

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 123

Introduced by Senator Liu

January 15, 2015

An act to add and repeal Section 33134 of the Education Code, *and to amend Section 14132.47 of the Welfare and Institutions Code*, relating to the Superintendent of Public Instruction: *Medi-Cal*.

LEGISLATIVE COUNSEL'S DIGEST

SB 123, as amended, Liu. Superintendent of Public Instruction: report: School-Based Medi-Cal Administrative Activities program.

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 by, and funded pursuant to, 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. Existing law defines a local educational agency for these purposes as a local educational agency that participates under the process as a subcontractor to the local educational consortium in its service region.

This bill would require the Superintendent of Public Instruction to review and prepare specific recommendations relative to the administration and oversight of the School-Based Medi-Cal Administrative Activities program. The bill would require the Superintendent to submit a report containing the specific

recommendations to the Legislature and the Governor by July 1, 2016, and would require the report to include, but not necessarily be limited to, an evaluation of specified entities, administrative structures, and information.

Existing law authorizes a participating local governmental agency or a local educational consortium to charge an administrative fee to any entity claiming Administrative Claiming through that agency.

This bill would require the department to annually post on its Internet Web site the administrative fee percentage charged by each local governmental agency or local educational consortium.

This bill also would make various technical and nonsubstantive changes.

Vote: 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 33134 is added to the Education Code,
- 2 to read:
- 3 33134. (a) The Superintendent shall review and prepare
- 4 specific recommendations relative to the administration and
- 5 oversight of the School-Based Medi-Cal Administrative Activities
- 6 program. A report containing the specific recommendations shall
- 7 be submitted to the Legislature and the Governor by July 1, 2016.
- 8 The Superintendent's report shall consider the report on the
- 9 School-Based Medi-Cal Administrative Activities program issued
- 10 by the California State Auditor in 2015, and shall include, but not
- 11 necessarily be limited to, an evaluation of all of the following:
- 12 (1) The appropriate state agency or agencies to administer the
- 13 program.
- 14 (2) Oversight of the administration of the program, including
- 15 oversight of the state agency, local governmental agencies, and
- 16 local educational consortia.
- 17 (3) The structure of the program and role of each entity,
- 18 including the local governmental agencies and local educational
- 19 consortia, how the structures and roles vary across the state, and
- 20 the efficiency of those structures and roles in providing funds to
- 21 local educational agencies.
- 22 (4) The relationships, interactions, and communications state
- 23 agencies have with the federal Centers for Medicare and Medicaid

1 Services, and the process used to disseminate information from
2 the federal Centers for Medicare and Medicaid Services to local
3 educational agencies.

4 (5) The process for reimbursing claims submitted by local
5 educational agencies, including the amount reimbursed compared
6 to the amount claimed, the time between submission of a claim
7 and the reimbursement of that claim, and how the claim and
8 reimbursement process varies across the state.

9 (6) The purposes for which local educational agencies use
10 program funds.

11 (7) The relationship between local governmental agencies or
12 local educational consortia and the private or public entities that
13 have been subcontracted to assist with the performance of
14 administrative activities.

15 (8) The rates charged by the local governmental agency and
16 local educational consortia, how those rates vary across the state,
17 and how rates are determined.

18 (9) The ability of a local educational agency to contract with a
19 local governmental agency or a local educational consortium of
20 its choosing.

21 (10) The feasibility of convening a local educational agency
22 advisory body for the purposes of providing technical assistance
23 to local educational agencies and communicating with the
24 administering state agency.

25 (11) The extent to which the state is maximizing federal funds
26 available for the program.

27 (12) How capacity to operate the program can be built within
28 local educational agencies.

29 (b) For purposes of this section, “local governmental agency”
30 shall have the same meaning as specified in subdivision (n) of
31 Section 14132.47 of the Welfare and Institutions Code, “local
32 educational agency” shall have the same meaning as specified in
33 subdivision (o) of Section 14132.47 of the Welfare and Institutions
34 Code, and “local educational consortium” shall have the same
35 meaning as specified in subdivision (p) of Section 14132.47 of the
36 Welfare and Institutions Code.

37 (c) (1) A report to be submitted to the Legislature pursuant to
38 subdivision (a) shall be submitted in compliance with Section 9795
39 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2021.

SEC. 2. 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~~ 1903(a) 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~~;

1 *regulations* developed in consultation with local governmental
2 agencies.

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

6 (A) The expenditure of 100 percent of the cost of performing
7 Administrative Claiming process activities. The funds expended
8 for this purpose shall be from the local governmental agency's
9 general fund or the general funds of local educational ~~agencies~~
10 *consortia* or from any other funds allowed under federal law and
11 regulation.

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

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

25 (ii) A city or other local public entity that submits certification
26 pursuant to this paragraph shall comply with the requirements of
27 paragraph (1), with other requirements applicable to local
28 governmental agencies that the department determines, ~~in~~
29 ~~regulations~~, *by regulation*, to be applicable, and with all applicable
30 federal requirements.

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

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

38 (B) A tribe or tribal organization, as defined in subdivision (n),
39 that is not participating in Administrative Claiming process
40 activities as a local governmental agency, may contract with, and

1 submit to a tribe or tribal organization that is contracting with, the
2 department pursuant to subdivision (b) amounts expended for
3 Administrative Claiming process activities that it is certifying in
4 accordance with Section 433.51 of Title 42 of the Code of Federal
5 Regulations and other applicable federal law and regulations. The
6 tribe or tribal organization receiving the certification shall forward
7 it to the department for purposes of claiming federal financial
8 participation. The certification shall comply with all of the
9 requirements for certification set forth in subparagraph (A).

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

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

28 (3) Notwithstanding paragraph (2), to the extent that a federal
29 audit disallowance and interest results from a claim or claims for
30 which the participating local governmental agency or local
31 educational consortium has received reimbursement for
32 Administrative Claiming process activities performed by an entity
33 under contract with, and on behalf of, the participating local
34 governmental agency or local educational consortium, the
35 department shall be held harmless by that particular participating
36 local governmental agency or local educational consortium for
37 100 percent of the amount of the federal audit disallowance and
38 interest, for the disallowed claim.

39 (h) The use of local funds required by this section shall not
40 create, lead to, or expand the health care funding obligations or

1 service obligations for current or future years for any participating
2 local governmental agency or local educational consortium, except
3 as required by this section or as may be required by federal law.

4 (i) The department shall deny any claim from a participating
5 local governmental agency or local educational consortium if the
6 department determines that the claim is not adequately supported
7 in accordance with criteria established pursuant to this subdivision
8 and implementing regulations before it forwards the claim for
9 reimbursement to the federal Medicaid Program. In consultation
10 with local governmental agencies and local educational consortia,
11 the department shall adopt regulations that prescribe the
12 requirements for the submission and payment of claims for
13 administrative activities performed by each participating local
14 governmental agency and local educational consortium.

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

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

32 (l) To the extent consistent with federal law and ~~regulations;~~
33 *regulation*, participating local governmental agencies or local
34 educational consortium may claim the actual costs of
35 nonemergency, nonmedical transportation of Medi-Cal eligibles
36 to Medi-Cal covered services, under guidelines established by the
37 department, to the extent that these costs are actually borne by the
38 participating local governmental agency or local educational
39 consortium. A local educational consortium may only claim for
40 nonemergency, nonmedical transportation of Medi-Cal eligibles

1 for Medi-Cal covered services, through the Medi-Cal administrative
2 activities program. Medi-Cal medical transportation services shall
3 be claimed under the local educational agency Medi-Cal billing
4 option, pursuant to Section 14132.06.

5 (m) As a condition of participation in the Administrative
6 Claiming process and in recognition of revenue generated to each
7 participating local governmental agency and each local educational
8 consortium in the Administrative Claiming process, each
9 participating local governmental agency and each local educational
10 consortium shall pay an annual participation fee through a
11 mechanism agreed to by the state and local governmental agencies
12 and local educational consortia, or, if no agreement is reached by
13 August 1 of each year, directly to the state. The participation fee
14 shall be used to cover the cost of administering the Administrative
15 Claiming process, including, but not limited to, claims processing,
16 technical assistance, and monitoring. The department shall
17 determine and report staffing requirements upon which projected
18 costs will be based. The amount of the participation fee shall be
19 based upon the anticipated salaries, benefits, and operating
20 expenses, to administer the Administrative Claiming process and
21 other costs related to that process.

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

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

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

38 (p) (1) For purposes of this section, “local educational
39 consortium” means a local agency that is one of the service regions

1 of the California County Superintendent Educational Services
2 Association.

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

5 (q) (1) Each participating local educational consortium shall
6 be responsible for the local educational agencies in its service
7 region that participate in the Administrative Claiming process.
8 This responsibility includes, but is not limited to, the preparation
9 and submission of all administrative claiming plans, training of
10 local educational agency staff, overseeing the local educational
11 agency time survey process, and the submission of detailed
12 quarterly invoices on behalf of any participating local educational
13 agency.

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

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

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

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

31 (s) A participating local governmental agency or a local
32 educational consortium may charge an administrative fee to any
33 entity claiming Administrative Claiming through that agency. *The*
34 *department shall annually post on its Internet Web site the*
35 *administrative fee percentage charged by each local governmental*
36 *agency or local educational consortium.*

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

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

5 (v) This section shall be applicable to Administrative Claiming
6 process activities performed, and to moneys paid to participating
7 local governmental agencies for those activities in the 1994–95
8 fiscal year and thereafter, and to local educational consortia in the
9 1998–99 fiscal year and thereafter.

10 (w) ~~Nothing in this~~ This section or Section 14132.44 shall *not*
11 be construed to prevent any state agency from participating in the
12 Administrative Claiming process or from contracting with others
13 to engage in these activities.