

AMENDED IN SENATE MAY 12, 2015

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 123**

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**Introduced by Senator Liu**

January 15, 2015

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An act to ~~add and repeal Section 33134 of the Education Code, and to amend Section 14132.47 of of, and to add and repeal Section 14132.465 of~~, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 123, as amended, Liu. ~~Superintendent of Public Instruction: report:~~ *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~~ *Legislative Analyst, in consultation with the State Department of Education and the State Department of Health Care Services*, 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~~ *Legislative Analyst* 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~~ *State Department of Health Care Services* 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.—~~  
4     ~~SECTION 1. Section 14132.465 is added to the Welfare and~~  
5     ~~Institutions Code, immediately following Section 14132.46, to~~  
6     ~~read:~~  
7     ~~14132.465. (a) The Superintendent Legislative Analyst, in~~  
8     ~~consultation with the State Department of Education and the State~~  
9     ~~Department of Health Care Services, shall review and prepare~~  
10    ~~specific recommendations relative to the administration and~~  
11    ~~oversight of the School-Based Medi-Cal Administrative Activities~~  
12    ~~program. A report containing the specific recommendations shall~~  
13    ~~be submitted to the Legislature and the Governor by July 1, 2016.~~  
14    ~~The Superintendent's report shall consider the report on the~~  
15    ~~School-Based Medi-Cal Administrative Activities program issued~~  
16    ~~by the California State Auditor in 2015, and shall include, but not~~  
17    ~~necessarily be limited to, an evaluation of all of the following:~~  
18    ~~(1) The appropriate state agency or agencies to administer the~~  
19    ~~program.~~

1 (2) Oversight of the administration of the program, including  
2 oversight of the state agency, local governmental agencies, and  
3 local educational consortia.

4 (3) The structure of the program and role of each entity,  
5 including the local governmental agencies and local educational  
6 consortia, how the structures and roles vary across the state, and  
7 the efficiency of those structures and roles in providing funds to  
8 local educational agencies.

9 (4) The relationships, interactions, and communications state  
10 agencies have with the federal Centers for Medicare and Medicaid  
11 Services, and the process used to disseminate information from  
12 the federal Centers for Medicare and Medicaid Services to local  
13 educational agencies.

14 (5) The process for reimbursing claims submitted by local  
15 educational agencies, including the amount reimbursed compared  
16 to the amount claimed, the time between submission of a claim  
17 and the reimbursement of that claim, and how the claim and  
18 reimbursement process varies across the state.

19 (6) The purposes for which local educational agencies use  
20 program funds.

21 (7) The relationship between local governmental agencies or  
22 local educational consortia and the private or public entities that  
23 have been subcontracted to assist with the performance of  
24 administrative activities.

25 (8) The rates charged by the local governmental agency and  
26 local educational consortia, how those rates vary across the state,  
27 and how rates are determined.

28 (9) The ability of a local educational agency to contract with a  
29 local governmental agency or a local educational consortium of  
30 its choosing.

31 (10) The feasibility of convening a local educational agency  
32 advisory body for the purposes of providing technical assistance  
33 to local educational agencies and communicating with the  
34 administering state agency.

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

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

39 (b) For purposes of this section, “local governmental agency”  
40 shall have the same meaning as specified in subdivision (n) of

1 Section 14132.47 of the Welfare and Institutions Code, “local  
2 educational agency” shall have the same meaning as specified in  
3 subdivision (o) of Section 14132.47 of the Welfare and Institutions  
4 Code, and “local educational consortium” shall have the same  
5 meaning as specified in subdivision (p) of Section 14132.47 of the  
6 Welfare and Institutions Code.

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

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

12 SEC. 2. Section 14132.47 of the Welfare and Institutions Code  
13 is amended to read:

14 14132.47. (a) It is the intent of the Legislature to provide local  
15 governmental agencies the choice of participating in either or both  
16 of the Targeted Case Management (TCM) and Administrative  
17 Claiming process programs at their option, subject to the  
18 requirements of this section and Section 14132.44.

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

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

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

39 (d) Each participating local governmental agency or local  
40 educational consortium may subcontract with private or public

1 entities to assist with the performance of administrative activities  
2 necessary for the proper and efficient administration of the  
3 Medi-Cal program under the conditions specified by the department  
4 in regulations.

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

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

13 (A) The expenditure of 100 percent of the cost of performing  
14 Administrative Claiming process activities. The funds expended  
15 for this purpose shall be from the local governmental agency's  
16 general fund or the general funds of local educational consortia or  
17 from any other funds allowed under federal law and regulation.

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

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

31 (ii) A city or other local public entity that submits certification  
32 pursuant to this paragraph shall comply with the requirements of  
33 paragraph (1), with other requirements applicable to local  
34 governmental agencies that the department determines, by  
35 regulation, to be applicable, and with all applicable federal  
36 requirements.

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

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

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

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

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

35 (3) Notwithstanding paragraph (2), to the extent that a federal  
36 audit disallowance and interest results from a claim or claims for  
37 which the participating local governmental agency or local  
38 educational consortium has received reimbursement for  
39 Administrative Claiming process activities performed by an entity  
40 under contract with, and on behalf of, the participating local

1 governmental agency or local educational consortium, the  
2 department shall be held harmless by that particular participating  
3 local governmental agency or local educational consortium for  
4 100 percent of the amount of the federal audit disallowance and  
5 interest, for the disallowed claim.

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

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

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

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

39 (l) To the extent consistent with federal law and regulation,  
40 participating local governmental agencies or local educational

1 consortium may claim the actual costs of nonemergency,  
2 nonmedical transportation of Medi-Cal eligibles to Medi-Cal  
3 covered services, under guidelines established by the department,  
4 to the extent that these costs are actually borne by the participating  
5 local governmental agency or local educational consortium. A  
6 local educational consortium may only claim for nonemergency,  
7 nonmedical transportation of Medi-Cal eligibles for Medi-Cal  
8 covered services, through the Medi-Cal administrative activities  
9 program. Medi-Cal medical transportation services shall be claimed  
10 under the local educational agency Medi-Cal billing option,  
11 pursuant to Section 14132.06.

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

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

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



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

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

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

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

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

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

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

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

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

1 department shall annually post on its Internet Web site the  
2 administrative fee percentage charged by each local governmental  
3 agency or local educational consortium.

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

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

11 (v) This section shall be applicable to Administrative Claiming  
12 process activities performed, and to moneys paid to participating  
13 local governmental agencies for those activities in the 1994–95  
14 fiscal year and thereafter, and to local educational consortia in the  
15 1998–99 fiscal year and thereafter.

16 (w) This section or Section 14132.44 shall not be construed to  
17 prevent any state agency from participating in the Administrative  
18 Claiming process or from contracting with others to engage in  
19 these activities.