

AMENDED IN ASSEMBLY MAY 2, 2000
AMENDED IN ASSEMBLY APRIL 24, 2000
AMENDED IN ASSEMBLY APRIL 11, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1915

Introduced by Assembly Member Corbett

February 11, 2000

An act to amend ~~Sections 14105, 14105.337, and 14105.7~~ *Section 14105* 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 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 law requires the department to increase reimbursement to pharmacists by 15 cents per prescription for all Medi-Cal claims effective July 1, 2002.~~

~~This bill instead would require the department to increase reimbursement to pharmacists by an amount determined by the director pursuant to a prescribed formula.~~

~~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 10%.~~

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 these decisions within one month after
 16 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



1 five days prior to the date of adoption. With the written
2 approval of the Department of Finance, the director shall
3 adopt those regulations as emergency regulations in
4 accordance with the Administrative Procedure Act
5 (Chapter 3.5 (commencing with Section 11340), Part 1,
6 Division 3, Title 2 of the Government Code). For
7 purposes of that act, the adoption of the regulations shall
8 be deemed an emergency and necessary for the
9 immediate preservation of the public peace, health, and
10 safety or general welfare.

11 (2) (A) The director shall review, on a biennial basis,
12 the Medi-Cal reimbursement rates for durable medical
13 equipment and medical supplies published pursuant to
14 paragraph (1). The director shall report the results of
15 these reviews to the Governor and the Legislature. These
16 reviews shall be used as a basis for establishing rates for
17 health care services pursuant to paragraph (1).

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

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



1 (c) If, in the judgment of the director, the actions
2 taken by the director under subdivision (c) of Section
3 14120 will not be sufficient to operate the Medi-Cal
4 program within the limits of appropriated funds, he or she
5 may limit the scope and kinds of health care services,
6 except for minimum coverage as defined in Section
7 14056, available to persons who are not eligible under
8 Section 14005.1. When and if necessary, that action shall
9 be taken by the director in ways consistent with the
10 requirements of the federal Social Security Act.

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

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

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



1 (g) (1) It is the intent of the Legislature in enacting
2 this subdivision to enable the department to obtain
3 medicare cost reports for the purpose of evaluating its
4 Medi-Cal reimbursement rate methodology for nursing
5 facilities.

6 (2) Skilled nursing facilities licensed pursuant to
7 Chapter 2 (commencing with Section 1250) of Division
8 2 of the Health and Safety Code shall submit copies of all
9 Medicare cost reports to the department by October 1,
10 1995, for reporting periods that ended between July 1,
11 1993, and June 30, 1995.

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

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

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

23 (B) On or after July 1, 1995, to the department when
24 the Medicare cost reports are submitted to the Medicare
25 fiscal intermediary.

26 ~~SEC. 2. Section 14105.337 of the Welfare and~~
27 ~~Institutions Code is amended to read:~~

28 ~~14105.337. (a) Effective January 1, 2000, the~~
29 ~~department shall increase reimbursement to pharmacists~~
30 ~~by twenty-five cents (\$0.25) per prescription for all drug~~
31 ~~prescription claims reimbursed through the Medi-Cal~~
32 ~~program.~~

33 ~~(b) Effective July 1, 2002, the department shall~~
34 ~~increase reimbursement to pharmacists by an additional~~
35 ~~amount per prescription for all drug prescription claims~~
36 ~~reimbursed through the Medi-Cal program that is equal~~
37 ~~to the amount computed pursuant to paragraph (5) of~~
38 ~~subdivision (c).~~

39 ~~(c) (1) The director shall determine the average~~
40 ~~wholesale price of each drug for which no direct price is~~



1 ~~determined pursuant to Section 51513.5 of Title 22 of the~~
2 ~~California Code of Regulations.~~

3 ~~(2) The director shall determine the amount that~~
4 ~~would have been paid for those drugs in each fiscal year~~
5 ~~if the amount paid were the average wholesale price less~~
6 ~~5 percent.~~

7 ~~(3) The director shall determine the amount that was~~
8 ~~actually paid for those drugs at the rate of the average~~
9 ~~wholesale price less 10 percent as prescribed by~~
10 ~~subdivision (d) of Section 14105.7.~~

11 ~~(4) The director shall compute the difference~~
12 ~~between the amount determined pursuant to paragraph~~
13 ~~(2) and the amount determined pursuant to paragraph~~
14 ~~(3).~~

15 ~~(5) The director shall divide the remainder computed~~
16 ~~pursuant to paragraph (4) by the number of prescription~~
17 ~~claims reimbursed through the Medi-Cal program for the~~
18 ~~prior fiscal year.~~

19 ~~SEC. 3. Section 14105.7 of the Welfare and Institutions~~
20 ~~Code is amended to read:~~

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

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

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



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

7 ~~(d) Notwithstanding any other provision of law or~~
8 ~~regulation, in determining rates for prescription drugs,~~
9 ~~the estimated acquisition cost shall be the direct price for~~
10 ~~those drugs as determined in accordance with Section~~
11 ~~51513.5 of Title 22 of the California Code of Regulations,~~
12 ~~or, in all other cases, the average wholesale price minus~~
13 ~~10 percent.~~

