the federal Social Security Act (42 U.S.C. Sec. 1396b(a)), and this activity shall be known as the Administrative Claiming process.

(c) (1) Subject to the requirements of paragraph (2) of subdivision (f), as a condition for participation in the Administrative Claiming process, each participating local governmental agency or each local educational consortium shall, for the purpose of claiming federal Medicaid reimbursement, enter into a contract with the department and shall certify to the department the total amount the local governmental agency or each local educational consortium expended on the allowable administrative activities.

(2) The department shall deny the claim if it determines that the certification is not adequately supported, or does not otherwise comply with federal requirements, for purposes of claiming federal financial participation.

(d) Each participating local governmental agency or local educational consortium may subcontract with private or public entities to assist with the performance of administrative activities necessary for the proper and efficient administration of the Medi-Cal program under the conditions specified by the department in regulations.

(e) Each Administrative Claiming process contract shall include a requirement that each participating local governmental agency or each local educational consortium submit a claiming plan in a manner that shall be prescribed by the department in regulations, developed in consultation with local governmental agencies.

(f) (1) The department shall require that each participating local governmental agency or each local educational consortium certify to the department both of the following:

(A) The expenditure of 100 percent of the cost of performing Administrative Claiming process activities. The funds expended for this purpose shall be from the local governmental agency's

general fund or the general funds of local educational agencies or from any other funds allowed under federal law and regulation.

(B) In each fiscal year that its expenditures represent costs that are eligible for federal financial participation for that fiscal year. The department shall deny the claim if it determines that the certification is not adequately supported for purposes of federal financial participation.

(2) (A) (i) A city that is not a participating local governmental agency, or any other local public entity, that contracts with a local governmental agency pursuant to subdivision (d) and that is located within a county that is a participating local governmental agency pursuant to this section, may submit certification to the local governmental agency of amounts expended for Administrative Claiming services in accordance with Section 433.51 of Title 42 of the Code of Federal Regulations.

(ii) A city or other local public entity that submits certification pursuant to this paragraph shall comply with the requirements of paragraph (1), with other requirements applicable to local governmental agencies that the department determines, in regulations, to be applicable, and with all applicable federal requirements.

(iii) The local governmental agency shall forward the city's or local public entity's certification to the department for the purposes of claiming federal financial participation.

(iv) As applicable, the local governmental agency shall obtain and retain appropriate certifications from the expending city or local public entity, together with documentation of the underlying expenditures, as required by the department.

(B) A tribe or tribal organization, as defined in subdivision (n), that is not participating in Administrative Claiming process activities as a local governmental agency, may contract with, and submit to a tribe or tribal organization that is contracting with, the department pursuant to subdivision (b) amounts expended for Administrative Claiming process activities that it is certifying in accordance with Section 433.51 of Title 42 of the Code of Federal Regulations and other applicable federal law and regulations. The tribe or tribal organization receiving the certification shall forward it to the department for purposes of claiming federal financial participation. The certification shall comply with all of the requirements for certification set forth in subparagraph (A).

(g) (1) Notwithstanding any other provision of this section, the state shall be held harmless, in accordance with paragraphs (2) and (3), from any federal audit disallowance and interest resulting from payments made to a participating local governmental agency or local educational consortium pursuant to this section, for the disallowed claim.

(2) To the extent that a federal audit disallowance and interest results from a claim or claims for which any participating local governmental agency or local educational consortium has received reimbursement for Administrative Claiming process activities, the department shall recoup from the local governmental agency or local educational consortium that submitted the disallowed claim, through offsets or by a direct billing, amounts equal to the amount of the disallowance and interest, in that fiscal year, for the disallowed claim. All subsequent claims submitted to the department applicable to any previously disallowed administrative activity or claim, may be held in abeyance, with no payment made, until the federal disallowance issue is resolved.

(3) Notwithstanding paragraph (2), to the extent that a federal audit disallowance and interest results from a claim or claims for which the participating local governmental agency or local educational consortium has received reimbursement for Administrative Claiming process activities performed by an entity under contract with, and on behalf of, the participating local governmental agency or local educational consortium, the department shall be held harmless by that particular participating local governmental agency or local educational consortium for 100 percent of the amount of the federal audit disallowance and interest, for the disallowed claim.

(h) The use of local funds required by this section shall not create, lead to, or expand the health care funding obligations or service obligations for current or future years for any participating local governmental agency or local educational consortium, except as required by this section or as may be required by federal law.

(i) The department shall deny any claim from a participating local governmental agency or local educational consortium if the department determines that the claim is not adequately supported in accordance with criteria established pursuant to this subdivision and implementing regulations before it forwards the claim for reimbursement to the federal Medicaid Program. In consultation

with local governmental agencies and local educational consortia, the department shall adopt regulations that prescribe the requirements for the submission and payment of claims for administrative activities performed by each participating local governmental agency and local educational consortium.

(j) Administrative activities shall be those determined by the department to be necessary for the proper and efficient administration of the state's Medicaid plan and shall be defined in regulation.

(k) If the department denies any claim submitted under this section, the affected participating local governmental agency or local educational consortium may, within 30 days after receipt of written notice of the denial, request that the department reconsider its action. The participating local governmental agency or local educational consortium may request a meeting with the director or his or her designee within 30 days to present its concerns to the department after the request is filed. If the director or his or her designee cannot meet, the department shall respond in writing indicating the specific reasons for which the claim is out of compliance to the participating local governmental agency or local educational consortium in response to its appeal. Thereafter, the decision of the director shall be final.

(l) To the extent consistent with federal law and regulations, participating local governmental agencies or local educational consortium may claim the actual costs of nonemergency, nonmedical transportation of Medi-Cal eligibles to Medi-Cal covered services, under guidelines established by the department, to the extent that these costs are actually borne by the participating local governmental agency or local educational consortium. A local educational consortium may only claim for nonemergency, nonmedical transportation of Medi-Cal eligibles for Medi-Cal covered services, through the Medi-Cal administrative activities program. Medi-Cal medical transportation services shall be claimed under the local educational agency Medi-Cal billing option, pursuant to Section 14132.06.

(m) As a condition of participation in the Administrative Claiming process and in recognition of revenue generated to each participating local governmental agency and each local educational consortium in the Administrative Claiming process, each participating local governmental agency and each local educational

consortium shall pay an annual participation fee through a mechanism agreed to by the state and local governmental agencies and local educational consortia, or, if no agreement is reached by August 1 of each year, directly to the state. The participation fee shall be used to cover the cost of administering the Administrative Claiming process, including, but not limited to, claims processing, technical assistance, and monitoring. The department shall determine and report staffing requirements upon which projected costs will be based. The amount of the participation fee shall be based upon the anticipated salaries, benefits, and operating expenses, to administer the Administrative Claiming process and other costs related to that process.

(n) (1) For the purposes of this section, “participating local governmental agency” means a county, chartered city, Native American Indian tribe, tribal organization, or subgroup of a Native American Indian tribe or tribal organization, under contract with the department pursuant to subdivision (b).

(2) Each participating Native American Indian tribe, tribal organization, or subgroup of a Native American Indian tribe or tribal organization may claim, as a Medi-Cal Administrative Activity, facilitating Medi-Cal applications, which includes, but is not limited to, using the California Healthcare Eligibility, Enrollment, and Retention System.

(o) For purposes of this section, “local educational agency” means a local educational agency, as defined in subdivision (h) of Section 14132.06, that participates under the Administrative Claiming process as a subcontractor to the local educational consortium in its service region.

(p) (1) For purposes of this section, “local educational consortium” means a local agency that is one of the service regions of the California County Superintendent Educational Services Association.

(2) Each local educational consortium shall contract with the department pursuant to paragraph (1) of subdivision (c).

(q) (1) Each participating local educational consortium shall be responsible for the local educational agencies in its service region that participate in the Administrative Claiming process. This responsibility includes, but is not limited to, the preparation and submission of all administrative claiming plans, training of local educational agency staff, overseeing the local educational

agency time survey process, and the submission of detailed quarterly invoices on behalf of any participating local educational agency.

(2) Each participating local educational consortium shall ensure local educational agency compliance with all requirements of the Administrative Claiming process established for local governmental agencies.

(3) Ninety days prior to the initial participation in the Administrative Claiming process, each local educational consortium shall notify the department of its intent to participate in the process, and shall identify each local educational agency that will be participating as its subcontractor.

(r) (1) Each local educational agency that elects to participate in the Administrative Claiming process shall submit claims through its local educational consortium or through the local governmental agency, but not both.

(2) Each local educational agency participating as a subcontractor to a local educational consortium shall comply with all requirements of the Administrative Claiming process established for local governmental agencies.

(s) A participating local governmental agency or a local educational consortium may charge an administrative fee to any entity claiming Administrative Claiming through that agency.

(t) The department shall continue to administer the Administrative Claiming process in conformity with federal requirements.

(u) The department shall provide technical assistance to all participating local governmental agencies and local educational consortia in order to maximize federal financial participation in the Administrative Claiming process.

(v) This section shall be applicable to Administrative Claiming process activities performed, and to moneys paid to participating local governmental agencies for those activities in the 1994–95 fiscal year and thereafter, and to local educational consortia in the 1998–99 fiscal year and thereafter.

(w) Nothing in this section or Section 14132.44 shall be construed to prevent any state agency from participating in the Administrative Claiming process or from contracting with others to engage in these activities.

SEC. 2. 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 facilitate implementation of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) at the earliest possible time, it is necessary that this act take effect immediately.

Approved _____, 2013

Governor