

AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1068**

**Introduced by Assembly Member Ducheny**

February 25, 1999

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An act to amend Section 14105 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1068, as amended, Ducheny. Medi-Cal: provider reimbursement.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons.

Existing law authorizes the Director of Health Services to adopt rates of payment that reflect budgeting decisions of the Legislature.

This bill would require the director to modify all existing capitated reimbursement rates and their related contracts to reflect changes in regulations setting the rate adjustments within 60 days after the adoption of the regulations setting the rates.

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

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. (a) *The Legislature recognizes that*  
2 *access to care in the Medi-Cal program is an increasing*  
3 *problem. Despite California’s efforts to increase access*  
4 *through managed care expansion, it appears that access*  
5 *to care is still a problem in many areas.*

6 (b) *Evidence exists indicating that provider*  
7 *participation in Medi-Cal managed care programs is*  
8 *directly related to provider reimbursement and that*  
9 *existing rates are too low to ensure sufficient*  
10 *participation.*

11 (c) *Recent studies have also shown that both*  
12 *fee-for-service reimbursement and capitation rates in the*  
13 *Medi-Cal program are among the lowest in the country.*

14 (d) *For this reason when the Legislature appropriates*  
15 *additional moneys for provider reimbursement in the*  
16 *Medi-Cal program, the Legislature intends that those*  
17 *moneys be directed to those providers in both*  
18 *fee-for-service and managed care systems.*

19 SEC. 2. Section 14105 of the Welfare and Institutions  
20 Code is amended to read:

21 14105. (a) The director shall prescribe the policies to  
22 be followed in the administration of this chapter, may  
23 limit the rates of payment for health care services, and  
24 shall adopt such rules and regulations as are necessary for  
25 carrying out, not inconsistent with, the provisions  
26 thereof.

27 The policies and regulations shall include rates for  
28 payment for services not rendered under a contract  
29 ~~pursuant to Chapter 8 (commencing with Section 14200).~~  
30 *with the California Medical Assistance Commission or the*  
31 *department by health plans providing health care*  
32 *services on a capitated basis. In order to implement*  
33 *expeditiously the budgeting decisions of the Legislature,*  
34 *the director shall, to the extent permitted by federal law,*  
35 *adopt regulations setting rates which reflect such*  
36 *decisions within one month after the enactment of the*  
37 *Budget Act and of any other appropriation which*  
38 *changes the level of funding for Medi-Cal services. The*



1 proposed regulations shall be submitted to the  
2 Department of Finance no later than five days prior to  
3 the date of adoption. With the written approval of the  
4 Department of Finance, the director shall adopt such  
5 regulations as emergency regulations in accordance with  
6 the Administrative Procedure Act (Chapter 3.5  
7 (commencing with Section 11340), Part 1, Division 3,  
8 Title 2 of the Government Code). For purposes of that  
9 act, the adoption of such regulations shall be deemed an  
10 emergency and necessary for the immediate  
11 preservation of the public peace, health, and safety or  
12 general welfare.

13 (b) ~~The director shall~~ *For the purposes of prepaid*  
14 *health plans, county organized health plans, two-plan*  
15 *model plans, geographical managed care and other pilot*  
16 *projects, the director, and the California Medical*  
17 *Assistance Commission shall, within 60 days after the*  
18 *adoption of regulations setting rates pursuant to*  
19 *subdivision (a), modify all existing capitated*  
20 *reimbursement rates and their related contracts, to*  
21 *reflect the rate changes made by the regulations. The*  
22 *modifications shall only apply to capitated rates that*  
23 *cover the same services for which the rates were changed*  
24 *by the regulations, and shall be retroactive to the*  
25 *effective date of the changes in the regulations.*  
26 *Capitated reimbursement rate contracts shall include*  
27 *provisions directing the contracting health plans to pass*  
28 *on actuarially equivalent rate increases to the capitated*  
29 *and fee-for-service providers who render services*  
30 *included in the appropriation.*

31 (c) Insofar as practical, consistent with the efficient  
32 and economical administration of this part, the  
33 department shall afford recipients of public assistance a  
34 choice of managed care arrangements under which they  
35 shall receive health care benefits and a choice of primary  
36 care providers under each managed care arrangement.

37 (d) If, in the judgment of the director, the actions  
38 taken by the director under subdivision (c) of Section  
39 14120 will not be sufficient to operate the Medi-Cal  
40 program within the limits of appropriated funds, he may



1 limit the scope and kinds of health care services, except  
2 for minimum coverage as defined in Section 14056,  
3 available to persons who are not eligible under Section  
4 14005.1. When and if necessary, that action shall be taken  
5 by the director in ways consistent with the requirements  
6 of the federal Social Security Act.

7 (e) The director shall adopt regulations implementing  
8 regulatory changes required to initially implement, and  
9 annually update, the United States Health Care  
10 Financing Administration's common procedure coding  
11 system as emergency regulations in accordance with  
12 Chapter 3.5 (commencing with Section 11340) of Part 1  
13 of Division 3 of Title 2 of the Government Code. For the  
14 purposes of the Administrative Procedure Act, the  
15 adoption of the regulations shall be deemed to be an  
16 emergency and necessary for the immediate  
17 preservation of the public peace, health and safety, or  
18 general welfare. These regulations shall become effective  
19 immediately upon filing with the Secretary of State.

20 (f) Notwithstanding any other provision of law,  
21 prospective reimbursement for any services provided to  
22 a Medi-Cal beneficiary in a nursing facility that is a  
23 distinct part of an acute care hospital shall not exceed the  
24 audited costs of the facility providing the services.

25 (g) Notwithstanding any other provision of law,  
26 reimbursement of anesthesiology, surgical services, and  
27 the professional component of radiology procedures  
28 except for comprehensive perinatal and obstetrical  
29 services shall be reduced by 9.5 percent of the amount of  
30 reimbursement provided for any of those services prior  
31 to the operative date of this subdivision. The director may  
32 exclude emergency surgical services performed in the  
33 emergency department of a general acute care hospital.  
34 To be excluded, emergency surgical services must be  
35 performed by an emergency room physician or a  
36 physician on the emergency department's on-call list.

37 (h) (1) It is the intent of the Legislature in enacting  
38 this subdivision to enable the department to obtain  
39 medicare cost reports for the purpose of evaluating its



1 Medi-Cal reimbursement rate methodology for nursing  
2 facilities.

3 (2) Skilled nursing facilities licensed pursuant to  
4 Chapter 2 (commencing with Section 1250) of Division  
5 2 of the Health and Safety Code shall submit copies of all  
6 Medicare cost reports to the department by October 1,  
7 1995, for reporting periods that ended between July 1,  
8 1993, and June 30, 1995.

9 On or after July 1, 1995, those facilities shall submit the  
10 copies to the department on the date that the Medicare  
11 cost reports are submitted to the Medicare fiscal  
12 intermediary.

13 (3) Hospitals providing skilled nursing care licensed  
14 pursuant to Chapter 2 (commencing with Section 1250)  
15 of Division 2 of the Health and Safety Code shall submit  
16 a copy of all Medicare cost reports for reporting periods  
17 ended:

18 (A) January 1, 1993, through June 30, 1995, to the  
19 department by October 1, 1995.

20 (B) On or after July 1, 1995, to the department when  
21 the Medicare cost reports are submitted to the Medicare  
22 fiscal intermediary.

23 ~~SEC. 2.—~~

24 *SEC. 3.* This act is an urgency statute necessary for the  
25 immediate preservation of the public peace, health, or  
26 safety within the meaning of Article IV of the  
27 Constitution and shall go into immediate effect. The facts  
28 constituting the necessity are:

29 In order to make timely adjustments to conform to  
30 budgetary changes affecting the rates of payment for  
31 health care services, it is necessary that this act take effect  
32 immediately.

