

AMENDED IN SENATE JUNE 13, 2016

AMENDED IN ASSEMBLY APRIL 14, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1607**

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**Introduced by ~~Committee on Budget (Assembly Members Ting (Chair), Travis Allen, Bigelow, Bloom, Bonta, Campos, Chávez, Chiu, Cooper, Gordon, Grove, Harper, Holden, Irwin, Kim, Lackey, McCarty, Melendez, Mullin, Nazarian, Obernolte, O'Donnell, Patterson, Rodriguez, Thurmond, Wilk, and Williams)~~ Committee on Budget (Assembly Members Ting (Chair), Bloom, Bonta, Campos, Chiu, Cooper, Gordon, Holden, Irwin, McCarty, Mullin, Nazarian, O'Donnell, Rodriguez, Thurmond, and Williams)**

January 7, 2016

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~~An act relating to the Budget Act of 2016. An act to amend Sections 14169.53 and 14169.75 of the Welfare and Institutions Code, relating to Medi-Cal, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately, bill related to the budget.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1607, as amended, Committee on Budget. ~~Budget Act of 2016. Medi-Cal: hospitals: quality assurance fee.~~

*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, subject to federal approval, imposes a hospital quality assurance fee, as specified, on certain general acute care hospitals to be deposited into the Hospital Quality Assurance*

*Revenue Fund. Existing law provides that moneys in the Hospital Quality Assurance Revenue Fund are continuously appropriated during the first program period of January 1, 2014, to December 31, 2016, inclusive, and available only for certain purposes, including paying for health care coverage for children, as specified, and making supplemental payments for certain services to private hospitals and increased capitation payments to Medi-Cal managed care plans. For subsequent program periods, existing law requires that the moneys in the Hospital Quality Assurance Revenue Fund be used for the above-described purposes upon appropriation by the Legislature in the annual Budget Act. Existing law provides that these provisions are inoperative on January 1, 2017, and that a hospital is not required to pay the hospital quality assurance fee after that date, as specified.*

*This bill would extend the operation of these provisions to January 1, 2018. The bill would instead, for the second program period and subsequent program periods, require moneys in the Hospital Quality Assurance Revenue Fund to be continuously appropriated, thereby making an appropriation, for the above-described purposes.*

*This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.*

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

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2016.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

- 1     SECTION 1. Section 14169.53 of the Welfare and Institutions
- 2     Code is amended to read:
- 3     14169.53. (a) (1) All fees required to be paid to the state
- 4     pursuant to this article shall be paid in the form of remittances
- 5     payable to the department.
- 6     (2) The department shall directly transmit the fee payments to
- 7     the Treasurer to be deposited in the fund. Notwithstanding Section
- 8     16305.7 of the Government Code, any interest and dividends
- 9     earned on deposits in the fund from the proceeds of the fee assessed
- 10    pursuant to this article shall be retained in the fund for purposes
- 11    specified in subdivision (b).

1 (b) (1) Notwithstanding subdivision (c) of Section 14167.35,  
2 subdivision (b) of Section 14168.33, and subdivision (b) of Section  
3 14169.33, all funds from the proceeds of the fee assessed pursuant  
4 to this article in the fund, together with any interest and dividends  
5 earned on money in the fund, shall continue to be used exclusively  
6 to enhance federal financial participation for hospital services  
7 under the Medi-Cal program, to provide additional reimbursement  
8 to, and to support quality improvement efforts of, hospitals, and  
9 to minimize uncompensated care provided by hospitals to uninsured  
10 patients, as well as to pay for the state's administrative costs and  
11 to provide funding for children's health coverage, in the following  
12 order of priority:

13 (A) To pay for the department's staffing and administrative  
14 costs directly attributable to implementing this article, not to exceed  
15 two hundred fifty thousand dollars (\$250,000) for each subject  
16 fiscal quarter, exclusive of any federal matching funds.

17 (B) To pay for the health care coverage, as described in  
18 subdivision (g), except that for the two subject fiscal quarters in  
19 the 2013–14 fiscal year, the amount for children's health care  
20 coverage shall be one hundred fifty-five million dollars  
21 (\$155,000,000) for each subject fiscal quarter, exclusive of any  
22 federal matching funds.

23 (C) To make increased capitation payments to managed health  
24 care plans pursuant to this article and Section 14169.82, including  
25 the nonfederal share of capitation payments to managed health  
26 care plans pursuant to this article and Section 14169.82 for services  
27 provided to individuals who meet the eligibility requirements in  
28 Section 1902(a)(10)(A)(i)(VIII) of Title XIX of the federal Social  
29 Security Act (42 U.S.C. Sec. 1396a(a)(10)(A)(i)(VIII)), and who  
30 meet the conditions described in Section 1905(y) of the federal  
31 Social Security Act (42 U.S.C. Sec. 1396d(y)).

32 (D) To make increased payments and direct grants to hospitals  
33 pursuant to this article and Section 14169.83, including the  
34 nonfederal share of payments to hospitals under this article and  
35 Section 14169.83 for services provided to individuals who meet  
36 the eligibility requirements in Section 1902(a)(10)(A)(i)(VIII) of  
37 Title XIX of the federal Social Security Act (42 U.S.C. Sec.  
38 1396a(a)(10)(A)(i)(VIII)), and who meet the conditions described  
39 in Section 1905(y) of the federal Social Security Act (42 U.S.C.  
40 Sec. 1396d(y)).

1 (2) Notwithstanding subdivision (c) of Section 14167.35,  
2 subdivision (b) of Section 14168.33, and subdivision (b) of Section  
3 14169.33, and notwithstanding Section 13340 of the Government  
4 Code, the moneys in the fund shall be continuously appropriated  
5 during the first program period only, without regard to fiscal year,  
6 for the purposes of this article, Article 5.229 (commencing with  
7 Section 14169.31), Article 5.228 (commencing with Section  
8 14169.1), Article 5.227 (commencing with Section 14168.31),  
9 former Article 5.226 (commencing with Section 14168.1), former  
10 Article 5.22 (commencing with Section 14167.31), and former  
11 Article 5.21 (commencing with Section 14167.1).

12 (3) ~~For~~ *Notwithstanding any other law, for the second program*  
13 *period and subsequent program periods, the moneys in the fund*  
14 *shall be used, upon appropriation by the Legislature in the annual*  
15 *Budget Act, continuously appropriated, without regard to fiscal*  
16 *year, for the purposes of this article and Sections 14169.82 and*  
17 *14169.83.*

18 (c) Any amounts of the quality assurance fee collected in excess  
19 of the funds required to implement subdivision (b), including any  
20 funds recovered under subdivision (d) of Section 14169.61, shall  
21 be refunded to general acute care hospitals, pro rata with the  
22 amount of quality assurance fee paid by the hospital, subject to  
23 the limitations of federal law. If federal rules prohibit the refund  
24 described in this subdivision, the excess funds shall be used as  
25 quality assurance fees for the next program period for general acute  
26 care hospitals, pro rata with the amount of quality assurance fees  
27 paid by the hospital for the program period.

28 (d) Any methodology or other provision specified in this article  
29 may be modified by the department, in consultation with the  
30 hospital community, to the extent necessary to meet the  
31 requirements of federal law or regulations to obtain federal  
32 approval or to enhance the probability that federal approval can  
33 be obtained, provided the modifications do not violate the spirit,  
34 purposes, and intent of this article and are not inconsistent with  
35 the conditions of implementation set forth in Section 14169.72.  
36 The department shall notify the Joint Legislative Budget Committee  
37 and the fiscal and appropriate policy committees of the Legislature  
38 30 days prior to implementation of a modification pursuant to this  
39 subdivision.

1 (e) The department, in consultation with the hospital community,  
2 shall make adjustments, as necessary, to the amounts calculated  
3 pursuant to Section 14169.52 in order to ensure compliance with  
4 the federal requirements set forth in Section 433.68 of Title 42 of  
5 the Code of Federal Regulations or elsewhere in federal law.

6 (f) The department shall request approval from the federal  
7 Centers for Medicare and Medicaid Services for the implementation  
8 of this article. In making this request, the department shall seek  
9 specific approval from the federal Centers for Medicare and  
10 Medicaid Services to exempt providers identified in this article as  
11 exempt from the fees specified, including the submission, as may  
12 be necessary, of a request for waiver of the broad-based  
13 requirement, waiver of the uniform fee requirement, or both,  
14 pursuant to paragraphs (1) and (2) of subdivision (e) of Section  
15 433.68 of Title 42 of the Code of Federal Regulations.

16 (g) (1) For purposes of this subdivision, the following  
17 definitions shall apply:

18 (A) “Actual net benefit” means the net benefit determined by  
19 the department for a net benefit period after the conclusion of the  
20 net benefit period using payments and grants actually made, and  
21 fees actually collected, for the net benefit period.

22 (B) “Aggregate fees” means the aggregate fees collected from  
23 hospitals under this article.

24 (C) “Aggregate payments” means the aggregate payments and  
25 grants made directly or indirectly to hospitals under this article,  
26 including payments and grants described in Sections 14169.54,  
27 14169.55, 14169.57, and 14169.58, and subdivision (b) of Section  
28 14169.82.

29 (D) “Net benefit” means the aggregate payments for a net benefit  
30 period minus the aggregate fees for the net benefit period.

31 (E) “Net benefit period” means a subject fiscal year or portion  
32 thereof that is in a program period and begins on or after July 1,  
33 2014.

34 (F) “Preliminary net benefit” means the net benefit determined  
35 by the department for a net benefit period prior to the beginning  
36 of that net benefit period using estimated or projected data.

37 (2) The amount of funding provided for children’s health care  
38 coverage under subdivision (b) for a net benefit period shall be  
39 equal to 24 percent of the net benefit for that net benefit period.

1 (3) The department shall determine the preliminary net benefit  
2 for all net benefit periods in the first program period before July  
3 1, 2014. The department shall determine the preliminary net benefit  
4 for all net benefit periods in a subsequent program period before  
5 the beginning of the program period.

6 (4) The department shall determine the actual net benefit and  
7 make the reconciliation described in paragraph (5) for each net  
8 benefit period within six months after the date determined by the  
9 department pursuant to subdivision (h).

10 (5) For each net benefit period, the department shall reconcile  
11 the amount of moneys in the fund used for children’s health  
12 coverage based on the preliminary net benefit with the amount of  
13 the fund that may be used for children’s health coverage under  
14 this subdivision based on the actual net benefit. For each net benefit  
15 period, any amounts that were in the fund and used for children’s  
16 health coverage in excess of the 24 percent of the actual net benefit  
17 shall be returned to the fund, and the amount, if any, by which 24  
18 percent of the actual net benefit exceeds 24 percent of the  
19 preliminary net benefit shall be available from the fund to the  
20 department for children’s health coverage. The department shall  
21 notify the Joint Legislative Budget Committee and the fiscal and  
22 appropriate policy committees of the Legislature of the results of  
23 the reconciliation for each net benefit period pursuant to this  
24 paragraph within five working days of performing the  
25 reconciliation.

26 (6) The department shall make all calculations and  
27 reconciliations required by this subdivision in consultation with  
28 the hospital community using data that the department determines  
29 is the best data reasonably available.

30 (h) After consultation with the hospital community, the  
31 department shall determine a date upon which substantially all  
32 fees have been paid and substantially all supplemental payments,  
33 grants, and rate range increases have been made for a program  
34 period, which date shall be no later than two years after the end  
35 of a program period. After the date determined by the department  
36 pursuant to this subdivision, no further supplemental payments  
37 shall be made under the program period, and any fees collected  
38 with respect to the program period shall be used for a subsequent  
39 program period consistent with this section. Nothing in this  
40 subdivision shall affect the department’s authority to collect quality

1 assurance fees for a program period after the end of the program  
2 period or after the date determined by the department pursuant to  
3 this subdivision. The department shall notify the Joint Legislative  
4 Budget Committee and fiscal and appropriate policy committees  
5 of that date within five working days of the determination.

6 (i) Use of the fee proceeds to enhance federal financial  
7 participation pursuant to subdivision (b) shall include use of the  
8 proceeds to supply the nonfederal share, if any, of payments to  
9 hospitals under this article for services provided to individuals  
10 who meet the eligibility requirements in Section  
11 1902(a)(10)(A)(i)(VIII) of Title XIX of the federal Social Security  
12 Act (42 U.S.C. Sec. 1396a(a)(10)(A)(i)(VIII)), and who meet the  
13 conditions described in Section 1905(y) of the federal Social  
14 Security Act (42 U.S.C. Sec. 1396d(y)) such that expenditures for  
15 services provided to the individual are eligible for the enhanced  
16 federal medical assistance percentage described in that section.

17 *SEC. 2. Section 14169.75 of the Welfare and Institutions Code*  
18 *is amended to read:*

19 14169.75. Notwithstanding Section 14169.72, this article shall  
20 become inoperative on January 1, ~~2017~~. ~~No 2018~~. A hospital shall  
21 *not* be required to pay the fee after that date unless the fee was  
22 owed during the period in which the article was operative, and ~~no~~  
23 payments authorized under Section 14169.53 shall *not* be made  
24 unless the payments were owed during the period in which the  
25 article was operative.

26 *SEC. 3. This act is a bill providing for appropriations related*  
27 *to the Budget Bill within the meaning of subdivision (e) of Section*  
28 *12 of Article IV of the California Constitution, has been identified*  
29 *as related to the budget in the Budget Bill, and shall take effect*  
30 *immediately.*

31 *SEC. 4. This act is an urgency statute necessary for the*  
32 *immediate preservation of the public peace, health, or safety within*  
33 *the meaning of Article IV of the Constitution and shall go into*  
34 *immediate effect. The facts constituting the necessity are:*

35 *In order to provide continued health care coverage for*  
36 *Californians at the earliest possible time, it is necessary that this*  
37 *bill take effect immediately.*

38 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~  
39 ~~changes relating to the 2016 Budget Act.~~

- 1 \_\_\_\_\_
- 2 **CORRECTIONS:**
- 3 **Heading—Lines 1, 2, 3, 4, and 5.**
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