

AMENDED IN SENATE AUGUST 22, 2014
AMENDED IN SENATE JUNE 12, 2014
AMENDED IN ASSEMBLY MAY 23, 2014
AMENDED IN ASSEMBLY MAY 1, 2014
AMENDED IN ASSEMBLY APRIL 7, 2014
AMENDED IN ASSEMBLY MARCH 28, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2577

Introduced by Assembly Members Cooley and Pan

February 21, 2014

An act to amend Section 14105.94 of the ~~Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately., and to add Section 14105.941 to, the Welfare and Institutions Code, relating to Medi-Cal.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2577, as amended, Cooley. Medi-Cal: ground emergency medical transportation ~~services: supplemental reimbursement. services.~~

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, and 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 authorizes certain ground emergency medical transportation providers to receive supplemental Medi-Cal reimbursement in addition to the rate of payment the provider would otherwise receive for those services. Existing law

provides that participation in the supplemental reimbursement program by an eligible provider is voluntary, and requires the nonfederal share of the supplemental reimbursement to be paid only with funds from specified governmental entities.

~~This bill would include, as eligible providers, those that provide ground emergency medical transportation to Medi-Cal fee-for-service or managed care beneficiaries. The bill would also authorize the governmental entities to include, as the nonfederal share of expenditures for ground emergency medical transportation services, and in collaboration with the department, voluntary intergovernmental transfers (IGTs) that conform with federal law. The bill would provide specific timeframes for the implementation of these provisions.~~

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

~~This bill would authorize the department to provide supplemental reimbursement under these provisions for the cost of paramedic services at a rate of payment equal to cost.~~

~~This bill would also require the department to develop and implement an intergovernmental transfer (IGT) program in order to increase capitation payments to Medi-Cal managed care plans for covered ground emergency medical transportation services, as specified. The bill would require the department to implement the IGT program on January 1, 2015, or a later date if otherwise required pursuant to any necessary federal approvals obtained. The bill would provide that participation in the IGTs is voluntary on the part of the transferring entity and would require Medi-Cal managed care plans to pay 100% of any amount of increased capitation payments made to eligible providers for providing and making available ground emergency medical transportation services.~~

~~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 14105.94 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 14105.94. (a) An eligible provider, as described in subdivision
- 4 (b), may, in addition to the rate of payment that the provider would
- 5 otherwise receive for Medi-Cal ground emergency medical

1 transportation services, receive supplemental Medi-Cal
2 reimbursement to the extent provided in this section.

3 (b) A provider shall be eligible for supplemental reimbursement
4 only if the provider has all of the following characteristics
5 continuously during a state fiscal year:

6 (1) Provides ground emergency medical transportation services
7 to Medi-Cal beneficiaries.

8 (2) Is a provider that is enrolled as a Medi-Cal provider for the
9 period being claimed.

10 (3) Is owned or operated by the state, a city, county, city and
11 county, fire protection district organized pursuant to Part 2.7
12 (commencing with Section 13800) of Division 12 of the Health
13 and Safety Code, special district organized pursuant to Chapter 1
14 (commencing with Section 58000) of Division 1 of Title 6 of the
15 Government Code, community services district organized pursuant
16 to Part 1 (commencing with Section 61000) of Division 3 of Title
17 6 of the Government Code, health care district organized pursuant
18 to Chapter 1 (commencing with Section 32000) of Division 23 of
19 the Health and Safety Code, or a federally recognized Indian tribe.

20 (c) An eligible provider's supplemental reimbursement pursuant
21 to this section shall be calculated and paid as follows:

22 (1) The supplemental reimbursement to an eligible provider, as
23 described in subdivision (b), shall be equal to the amount of federal
24 financial participation received as a result of the claims submitted
25 pursuant to paragraph (2) of subdivision (f).

26 (2) In no instance shall the amount certified pursuant to
27 paragraph (1) of subdivision (e), when combined with the amount
28 received from all other sources of reimbursement from the
29 Medi-Cal program, exceed 100 percent of actual costs, as
30 determined pursuant to the Medi-Cal State Plan, for ground
31 emergency medical transportation services.

32 (3) The supplemental Medi-Cal reimbursement provided by this
33 section shall be distributed exclusively to eligible providers under
34 a payment methodology based on ground emergency medical
35 transportation services provided to Medi-Cal beneficiaries by
36 eligible providers on a per-transport basis or other federally
37 permissible basis. *The department may, to the extent permitted*
38 *under federal law and regulations, provide supplemental*
39 *reimbursement for the cost of paramedic services at a rate of*
40 *payment equal to cost.* The department shall obtain approval from

1 the federal Centers for Medicare and Medicaid Services for the
2 payment methodology to be utilized, and may not make any
3 payment pursuant to this section prior to obtaining that approval.

4 (d) (1) It is the Legislature's intent in enacting this section to
5 provide the supplemental reimbursement described in this section
6 without any expenditure from the General Fund. An eligible
7 provider, as a condition of receiving supplemental reimbursement
8 pursuant to this section, shall enter into, and maintain, an agreement
9 with the department for the purposes of implementing this section
10 and reimbursing the department for the costs of administering this
11 section.

12 (2) The nonfederal share of the supplemental reimbursement
13 submitted to the federal Centers for Medicare and Medicaid
14 Services for purposes of claiming federal financial participation
15 shall be paid only with funds from the governmental entities
16 described in paragraph (3) of subdivision (b) and certified to the
17 state as provided in subdivision (e).

18 (e) Participation in the program by an eligible provider described
19 in this section is voluntary. If an applicable governmental entity
20 elects to seek supplemental reimbursement pursuant to this section
21 on behalf of an eligible provider owned or operated by the entity,
22 as described in paragraph (3) of subdivision (b), the governmental
23 entity shall do all of the following:

24 (1) Certify, in conformity with the requirements of Section
25 433.51 of Title 42 of the Code of Federal Regulations, that the
26 claimed expenditures for the ground emergency medical
27 transportation services are eligible for federal financial
28 participation.

29 (2) Provide evidence supporting the certification as specified
30 by the department.

31 (3) Submit data as specified by the department to determine the
32 appropriate amounts to claim as expenditures qualifying for federal
33 financial participation.

34 (4) Keep, maintain, and have readily retrievable, any records
35 specified by the department to fully disclose reimbursement
36 amounts to which the eligible provider is entitled, and any other
37 records required by the federal Centers for Medicare and Medicaid
38 Services.

39 (f) (1) The department shall promptly seek any necessary federal
40 approvals for the implementation of this section. The department

1 may limit the program to those costs that are allowable
2 expenditures under Title XIX of the federal Social Security Act
3 (42 U.S.C. 1396 et seq.). If federal approval is not obtained for
4 implementation of this section, this section shall not be
5 implemented.

6 (2) The department shall submit claims for federal financial
7 participation for the expenditures for the services described in
8 subdivision (e) that are allowable expenditures under federal law.

9 (3) The department shall, on an annual basis, submit any
10 necessary materials to the federal government to provide assurances
11 that claims for federal financial participation will include only
12 those expenditures that are allowable under federal law.

13 (g) (1) If either a final judicial determination is made by any
14 court of appellate jurisdiction or a final determination is made by
15 the administrator of the federal Centers for Medicare and Medicaid
16 Services that the supplemental reimbursement provided for in this
17 section must be made to any provider not described in this section,
18 the director shall execute a declaration stating that the
19 determination has been made and on that date this section shall
20 become inoperative.

21 (2) The declaration executed pursuant to this subdivision shall
22 be retained by the director, provided to the fiscal and appropriate
23 policy committees of the Legislature, the Secretary of State, the
24 Secretary of the Senate, the Chief Clerk of the Assembly, and the
25 Legislative Counsel, and posted on the department's Internet Web
26 site.

27 (h) Notwithstanding Chapter 3.5 (commencing with Section
28 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
29 the department may implement and administer this section by
30 means of provider bulletins, or similar instructions, without taking
31 regulatory action.

32 *SEC. 2. Section 14105.941 is added to the Welfare and*
33 *Institutions Code, immediately following Section 14105.94, to*
34 *read:*

35 *14105.941. (a) The department shall design and implement,*
36 *in consultation with eligible providers as described in subdivision*
37 *(b), an intergovernmental transfer program relating to Medi-Cal*
38 *managed care, ground emergency medical transport services in*
39 *order to increase capitation payments for the purpose of increasing*
40 *reimbursement to eligible providers.*

1 (b) A provider shall be eligible for increased reimbursement
2 pursuant to this section only if the provider meets both of the
3 following conditions in an applicable state fiscal year:

4 (1) Provides ground emergency medical transport services to
5 Medi-Cal managed care enrollees pursuant to a contract or other
6 arrangement with a Medi-Cal managed care plan.

7 (2) Is owned or operated by the state, a city, county, city and
8 county, fire protection district organized pursuant to Part 2.7
9 (commencing with Section 13800) of Division 12 of the Health
10 and Safety Code, special district organized pursuant to Chapter
11 1 (commencing with Section 58000) of Division 1 of Title 6 of the
12 Government Code, community services district organized pursuant
13 to Part 1 (commencing with Section 61000) of Division 3 of Title
14 6 of the Government Code, health care district organized pursuant
15 to Chapter 1 (commencing with Section 32000) of Division 23 of
16 the Health and Safety Code, or a federally recognized Indian tribe.

17 (c) (1) To the extent intergovernmental transfers are voluntarily
18 made by, and accepted from, an eligible provider described in
19 subdivision (b), or a governmental entity affiliated with an eligible
20 provider, the department shall make increased capitation payments
21 to applicable Medi-Cal managed care plans for covered ground
22 emergency medical transportation services.

23 (2) The increased capitation payments made pursuant to this
24 section shall be in amounts actuarially equivalent to the
25 supplemental fee-for-service payments available for eligible
26 providers pursuant to Section 14105.94, to the extent permissible
27 under federal law.

28 (3) Except as provided in subdivision (f), all funds associated
29 with intergovernmental transfers made and accepted pursuant to
30 this section shall be used to fund additional payments to eligible
31 providers.

32 (4) Medi-Cal managed care plans shall pay 100 percent of any
33 amount of increased capitation payments made pursuant to this
34 section to eligible providers for providing and making available
35 ground emergency medical transportation services pursuant to a
36 contract or other arrangement with a Medi-Cal managed care
37 plan.

38 (d) The intergovernmental transfer program developed pursuant
39 to this section shall be implemented on January 1, 2015, or a later
40 date if otherwise required pursuant to any necessary federal

1 *approvals obtained, and only to the extent intergovernmental*
2 *transfers from the eligible provider, or the governmental entity*
3 *with which it is affiliated, are provided for this purpose. To the*
4 *extent permitted by federal law, the department may implement*
5 *the intergovernmental transfer program and increased capitation*
6 *payments pursuant to this section on a retroactive basis as needed.*

7 *(e) Participation in the intergovernmental transfers under this*
8 *section is voluntary on the part of the transferring entities for*
9 *purposes of all applicable federal laws.*

10 *(f) This section shall be implemented without any additional*
11 *expenditure from the state General Fund. As a condition of*
12 *participation under this section, each eligible provider as described*
13 *in subdivision (b), or the governmental entity affiliated with an*
14 *eligible provider, shall agree to reimburse the department for any*
15 *costs associated with implementing this section. Intergovernmental*
16 *transfers described in this section are not subject to the*
17 *administrative fee assessed under paragraph (1) of subdivision*
18 *(d) of Section 14301.4.*

19 *(g) As a condition of participation under this section, Medi-Cal*
20 *managed care plans, eligible providers as described in subdivision*
21 *(b), and governmental entities affiliated with eligible providers*
22 *shall agree to comply with any requests for information or similar*
23 *data requirements imposed by the department for purposes of*
24 *obtaining supporting documentation necessary to claim federal*
25 *funds or to obtain federal approvals.*

26 *(h) This section shall be implemented only if and to the extent*
27 *federal financial participation is available and is not otherwise*
28 *jeopardized, and any necessary federal approvals have been*
29 *obtained.*

30 *(i) To the extent that the director determines that the payments*
31 *made pursuant to this section do not comply with federal Medicaid*
32 *requirements, the director retains the discretion to return or not*
33 *accept an intergovernmental transfer, and may adjust payments*
34 *pursuant to this section as necessary to comply with federal*
35 *Medicaid requirements.*

36 *(j) To the extent federal approval is obtained, the increased*
37 *capitation payments under this section may commence for dates*
38 *of service on or after January 1, 2015.*

39 *(k) Notwithstanding Chapter 3.5 (commencing with Section*
40 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*

1 *the department may implement, interpret, or make specific this*
2 *section by means of all-county letters, plan letters, plan or provider*
3 *bulletins, or similar instructions, without taking regulatory action.*

4 SECTION 1. Section 14105.94 of the Welfare and Institutions
5 Code is amended to read:

6 14105.94. ~~(a) An eligible provider, as described in subdivision~~
7 ~~(b), may, in addition to the rate of payment that the provider would~~
8 ~~otherwise receive for Medi-Cal ground emergency medical~~
9 ~~transportation services, receive supplemental Medi-Cal~~
10 ~~reimbursement to the extent provided in this section.~~

11 (b) A provider shall be eligible for supplemental reimbursement
12 only if the provider has all of the following characteristics
13 continuously during a state fiscal year:

14 (1) Provides ground emergency medical transportation services
15 to Medi-Cal fee-for-service or managed care beneficiaries.

16 (2) Is a provider that is enrolled as a Medi-Cal provider for the
17 period being claimed.

18 (3) Is owned or operated by the state, a city, county, city and
19 county, fire protection district organized pursuant to Part 2.7
20 (commencing with Section 13800) of Division 12 of the Health
21 and Safety Code, special district organized pursuant to Chapter 1
22 (commencing with Section 58000) of Division 1 of Title 6 of the
23 Government Code, community services district organized pursuant
24 to Part 1 (commencing with Section 61000) of Division 3 of Title
25 6 of the Government Code, health care district organized pursuant
26 to Chapter 1 (commencing with Section 32000) of Division 23 of
27 the Health and Safety Code, or a federally recognized Indian tribe.

28 (e) An eligible provider's supplemental reimbursement pursuant
29 to this section shall be calculated and paid as follows:

30 (1) The supplemental reimbursement to an eligible provider, as
31 described in subdivision (b), shall be equal to the amount of federal
32 financial participation received as a result of the claims submitted
33 pursuant to paragraph (2) of subdivision (f).

34 (2) In no instance shall the amount certified pursuant to
35 paragraph (1) of subdivision (e), when combined with the amount
36 received from all other sources of reimbursement from the
37 Medi-Cal program, exceed 100 percent of actual costs, as
38 determined pursuant to the Medi-Cal State Plan, for ground
39 emergency medical transportation services.

1 ~~(3) The supplemental Medi-Cal reimbursement provided by this~~
2 ~~section shall be distributed exclusively to eligible providers under~~
3 ~~a payment methodology based on ground emergency medical~~
4 ~~transportation services provided to Medi-Cal beneficiaries by~~
5 ~~eligible providers on a per-transport basis or other federally~~
6 ~~permissible basis. The department shall obtain approval from the~~
7 ~~federal Centers for Medicare and Medicaid Services for the~~
8 ~~payment methodology to be utilized, and may not make any~~
9 ~~payment pursuant to this section prior to obtaining that approval.~~

10 ~~(d) (1) It is the Legislature's intent in enacting this section to~~
11 ~~provide the supplemental reimbursement described in this section~~
12 ~~without any expenditure from the General Fund. An eligible~~
13 ~~provider, as a condition of receiving supplemental reimbursement~~
14 ~~pursuant to this section, shall enter into, and maintain, an agreement~~
15 ~~with the department for the purposes of implementing this section~~
16 ~~and reimbursing the department for the costs of administering this~~
17 ~~section.~~

18 ~~(2) The nonfederal share of the supplemental reimbursement~~
19 ~~submitted to the federal Centers for Medicare and Medicaid~~
20 ~~Services for purposes of claiming federal financial participation~~
21 ~~shall be paid only with funds from the governmental entities~~
22 ~~described in paragraph (3) of subdivision (b) and certified to the~~
23 ~~state as provided in subdivision (e).~~

24 ~~(e) Participation in the program by an eligible provider described~~
25 ~~in this section is voluntary. If an applicable governmental entity~~
26 ~~elects to seek supplemental reimbursement pursuant to this section~~
27 ~~on behalf of an eligible provider owned or operated by the entity,~~
28 ~~as described in paragraph (3) of subdivision (b), the governmental~~
29 ~~entity shall do all of the following:~~

30 ~~(1) Certify, in conformity with the requirements of Section~~
31 ~~433.51 of Title 42 of the Code of Federal Regulations, that the~~
32 ~~claimed expenditures for the ground emergency medical~~
33 ~~transportation services are eligible for federal financial~~
34 ~~participation. The governmental entity may elect to include, in~~
35 ~~collaboration with the department, and as the nonfederal share of~~
36 ~~expenditures for ground emergency medical transportation services,~~
37 ~~voluntary intergovernmental transfers (IGTs), as long as the IGTs~~
38 ~~are in conformity with federal law. If a governmental entity elects~~
39 ~~to include IGTs as the nonfederal share of expenditures, the IGT~~
40 ~~funds shall be submitted no later than November 1 of each year.~~

1 ~~(2) Provide evidence supporting the certification as specified~~
2 ~~by the department.~~

3 ~~(3) Submit data as specified by the department to determine the~~
4 ~~appropriate amounts to claim as expenditures qualifying for federal~~
5 ~~financial participation.~~

6 ~~(4) Keep, maintain, and have readily retrievable, any records~~
7 ~~specified by the department to fully disclose reimbursement~~
8 ~~amounts to which the eligible provider is entitled, and any other~~
9 ~~records required by the federal Centers for Medicare and Medicaid~~
10 ~~Services.~~

11 ~~(f) (1) The department shall promptly seek any necessary federal~~
12 ~~approvals for the implementation of this section. The department~~
13 ~~may limit the program to those costs that are allowable~~
14 ~~expenditures under Title XIX of the federal Social Security Act~~
15 ~~(42 U.S.C. Sec. 1396 et seq.). If federal approval is not obtained~~
16 ~~for implementation of this section, this section shall not be~~
17 ~~implemented.~~

18 ~~(2) The department shall submit claims for federal financial~~
19 ~~participation for the expenditures for the services described in~~
20 ~~subdivision (e) that are allowable expenditures under federal law.~~
21 ~~If the state receives IGT funds as described in subdivision (e), the~~
22 ~~department shall certify the IGT funds as the nonfederal share of~~
23 ~~expenditures within 60 days of receiving the IGT funds. The~~
24 ~~department shall submit to the Controller claims for payment within~~
25 ~~10 days of receiving the federal financial participation.~~

26 ~~(3) The department shall, on an annual basis, submit any~~
27 ~~necessary materials to the federal government to provide assurances~~
28 ~~that claims for federal financial participation will include only~~
29 ~~those expenditures that are allowable under federal law.~~

30 ~~(g) (1) The department shall distribute supplemental~~
31 ~~reimbursement for eligible ground emergency medical~~
32 ~~transportation providers for services provided to Medi-Cal managed~~
33 ~~care beneficiaries to managed care plans within 30 days of~~
34 ~~receiving the federal financial participation.~~

35 ~~(2) Each managed care plan shall, within 30 days of receiving~~
36 ~~funds under paragraph (1), distribute 100 percent of the funds~~
37 ~~received to the eligible ground emergency medical transportation~~
38 ~~providers in accordance with subdivision (e).~~

39 ~~(h) (1) If either a final judicial determination is made by any~~
40 ~~court of appellate jurisdiction or a final determination is made by~~

1 the administrator of the federal Centers for Medicare and Medicaid
2 Services that the supplemental reimbursement provided for in this
3 section must be made to any provider not described in this section,
4 the director shall execute a declaration stating that the
5 determination has been made and on that date this section shall
6 become inoperative.

7 (2) The declaration executed pursuant to this subdivision shall
8 be retained by the director, provided to the fiscal and appropriate
9 policy committees of the Legislature, the Secretary of State, the
10 Secretary of the Senate, the Chief Clerk of the Assembly, and the
11 Legislative Counsel, and posted on the department's Internet Web
12 site.

13 (i) Notwithstanding Chapter 3.5 (commencing with Section
14 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
15 the department may implement and administer this section by
16 means of provider bulletins, or similar instructions, without taking
17 regulatory action.

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

22 In order to capture federal financial participation at the earliest
23 possible time and ensure access to ground emergency medical
24 transportation for Medi-Cal beneficiaries, it is necessary that this
25 act take effect immediately.