

ASSEMBLY BILL

No. 2025

Introduced by Assembly Member De La Torre

February 17, 2010

An act to amend Section 14166.2 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2025, as introduced, De La Torre. Medi-Cal: demonstration project.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

Existing law establishes the Medi-Cal Hospital/Uninsured Care Demonstration Project Act that revises hospital reimbursement methodologies in order to maximize the use of federal funds consistent with federal Medicaid law and stabilize the distribution of funding for hospitals.

Existing law requires the department to submit an application to the federal Centers for Medicare and Medicaid Services (CMS) for a waiver or demonstration project that would implement specified objectives. Existing law requires the department to submit the waiver or demonstration project application to the CMS by a date that allows sufficient time for the waiver or demonstration project to be approved by no later than September 1, 2010, or the conclusion of any extension period granted in the demonstration project set forth in the Medi-Cal

Hospital/Uninsured Care Demonstration Project Act, whichever happens last.

This bill would, to the extent necessary to continue the implementation of the Medi-Cal Hospital/Uninsured Care Demonstration Project Act, require the department to submit to CMS, by September 1, 2010, proposed amendments to the Medi-Cal state plan.

This 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. Section 14166.2 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 14166.2. (a) The demonstration project shall be implemented
- 4 and administered pursuant to this article.
- 5 (b) The director may modify any process or methodology
- 6 specified in this article to the extent necessary to comply with
- 7 federal law or the terms of the demonstration project, but only if
- 8 the modification results in the equitable distribution of funding,
- 9 consistent with this article, among the hospitals affected by the
- 10 modification. If the director, after consulting with affected
- 11 hospitals, determines that an equitable distribution cannot be
- 12 achieved, the director shall execute a declaration stating that this
- 13 determination has been made. The director shall retain the
- 14 declaration and provide a copy, within five working days of the
- 15 execution of the declaration, to the fiscal and appropriate policy
- 16 committees of the Legislature. This article shall become inoperative
- 17 on the date that the director executes a declaration pursuant to this
- 18 subdivision, and as of January 1 of the following year shall be
- 19 repealed.
- 20 (c) The director shall administer the demonstration project and
- 21 related Medi-Cal payment programs in a manner that attempts to
- 22 maximize available payment of federal financial participation,
- 23 consistent with federal law, the Special Terms and Conditions for
- 24 the demonstration project issued by the federal Centers for
- 25 Medicare and Medicaid Services, and this article.
- 26 (d) As permitted by the federal Centers for Medicare and
- 27 Medicaid Services, this article shall be effective with regard to

1 services rendered throughout the term of the demonstration project,
2 and retroactively, with regard to services rendered on or after July
3 1, 2005, but prior to the implementation of the demonstration
4 project.

5 (e) In the administration of this article, the state shall continue
6 to make payments to hospitals that meet the eligibility requirements
7 for participation in the supplemental reimbursement program for
8 hospital facility construction, renovation, or replacement pursuant
9 to Section 14085.5 and shall continue to make inpatient hospital
10 payments not covered by the contract. These payments shall not
11 duplicate any other payments made under this article.

12 (f) The department shall continue to operate the selective
13 provider contracting program in accordance with Article 2.6
14 (commencing with Section 14081) in a manner consistent with
15 this article. A designated public hospital participating in the
16 certified public expenditure process shall maintain a selective
17 provider contracting program contract. These contracts shall
18 continue to be exempt from Chapter 2 (commencing with Section
19 10290) of Part 2 of Division 2 of the Public Contract Code.

20 (g) In the event of a final judicial determination made by any
21 state or federal court that is not appealed in any action by any party
22 or a final determination by the administrator of the Centers for
23 Medicare and Medicaid Services that federal financial participation
24 is not available with respect to any payment made under any of
25 the methodologies implemented pursuant to this article because
26 the methodology is invalid, unlawful, or is contrary to any
27 provision of federal law or regulation, the director may modify
28 the process or methodology to comply with law, but only if the
29 modification results in the equitable distribution of demonstration
30 project funding, consistent with this article, among the hospitals
31 affected by the modification. If the director, after consulting with
32 affected hospitals, determines that an equitable distribution cannot
33 be achieved, the director shall execute a declaration stating that
34 this determination has been made. The director shall retain the
35 declaration and provide a copy, within five working days of the
36 execution of the declaration, to the fiscal and appropriate policy
37 committees of the Legislature. This article shall become inoperative
38 on the date that the director executes a declaration pursuant to this
39 subdivision, and as of January 1 of the following year shall be
40 repealed.

1 (h) (1) The department may adopt regulations to implement
2 this article. These regulations may initially be adopted as
3 emergency regulations in accordance with the rulemaking
4 provisions of the Administrative Procedure Act (Chapter 3.5
5 (commencing with Section 11340) of Part 1 of Division 3 of Title
6 2 of the Government Code). For purposes of this article, the
7 adoption of regulations shall be deemed an emergency and
8 necessary for the immediate preservation of the public peace,
9 health, and safety or general welfare. Any emergency regulations
10 adopted pursuant to this section shall not remain in effect
11 subsequent to 24 months after the effective date of this article.

12 (2) As an alternative, and notwithstanding the rulemaking
13 provisions of Chapter 3.5 (commencing with Section 11340) of
14 Part 1 of Division 3 of Title 2 of the Government Code, or any
15 other provision of law, the department may implement and
16 administer this article by means of provider bulletins, manuals, or
17 other similar instructions, without taking regulatory action. The
18 department shall notify the fiscal and appropriate policy committees
19 of the Legislature of its intent to issue a provider bulletin, manual,
20 or other similar instruction, at least five days prior to issuance. In
21 addition, the department shall provide a copy of any provider
22 bulletin, manual, or other similar instruction issued under this
23 paragraph to the fiscal and appropriate policy committees of the
24 Legislature. The department shall consult with interested parties
25 and appropriate stakeholders, regarding the implementation and
26 ongoing administration of this article.

27 (i) (1) To the extent necessary to implement this article, the
28 department shall submit, by September 30, 2005, to the federal
29 Centers for Medicare and Medicaid Services proposed amendments
30 to the Medi-Cal state plan, including, but not limited to, proposals
31 to modify inpatient hospital payments to designated public
32 hospitals, modify the disproportionate share hospital payment
33 program, and provide for supplemental Medi-Cal reimbursement
34 for certain physician and nonphysician professional services. The
35 department shall, subsequent to September 30, 2005, submit any
36 additional proposed amendments to the Medi-Cal state plan that
37 may be required by the federal Centers for Medicare and Medicaid
38 Services, to the extent necessary to implement this article.

39 (2) *To the extent necessary to continue the implementation of*
40 *this article, the department shall submit, by September 1, 2010, to*

1 *the federal Centers for Medicare and Medicaid Services proposed*
2 *amendments to the Medi-Cal state plan.*

3 (j) Each designated public hospital shall implement a
4 comprehensive process to offer individuals who receive services
5 at the hospital the opportunity to apply for the Medi-Cal program,
6 the Healthy Families Program, or any other public health coverage
7 program for which the individual may be eligible, and shall refer
8 the individual to those programs, as appropriate.

9 (k) In any judicial challenge of the provisions of this article,
10 nothing shall create an obligation on the part of the state to fund
11 any payment from state funds due to the absence or shortfall of
12 federal funding.

13 (l) Any reference in this article to the “Medicare cost report”
14 shall be deemed a reference to the Medi-Cal cost report to the
15 extent that report is approved by the federal Centers for Medicare
16 and Medicaid Services for any of the uses described in this article.

17 SEC. 2. This act is an urgency statute necessary for the
18 immediate preservation of the public peace, health, or safety within
19 the meaning of Article IV of the Constitution and shall go into
20 immediate effect. The facts constituting the necessity are:

21 In order to ensure the renewal of the Medi-Cal
22 Hospital/Uninsured Care Demonstration Project Act before the
23 current federal waiver authorizing for the demonstration project
24 expires in 2010, it is necessary for this act to take effect
25 immediately.