

Assembly Bill No. 2577

Passed the Assembly August 28, 2014

Chief Clerk of the Assembly

Passed the Senate August 27, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 14105.94 of, and to add Section 14105.941 to, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL’S DIGEST

AB 2577, Cooley. Medi-Cal: ground emergency medical transportation 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 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.

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

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

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

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

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

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

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

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

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

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

(3) The supplemental Medi-Cal reimbursement provided by this section shall be distributed exclusively to eligible providers under

a payment methodology based on ground emergency medical transportation services provided to Medi-Cal beneficiaries by eligible providers on a per-transport basis or other federally permissible basis. The department may, to the extent permitted under federal law and regulations, provide supplemental reimbursement for the cost of paramedic services at a rate of payment equal to cost. The department shall obtain approval from the federal Centers for Medicare and Medicaid Services for the payment methodology to be utilized, and may not make any payment pursuant to this section prior to obtaining that approval.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The intergovernmental transfer program developed pursuant to this section shall be implemented on January 1, 2015, or a later date if otherwise required pursuant to any necessary federal approvals obtained, and only to the extent intergovernmental transfers from the eligible provider, or the governmental entity with which it is affiliated, are provided for this purpose. To the extent permitted by federal law, the department may implement the intergovernmental transfer program and increased capitation payments pursuant to this section on a retroactive basis as needed.

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

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

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

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

(i) To the extent that the director determines that the payments made pursuant to this section do not comply with federal Medicaid requirements, the director retains the discretion to return or not

accept an intergovernmental transfer, and may adjust payments pursuant to this section as necessary to comply with federal Medicaid requirements.

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

(k) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action.

Approved _____, 2014

Governor