

AMENDED IN ASSEMBLY APRIL 11, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1915**

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**Introduced by Assembly Member Corbett**

February 11, 2000

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An act to amend Sections 14105 and 14105.7 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1915, as amended, Corbett. Medi-Cal reimbursement rates.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services.

Existing law requires the department to publish reimbursement rates for certain Medi-Cal services, through the use of emergency regulations.

This bill would require the department to biennially review ~~these~~ rates *for durable medical equipment and medical supplies*, report the results of this review to the Legislature, and use these reviews as the basis for its ratesetting responsibilities. It would require these provisions to be implemented through the adoption of emergency regulations.

Under existing law, one of the benefits covered by the Medi-Cal program is prescription drugs. The Director of

Health Services is required to update allowable drug product prices no less often than every 30 days.

Existing regulations specify that the estimated drug acquisition cost is the direct price for the drug, or, in all other cases, the average wholesale price minus 5%.

This bill would, instead, specify that, in all other cases, the estimated drug acquisition cost would be the average wholesale price minus 15%.

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 14105 of the Welfare and  
 2 Institutions Code is amended to read:  
 3 14105. (a) (1) The director shall prescribe the  
 4 policies to be followed in the administration of this  
 5 chapter, may limit the rates of payment for health care  
 6 services, and shall adopt any rules and regulations as are  
 7 necessary for carrying out, not inconsistent with, the  
 8 provisions thereof.  
 9 The policies and regulations shall include rates for  
 10 payment for services not rendered under a contract  
 11 pursuant to Chapter 8 (commencing with Section 14200).  
 12 In order to implement expeditiously the budgeting  
 13 decisions of the Legislature, the director shall, to the  
 14 extent permitted by federal law, adopt regulations setting  
 15 rates which reflect ~~such~~ *these* decisions within one month  
 16 after the enactment of the Budget Act and of any other  
 17 appropriation which changes the level of funding for  
 18 Medi-Cal services. The proposed regulations shall be  
 19 submitted to the Department of Finance no later than  
 20 five days prior to the date of adoption. With the written  
 21 approval of the Department of Finance, the director shall  
 22 adopt those regulations as emergency regulations in  
 23 accordance with the Administrative Procedure Act  
 24 (Chapter 3.5 (commencing with Section 11340), Part 1,  
 25 Division 3, Title 2 of the Government Code). For  
 26 purposes of that act, the adoption of the regulations shall  
 27 be deemed an emergency and necessary for the



1 immediate preservation of the public peace, health, and  
2 safety or general welfare.

3 (2) (A) The director shall review, on a biennial basis,  
4 the Medi-Cal reimbursement rates *for durable medical*  
5 *equipment and medical supplies* published pursuant to  
6 paragraph (1). The director shall report the results of  
7 these reviews to the Governor and the Legislature. These  
8 reviews shall be used as a basis for establishing rates for  
9 health care services pursuant to paragraph (1).

10 (B) In order to implement subparagraph (A), the  
11 department shall adopt emergency regulations in  
12 accordance with the Administrative Procedure Act  
13 (Chapter 3.5 (commencing with Section 11340) of Part 1  
14 of Division 1 of Title 2 of the Government Code. The  
15 initial adoption of emergency regulations and one  
16 readoption of the initial regulations shall be deemed to be  
17 an emergency and necessary for the immediate  
18 preservation of the public peace, health and safety, or  
19 general welfare. Initial emergency regulations and the  
20 first readoption of those regulations shall be exempt from  
21 review by the Office of Administrative Law. The  
22 emergency regulations authorized by this subparagraph  
23 shall be submitted to the Office of Administrative Law for  
24 filing with the Secretary of State and publication in the  
25 California Code of Regulations, and shall remain in effect  
26 for no more than 180 days.

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

33 (c) If, in the judgment of the director, the actions  
34 taken by the director under subdivision (c) of Section  
35 14120 will not be sufficient to operate the Medi-Cal  
36 program within the limits of appropriated funds, he *or she*  
37 may limit the scope and kinds of health care services,  
38 except for minimum coverage as defined in Section  
39 14056, available to persons who are not eligible under  
40 Section 14005.1. When and if necessary, that action shall



1 be taken by the director in ways consistent with the  
2 requirements of the federal Social Security Act.

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

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

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

33 (g) (1) It is the intent of the Legislature in enacting  
34 this subdivision to enable the department to obtain  
35 medicare cost reports for the purpose of evaluating its  
36 Medi-Cal reimbursement rate methodology for nursing  
37 facilities.

38 (2) Skilled nursing facilities licensed pursuant to  
39 Chapter 2 (commencing with Section 1250) of Division  
40 2 of the Health and Safety Code shall submit copies of all



1 Medicare cost reports to the department by October 1,  
2 1995, for reporting periods that ended between July 1,  
3 1993, and June 30, 1995.

4 On or after July 1, 1995, those facilities shall submit the  
5 copies to the department on the date that the Medicare  
6 cost reports are submitted to the Medicare fiscal  
7 intermediary.

8 (3) Hospitals providing skilled nursing care licensed  
9 pursuant to Chapter 2 (commencing with Section 1250)  
10 of Division 2 of the Health and Safety Code shall submit  
11 a copy of all Medicare cost reports for reporting periods  
12 ended:

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

15 (B) On or after July 1, 1995, to the department when  
16 the Medicare cost reports are submitted to the Medicare  
17 fiscal intermediary.

18 SEC. 2. Section 14105.7 of the Welfare and Institutions  
19 Code is amended to read:

20 14105.7. (a) In order to fairly reimburse pharmacies  
21 for the furnishing of prescription drugs to Medi-Cal  
22 beneficiaries, the director shall update allowable drug  
23 product prices no less often than every 30 days. The  
24 update shall include any prior change in drug product  
25 price of which the director has received notice. Notice to  
26 the director shall include, but not be limited to,  
27 publication of the price change in the supplier's catalog  
28 or supplement or in nationally distributed drug price  
29 reference guides.

30 (b) No regulation reducing allowable drug product  
31 cost reimbursement or removing a drug from the  
32 Medi-Cal list of contract drugs shall be operative until at  
33 least 30 days after eligible pharmacies have been mailed  
34 a notice of the reimbursement limitation by the  
35 department or the fiscal intermediary.

36 (c) The director shall limit the rate of payment for the  
37 professional fee portion of prescription services rendered  
38 under this chapter pursuant to Section 4229.5 of the  
39 Business and Professions Code or Section 11201 of the  
40 Health and Safety Code and the professional fee portion



1 of prescription services rendered as a refill immediately  
2 subsequent to that prescription to ensure that the total  
3 professional fee paid for the two services does not exceed  
4 the professional fee paid for the same prescription refill  
5 when provided as a routine service.

6 (d) Notwithstanding any other provision of law or  
7 regulation, in determining rates for prescription drugs,  
8 the estimated acquisition cost shall be the direct price for  
9 those drugs as determined in accordance with Section  
10 51513.5 of Title 22 of the California Code of Regulations,  
11 or, in all other cases, the average wholesale price minus  
12 15 percent.

