

**DEPARTMENT OF HEALTH CARE SERVICES
LEGISLATIVE SUMMARY
2009**

Compiled by the
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DEPARTMENT OF HEALTH CARE SERVICES ADMINISTRATION-SPONSORED LEGISLATION

<u>BILL #</u>	<u>AUTHOR</u>	<u>CHAPTER #</u>	<u>SUBJECT</u>
AB 175	Galgiani	419	Medical Telemedicine: Optometrists
AB 839	Emmerson	255	Medi-Cal: Providers: Remedies
AB 1540	Committee on Health	298	Health

2009 BUDGET BILLS

<u>BILL#</u>	<u>AUTHOR</u>	<u>CHAPTER #</u>	<u>SUBJECT</u>
ABx4 1	Evans	1	Budget Act of 2009: revisions
ABx4 5	Evans	5	Health
ABx4 6	Evans	6	Medi-Cal
ABx4 7	Evans	7	Public social services: enrollment process
SBx3 1	Ducheny	1	2009-10 Budget

The Two Budget Act bills listed above are not included in the online version of this report.

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AUDITS & INVESTIGATIONS

AB 1142 Price (Chapter 511)
MEDI-CAL: PROOF OF ELIGIBILITY

AB 1142, sponsored by Western Center on Law and Poverty, requires hospitals to provide proof of a person's Medi-Cal eligibility to hospital-based providers, ambulance, and other providers of professional services that bill separately for all services associated with the person's treatment in the hospital rendered during the same period for which the hospital is submitting a claim. The bill also prohibits a Medi-Cal provider or third-party collection agency who receives proof of Medi-Cal eligibility from reporting the rendering of Medi-Cal covered services to a consumer credit reporting agency or failing to correct a negative credit report regarding the Medi-Cal covered services rendered.

FISCAL INTERMEDIARY AND CONTRACTS OVERSIGHT

AB 839 Emmerson (Chapter 255)
MEDI-CAL: PROVIDERS: REMEDIES

AB 839, sponsored by DHCS, clarifies that the judicial remedy for Medi-Cal providers seeking to appeal the denial of a grievance, complaint or reimbursement is to file a petition for writ of mandate in the superior court, pursuant to Code of Civil Procedure section 1085. The bill also changes existing law to no longer penalize Medi-Cal providers and applicants when they exercise their right to appeal their denial and/or termination of enrollment in Medi-Cal.

LEGISLATIVE AND GOVERNMENTAL AFFAIRS

ABx4 5 Evans (Chapter 5)
HEALTH: BUDGET TRAILER BILL

ABx4 5, sponsored by the author, requires financial institutions to provide asset information to the State for the Medi-Cal aged, blind and disabled, as part of an asset verification program; establishes Intermediate Care Facility for the Developmentally Disabled -Continuous Nursing (ICF/DD-CN) as a type of health facility subject to state licensure and provides for the continuation of the ICF/DD-CN pilot project through an approved Medicaid waiver or Medicaid SPA; allows DHCS to include Medicare revenue in the overall revenue base used to calculate the AB 1629 quality assurance fee; prevents potential and current Genetically Handicapped Persons Program (GHPP) clients from voluntarily dropping their private health insurance coverage to rely upon GHPP; provides authority for GHPP to pay premiums for a client's other health coverage; modifies the current GHPP enrollment fee provisions; delays the effective date of the California Discount Prescription Drug Program

until July 1, 2010; allows an eligible public agency that receives reimbursement for specialty mental health services provided to Medi-Cal beneficiaries to also receive supplemental Medi-Cal reimbursement above their regular Medi-Cal payments through a certified public expenditure process; ensures continued full-scope Medi-Cal eligibility for beneficiaries and applicants of Medi-Cal Programs that use SSI/SSP payment levels as their income eligibility standards to ensure compliance with the ARRA of 2009; allows DHCS to utilize a social security number (SSN) data match with the federal SSA to comply with federal requirements for documentation of U.S. citizenship and identity as a condition of Medi-Cal eligibility; allows DHCS to expand County Organized Health Systems (COHS) health plans into counties which are not contiguous or in close proximity to an existing COHS county; freezes the Medi-Cal reimbursement rates paid to AB 1629 and several non-AB 1629 long-term care facility types and ADHC centers at the 2008-09 reimbursement levels; requires a supplemental drug rebate equal to 10 percent of Average Manufacturers Price (AMP) for all HIV/AIDS and Cancer drugs added to the Medi-Cal List of Contract Drugs on or before 12/31/2009; allows DHCS to set Maximum Allowable Ingredient Cost (MAIC) prices by using either the AMP, the Wholesaler Acquisition Cost or to contract with a vendor to establish MAIC prices; establishes a definition for the term “usual and customary charge”, which establishes the maximum amount pharmacy providers can bill Medi-Cal for a prescribed drug; requires all entities participating in the federal 340B drug purchasing program to dispense only 340B purchased drugs to Medi-Cal beneficiaries; allows DHCS to establish rates for ICF/DD-CN homes, regardless of whether these services are provided pursuant to either an approved Medicaid waiver or a Medicaid SPA; reduces ADHC coverage from a maximum of five days per week to a maximum of three days per week until the Director makes the declaration regarding implementation of new eligibility criteria for ADHC coverage (also required by this bill) at which point ADHC coverage will again be to a maximum of five days per week; allows the Medicaid State plan to transition the Section 1115 Demonstration Project IHSS Plus Waiver program to a Section 1915(j) optional program under the State plan called the IHSS Plus Option; reduces private disproportionate share hospital funding by 10%; adds a provision to reduce the amount of available stabilization funding for distressed hospitals in FYs 2008-09 and 2009-10 in order to generate a GF savings; adds a provision to increase the amount of federal claiming from the Safety Net Care Pool for the state-funded programs above the amount necessary to maintain stabilization funding for fiscal years prior to FY 2009-10 in order to reduce State GF expenditures; adds a provision to reduce the amount of funds transferred to the Distressed Hospital Fund for FY 2009-10 in order to generate a GF savings; amends existing law to (1) exclude state owned or operated hospitals from certain Medi-Cal payment reductions for inpatient hospitals services provided in non-contract hospitals and (2) make some small and rural hospitals subject to certain Medi-Cal payment reductions for non-contract hospitals; requires DHCS to provide the Legislature with a quarterly update regarding the implementation of the federal ARRA of 2009 as it pertains to California’s Medi-Cal program, including all waiver programs; adds an uncodified provision requiring the

CHHSA, or successor entity, to develop an action plan to establish a coordinated approach between DHCS and DMH to produce tangible outcomes related to certain core functions under the Medi-Cal Specialty Mental Health Services waiver program; and required DHCS to provide the applicable fiscal and policy committees of the Legislature with copies of all federal audit reports and their findings that pertain to the Medi-Cal Program within seven working days.

ABx4 6 Evans (Chapter 6)
MEDI-CAL

ABx4 6, sponsored by the author, adds a provision to the W&I Code that enables DHCS to maximize the claiming of federal funds under the *Medi-Cal Hospital/Uninsured Care Demonstration (Waiver 11-W00193/9)* (Demonstration) in order to generate GF savings in FYs 2008-09 and 2009-10; requires DHCS to submit a waiver application to the federal CMS to restructure the delivery of health care and provide better care coordination for the most medically fragile Medi-Cal beneficiaries and proposes organized delivery systems for the target populations, which may include an enhanced primary care case management model, a medical home model, or managed care model and requires the development of criteria, performance standards, and indicators to ensure that services meet the multiple and complex needs of beneficiaries and requires DHCS to submit the waiver application in time to obtain CMS approval by September 1, 2010 or by the end of any extension of the Hospital Financing waiver, whichever is later.

ABx4 7 Evans (Chapter 7)
PUBLIC SOCIAL SERVICES: STATEWIDE ENROLLMENT PROCESS

ABX4 7, sponsored by the author, requires DHCS and the Department of Social Services to develop a statewide eligibility and enrollment determination process for Medi-Cal, CalWORKs and the Supplemental Nutrition Assistance Program based on a comprehensive plan, with stakeholder steering committee involvement.

LONG-TERM CARE

AB 398 Monning (Chapter 439)
ACQUIRED BRAIN TRAUMA: ADMINISTRATION

AB 398, sponsored by California Foundation for Independent Living Centers, San Francisco Traumatic Brain Injury Network and Traumatic Brain Injury Services of California, transfers the administration of the California Traumatic Brain Injury (TBI) program from the Department of Mental Health to the Department of Rehabilitation. The bill also clarifies that funds deposited into the TBI Fund may be matched by federal vocational rehabilitation service funds under certain conditions and to the extent the matching funds are permitted by other state and federal laws. The bill extends the sunset date of

the TBI program from July 1, 2012, to July 1, 2019. The bill also extends the deadline from March 15, 2009, to March 15, 2011, for DHCS to submit an application to the Centers for Medicare & Medicaid Services for a state plan amendment (SPA) or a Home and Community-Based Services waiver to serve at least 100 Medi-Cal eligible persons with TBI who otherwise would require care in a Medi-Cal funded Nursing Facility or an Intermittent Care Facility for the Developmentally Disabled. Development, monitoring, and implementation of the waiver or SPA would be contingent on the availability of funds either by a state appropriation, or otherwise available from another source.

AB 577 Lowenthal, B. (Chapter 456)
PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY

AB 577, sponsored by CalPACE, expands the authority of DHCS, the California Department of Public Health, the California Department of Social Services and the California Department of Aging to grant exemption requests for the Program of All-Inclusive Care for the Elderly (PACE). The bill also codifies in state law, the federal requirements of the PACE benefits package and codifies requirements of the PACE model that may not be waived or modified as provided in the Social Security Act.

MEDI-CAL BENEFITS, WAIVER ANALYSIS & RATES

SB 117 Corbett (Chapter 165)
ADULT DAY HEALTH CARE SERVICES: ELIGIBILITY CRITERIA: MEDI-CAL REIMBURSEMENT METHODOLOGY AND LIMIT

SB 117, sponsored by the California Association for Adult Day Services, makes changes to laws that govern the Adult Day Health Care (ADHC) program. This bill pushes back the date (from August 1, 2010 to August 1, 2012) by which DHCS is required to establish a reimbursement methodology and reimbursement limit for ADHC centers. In addition, this bill contains cleanup language for ABX4 5 (Evans, Chapter 5, Statutes of 2009) to correctly reference the level of care (nursing facility A) that is part of the new medical necessity criteria for approval of ADHC Treatment Authorization Requests.

MEDI-CAL ELIGIBILITY

AB 1269 Brownley (Chapter 282)
MEDI-CAL: ELIGIBILITY

AB 1269, sponsored by the World Institute on Disability, expands the Medi-Cal 250 Percent California Working Disabled Program (WDP) by allowing additional income/resource exemptions and a 26 week period of unemployment when determining eligibility for the WDP. This bill also eliminates the current sliding scale premium determination process used to

calculate monthly premiums for the WDP and substitutes five percent of the countable income up to \$250. The implementation date for the bill will be 30 days after enhanced federal funding under the American Recovery and Reinvestment Act of 2009 ends (January 1, 2011) and will be contingent upon federal financial participation.

SBx3 24 Alquist (Chapter 24)
MEDI-CAL: CONTINUOUS ELIGIBILITY: SEMIANNUAL STATUS REPORTS

SBx3 24, sponsored by the author, suspends the reduction of continuous eligibility for children (CEC) from 12 months to 6 months during the time period that increased Federal Medical Assistance Percentage is available for states through the American Recovery and Reinvestment Act of 2009. The suspension of the CEC reduction from 12 months to 6 months requires the suspension of the midyear status report for children. The provisions of SBX3 24 take effect immediately.

MEDI-CAL MANAGED CARE

AB 1422 Bass (Chapter 157)
HEALTH CARE PROGRAMS: CALIFORNIA CHILDREN AND FAMILIES ACT OF 1998

AB 1422, sponsored by the author, adds Medi-Cal Managed Care plans to the list of insurers subject to California's gross premiums tax. The proceeds from the tax will be continuously appropriated to: (1) DHCS for the Medi-Cal Managed Care program in the amount of 38.41 percent and (2) to the Managed Risk Medical Insurance Board in the amount of 61.59 percent for the Healthy Families Program (HFP). The bill also increases premiums paid by HFP enrollees and allows the California Children and Families Commission to transfer monies among its various funds. The bill takes effect retroactively to January 1, 2009, and will sunset January 1, 2011.

PHARMACY BENEFITS

AB 175 Galgiani (Chapter 419)
MEDICAL TELEMEDICINE: OPTOMETRISTS

AB 175, sponsored by DHCS, expands the definition of "teleophthalmology by store and forward" to include optometrists and allow them the ability to provide and be reimbursed for teleophthalmology services by store and forward under the Medi-Cal program. The bill also requires that consultation or referral be with an appropriate physician and surgeon or ophthalmologist, as required, if the reviewing optometrist identifies a disease or condition requiring consultation or referral pursuant to Section 3041 of the Business and Professions Code.

AB 830 Cook (Chapter 479)
DRUGS AND DEVICES

AB 830, sponsored by Medical Oncology Association of Southern CA and the Association of Northern CA Oncologists, revises the reference compendia used to identify medically accepted off-label indications for managed care plans and the Medi-Cal program. The bill limits the compendia that can be used for Medi-Cal purposes to those listed in Section 1927 of the federal Social Security Act (42 U.S.C. Sec.1396r-8).

PROVIDER ENROLLMENT

AB 839 Emmerson (Chapter 255)
MEDI-CAL: PROVIDERS: REMEDIES

AB 839, sponsored by DHCS, clarifies that the judicial remedy for Medi-Cal providers seeking to appeal the denial of a grievance, complaint or reimbursement is to file a petition for writ of mandate in the superior court, pursuant to Code of Civil Procedure Section 1085. The bill also changes existing law to no longer penalize Medi-Cal providers and applicants when they exercise their right to appeal their denial and/or termination of enrollment in Medi-Cal.

AB 1540 Committee on Health (Chapter 298)
HEALTH

AB 1540, sponsored by CA Health and Human Services Agency, makes technical clean-up changes to W&I Code Sections 14043.26, 14043.28 and 14043.29 so that the law correctly references the authority to deny or approve enrollment of providers into the Medi-Cal program and changes made by AB 203 (Chapter 188, Statutes of 2007) and AB 1226 (Chapter 693, Statutes of 2007). The bill also allows DHCS to continue making enhancements to the Local Educational Agency Medi-Cal Billing Option program by extending the sunset date of January 1, 2010, to January 1, 2013, and to continue a sole source contract to assist with program enhancements.

SAFETY NET FINANCING

AB 188 Jones (Chapter 645)
MEDI-CAL: QUALITY ASSURANCE FEE REVENUE

AB 188, sponsored by the California Hospital Association, Daughters of Charity Health System, and California Children's Hospital Association, provides the \$13.5 billion appropriation and spending authority, on an urgency basis, for funds to be distributed to certain hospitals; to provide funding for

children's health care coverage; and to implement the Medi-Cal Hospital Provider Rate Stabilization Act and the Quality Assurance Act, enacted by AB 1383 (Jones, Chapter 627, Statutes of 2009) effective January 1, 2010. The bill also provides the \$2 million appropriation to pay for DHCS staffing and administrative costs associated with seeking federal approval and other implementation costs.

AB 303

Beall (Chapter 428)

MEDI-CAL: DESIGNATED PUBLIC HOSPITALS: SEISMIC SAFETY REQUIREMENTS

AB 303, sponsored by Santa Clara County, allows eligible hospitals to receive supplemental Medi-Cal reimbursement for debt service paid on general obligation or revenue bonds used for construction, renovation, or replacement of facilities for seismic retrofitting.

AB 1383

Jones (Chapter 627)

MEDI-CAL: HOSPITAL PAYMENTS: QUALITY ASSURANCE FEES

AB 1383, sponsored by the California Hospital Association, Daughters of Charity Health System, and California Children's Hospital Association, establishes the Medi-Cal Hospital Provider Rate Stabilization Act and the Quality Assurance Fee Act under which DHCS will be required to seek federal approvals to impose a quality assurance fee (fee) on certain hospitals to be used, for the most part, as the non-federal share of supplemental Medi-Cal payments to hospitals for outpatient and inpatient services. The bill also requires upon appropriation from the Legislature that revenue from the fee be used to make specified increased Medi-Cal payments to hospitals, to pay for health care coverage for children, and to pay for DHCS staffing and administrative costs. (See Sign Message).

AB 1540

Committee on Health (Chapter 298)

HEALTH

AB 1540, sponsored by CA Health and Human Services Agency, makes technical clean-up changes to W&I Code Sections 14043.26, 14043.28 and 14043.29 so that the law correctly references the authority to deny or approve enrollment of providers into the Medi-Cal program and changes made by AB 203 (Chapter 188, Statutes of 2007) and AB 1226 (Chapter 693, Statutes of 2007). The bill also allows DHCS to continue making enhancements to the Local Educational Agency Medi-Cal Billing Option program by extending the sunset date of January 1, 2010, to January 1, 2013, and to continue a sole source contract to assist with program enhancements.

SYSTEMS OF CARE

AB 896 Galgiani (Chapter 260)

HEALTH CARE PROGRAMS: PROVIDER REIMBURSEMENT RATES

AB 896, sponsored by the California Children's Hospital Association, extends the January 1, 2010 sunset date specified in AB 2474 (Galgiani, Chapter 496, Statutes of 2008) until January 1, 2011. This statute requires DHCS to reimburse hospital inpatient care services at 90 percent of the Medi-Cal non-contract, interim hospital rates for non-Medi-Cal clients enrolled in the California Children's Services program, the Genetically Handicapped Persons Program, the State-Only Family Planning Program, the Family Planning, Access, Care, and Treatment program, and the Breast and Cervical Cancer Detection Program.

2009 ENROLLED BILLS

BILL NUMBER	AUTHOR	FINAL STATUS	CHAPTER	PROGRAM*	PAGE NUMBER
AB 56	Portantino	Veto		MC	---
AB 175	Galgiani	Sign	419	PB	5
AB 188	Jones	Sign	645	SF	6
AB 217	Beall	Veto		SF	---
AB 303	Beall	Sign	428	SF	7
AB 369	Yamada	Veto		MB	---
AB 398	Monning	Sign	439	LT	3
AB 513	De Leon	Veto		MC	---
AB 577	Lowenthal, B.	Sign	456	LT	4
AB 830	Cook	Sign	479	PB	6
AB 839	Emmerson	Sign	255	FC, PE	1,6
AB 896	Galgiani	Sign	260	SC	8
AB 1142	Price	Sign	511	AI	1
AB 1269	Brownley	Sign	282	ME	4
AB 1383	Jones	Sign	627	SF	7
AB 1422	Bass	Sign	157	MC	5
AB 1462	Feuer	Veto		SF	---
AB 1540	Committee on Health	Sign	298	PE/SF	6,7
ABx4 5	Evans	Sign	5	LA	1
ABx4 6	Evans	Sign	6	LA	3
ABx4 7	Evans	Sign	7	LA	3
SB 117	Corbett	Sign	165	MB	4
SB 158	Wiggins	Veto		MC	---
SB 161	Wright	Veto		MC	---
SBx3 24	Alquist	Sign	24	ME	5

*See Program Assignments and Acronyms on Next Page.

PROGRAM ASSIGNMENTS AND ACRONYMS

PROGRAM	CODE
Administration	AD
Audits and Investigations	AI
Budget Office	BO
Civil Rights, Office of	CR
Fiscal Intermediary & Contracts Oversight	FC
Fiscal Forecasting & Data Management	FF
HIPAA Compliance, Office of	HC
Health Care Policy	HP
Information Technology	IT
Legislative and Governmental Affairs, Office of	LA
Legal Services	LG
Long-Term Care	LT
Medi-Cal Benefits, Waivers Analysis and Rates	MB
Medi-Cal Managed Care	MC
Medi-Cal Eligibility	ME
Public Affairs, Office of	PA
Pharmacy Benefits	PB
Provider Enrollment	PE
Primary & Rural Health	RH
Systems of Care	SC
Safety Net Financing	SF
Third Party Liability & Recovery	TR
Utilization Management	UM
Women's Health, Office of	WH

SIGN MESSAGES

(Sign and Veto messages follow this index in numeric order.)

<u>BILL#</u>	<u>AUTHOR</u>	<u>SUBJECT</u>	<u>DIV</u>
AB 1383	Jones	Medi-Cal: hospital payments: quality assurance fees	SF
ABx4 1	Evans	Budget Act of 2009: revisions	LA
SBx3 1	Ducheny	2009-10 Budget	LA

(Sign/Veto messages are not included in the online version of this summary report)

VETO MESSAGES

<u>BILL#</u>	<u>AUTHOR</u>	<u>SUBJECT</u>	<u>DIV</u>
AB 56	Portantino	Health care coverage: mammographies	MC
AB 217	Beall	Medi-Cal: alcohol and drug screening and brief intervention services	SF
AB 369	Yamada	Adult day health care centers	MB
AB 513	De Leon	Health care coverage: breastfeeding	MC
AB 1462	Feuer	Medi-Cal: inpatient hospital services contracts	SF
SB 158	Wiggins	Health care coverage: cervical cancer screening: human papillomavirus vaccination	MC
SB 161	Wright	Health care coverage: cancer treatment	MC

Please contact LGA at (916) 440-7500 if you have any questions about the contents of this report.