

**DEPARTMENT OF HEALTH SERVICES**

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April 6, 2001

CMS INFORMATION NOTICE NO.: 01-07

TO: ALL COUNTY CALIFORNIA CHILDREN'S SERVICES (CCS),  
ADMINISTRATORS, CHILD HEALTH AND DISABILITY PREVENTION  
(CHDP) PROGRAM DIRECTORS, DEPUTY DIRECTORS, MEDICAL  
CONSULTANTS, STATE CHILDREN'S MEDICAL SERVICES (CMS)  
BRANCH STAFF AND REGIONAL OFFICE STAFF

SUBJECT: CCS, CHDP, AND GENETICALLY HANDICAPPED PERSONS  
PROGRAMS (GHPP) LAWS

Enclosed for your information and convenience are the laws that directly relate or have an impact on CCS, CHDP, and GHPP.

This document is an update to the set of laws that were previously provided via CMS Information Notice No. 96-7 dated May 23, 1996. This updated set reflects all changes in existing laws, as well as any new laws that have been added since the last distribution. These laws are contained in West's "Annotated California Codes" and can also be accessed on the Internet at <http://www.leginfo.ca.gov/calaw.html>.

If you have any questions regarding this information, please contact your CMS regional office consultant.

A handwritten signature in cursive script that reads "Maridee Gregory, M.D.".

Maridee A. Gregory, M.D., Chief  
Children's Medical Services Branch

Enclosures

# CHILDREN'S MEDICAL SERVICES BRANCH

## PROGRAM STATUTES

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# CALIFORNIA CHILDREN'S SERVICES PROGRAM

## STATUTES

### HEALTH AND SAFETY CODE SECTIONS 123800-123995

#### 123800. Title of Act

This article shall be known and may be cited as the Robert W. Crown California Children's Services Act.

#### 123805. Services for physically defective or handicapped minors; powers and duties of department

The department shall establish and administer a program of services for physically defective or handicapped persons under the age of 21 years, in cooperation with the federal government through its appropriate agency or instrumentality, for the purpose of developing, extending and improving the services. The department shall receive all funds made available to it by the federal government, the state, its political subdivisions or from other sources. The department shall have power to supervise those services included in the state plan that are not directly administered by the state. The department shall cooperate with the medical, health, nursing and welfare groups and organizations concerned with the program, and any agency of the state charged with the administration of laws providing for vocational rehabilitation of physically handicapped children.

The reference to "the age of 21 years" in this section is unaffected by Section 1 of Chapter 1748 of the Statutes of 1971 or any other provision of that chapter.

#### 123810. Transfers of duties, purposes, responsibilities and jurisdiction

The department succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the State Department of Benefit Payments with respect to moneys, funds, and appropriations available to the department for the purposes of processing, audit, and payment of claims received for the purposes of this article.

#### 123815. Possession and control of records, equipment and supplies

The department shall have possession and control of all records, papers, equipment, and supplies held for the benefit or use of the Director of Benefit Payments in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the department by Section 123810.

#### 123820. Transfers of officers and employees

All officers and employees of the Director of Benefit Payments who on July 1, 1978, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the department by Section 123810 shall be transferred to the department. The status, positions, and rights of these persons shall not be affected by the

transfer and shall be retained by them as officers and employees of the department pursuant to the State Civil Service Act, except as to positions exempt from civil service.

123822. Claims for services; submission to fiscal intermediary; centralized billing system

All claims for services provided under this article shall be submitted to the state fiscal intermediary for payment no later than January 1, 1999. The State Department of Health Services shall work in cooperation with the counties to develop a timeline for implementing the centralized billing system. If a department review of those counties participating in the centralized billing system demonstrates that as of January 1, 2000, any county has incurred increased costs as a result of submitting claims for services to the state fiscal intermediary, that county may be exempt from this section.

123825. Intent

It is the intent of the Legislature through this article to provide, to the extent practicable, for the necessary medical services required by physically handicapped children whose parents are unable to pay for these services, wholly or in part. This article shall also include the necessary services rendered by the program to physically handicapped children treated in public schools that provide services for physically handicapped children.

123830. Handicapped child

"Handicapped child," as used in this article, means a physically defective or handicapped person under the age of 21 years who is in need of services. The director shall establish those conditions coming within a definition of "handicapped child" except as the Legislature may otherwise include in the definition. Phenylketonuria, hyaline membrane disease, cystic fibrosis, and hemophilia shall be among these conditions. The reference to "the age of 21 years" in this section is unaffected by Section 1 of Chapter 1748 of the Statutes of 1971 or any other provision of that chapter.

123835. Keeping program abreast of advances in medical science; pilot studies

The department shall keep the program abreast of advances in medical science, leading to the inclusion of other handicapping conditions and services within the limits of and consistent with the most beneficial use of funds appropriated for this purpose. With the approval of the agency administrator the department may carry out pilot studies to determine the need for, or the feasibility of, including other handicapping conditions and services in the program within the limits of available funds appropriated for the program.

123840. Services

"Services," as used in this article, means any or all of the following:

- (a) Expert diagnosis.
- (b) Medical treatment.
- (c) Surgical treatment.
- (d) Hospital care.
- (e) Physical therapy.

- (f) Occupational therapy.
- (g) Special treatment.
- (h) Materials.
- (i) Appliances and their upkeep, maintenance, care and transportation.
- (j) Maintenance, transportation, or care incidental to any other form of "services."

123845. California children's services program

"California Children's Services Program," as used in this article, means the program of services established and operated pursuant to this article.

123850. Designation of agency to administer California children's services program; standards of local administration

The board of supervisors of each county shall designate the county department of public health or the county department of social welfare as the designated agency to administer the California Children's Services Program. Counties with total population under 200,000 persons may administer the county program independently or jointly with the department. Counties with a total population in excess of 200,000 persons shall administer the county program independently. Except as otherwise provided in this article, the director shall establish standards relating to the local administration and minimum services to be offered by counties in the conduct of the California Children's Services Program.

123855. Case finding; consent of parent or guardian

The department or designated county agency shall cooperate with, or arrange through, local public or private agencies and providers of medical care to seek out handicapped children, bringing them expert diagnosis near their homes. Case finding shall include, but not be limited to, children with impaired sense of hearing. This section does not give the department or designated agency power to require medical or other form of physical examination without consent of parent or guardian.

123860. Diagnosis for handicapped children

In accordance with applicable regulations of the United States Children's Bureau, the department and designated county agencies shall provide a diagnosis for handicapped children. Within the limits of available funds, the department and designated local agencies may accept for diagnosis a handicapped child believed to have a severe chronic disease or severe physical handicap, as determined by the director, irrespective of whether the child actually has an eligible medical condition specified in Section 123830. The department shall cause a record to be kept listing all conditions diagnosed by the program and shall publish the information annually, including data on the number and kinds of diagnosed medical conditions that do not come within the definition of "handicapped child" as specified in Section 123830.

123865. Application for services

Whenever the parents or estate of a handicapped child is wholly or partly unable to furnish for the child necessary services, the parents or guardian may apply to the agency of the county that has been designated by the board of supervisors of the county of residence under

the terms of Section 123850 to administer the provisions for handicapped children. Residence shall be determined in accordance with Sections 243 and 244 of the Government Code\*\*.

123870. Standards of financial eligibility; exception for services under the medical therapy program in public schools; fees

(a) The department shall establish standards of financial eligibility for treatment services under the California Children's Services Program (CCS program).

(1) Financial eligibility for treatment services under this program shall be limited to persons in families with an adjusted gross income of forty thousand dollars (\$40,000) or less in the most recent tax year, as calculated for California state income tax purposes. If a person is enrolled in the Healthy Families Program (Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code), the financial documentation required for that program in Section 2699.6600 of Title 10 of the California Code of Regulations may be used instead of the person's California state income tax return. However, the director may authorize treatment services for persons in families with higher incomes if the estimated cost of care to the family in one year is expected to exceed 20 percent of the family's adjusted gross income.

(2) Children enrolled in the Healthy Families Program who have a CCS program eligible medical condition under Section 123830, and whose families do not meet the financial eligibility requirements of paragraph (1), shall be deemed financially eligible for CCS program benefits.

\* *Government Code, Section 243 and 244:*

243. *"Every person has, in law, a residence."*

244. *"In determining the place of residence the following rules shall be observed:*

(a) *It is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he or she returns in seasons of repose.*

(b) *There can only be one residence.*

(c) *A residence cannot be lost until another is gained.*

(d) *The residence of the parent with whom an unmarried minor child maintains his or her place of abode is the residence of such unmarried minor child.*

(e) *The residence of an unmarried minor who has a parent living cannot be changed by his or her own act.*

(f) *The residence can be changed only by the union of act and intent.*

(g) *A married person shall have the right to retain his or her legal residence in the state of California notwithstanding the legal residence or domicile of his or her spouse."*

(b) Necessary medical therapy treatment services under the California Children's Services Program rendered in the public schools shall be exempt from financial eligibility standards and enrollment fee requirements for the services when rendered to any handicapped child whose educational or physical development would be impeded without the services.

(c) All counties shall use the uniform standards for financial eligibility and enrollment fees established by the department. All enrollment fees shall be used in support of the California Children's Services Program.

(d) Annually, every family with a child eligible to receive services under this article shall pay a fee of twenty dollars (\$20), that shall be in addition to any other program fees for which the family is liable. This assessment shall not apply to any child who is eligible for full scope Medi-Cal benefits without a share of cost, for children receiving therapy through the California Children's Services Program as a related service in their individualized education plans, for children from families having incomes of less than 100 percent of the federal poverty level, or for children covered under the Healthy Families Program.

123872.           Repayment agreement for treatment services

In addition to the other eligibility requirements set forth in this article, prior to being determined financially eligible for services under this article, the applicant family shall agree to repay the California Children's Services Program for any treatment services authorized by the program in an amount not to exceed the proceeds of any judgment, award, or settlement for damages as a result of a lawsuit or pursuant to an agreement relating to a California Children's Services medically eligible condition.

123875.           Determination that handicapped child is eligible for therapy by California Children's Services medical therapy program unit conference team; disagreement; further justification

When the California Children's Service medical therapy unit conference team, based on a medical referral recommending medically necessary occupational or physical therapy in accordance with subdivision (b) of Section 7575 of the Government Code\*, finds that a

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\* *Government Code, Section 7575 (b):*

*(b) The department shall determine whether a California Children's Services eligible pupil, or a pupil with a private medical referral needs medically necessary occupational therapy or physical therapy. A medical referral shall be based on a written report from a licensed physician and surgeon who has examined the pupil. The written report shall include the following:*

*(1) The diagnosed neuromuscular, musculoskeletal, or physical handicapping condition prompting the referral.*

*(2) The referring physician's treatment goals and objectives.*

*(3) The basis for determining the recommended treatment goals and objectives, including how these will ameliorate or improve the pupil's diagnosed condition.*

*(4) The relationship of the medical disability to the pupil's need for special education and related services.*

*(5) Relevant medical records.*

handicapped child, as defined in Section 123830, needs medically necessary occupational or physical therapy, that child shall be determined to be eligible for therapy services. If the California Children's Services medical consultant disagrees with the determination of eligibility by the California Children's Services medical therapy unit conference team, the medical consultant shall communicate with the conference team to ask for further justification of its determination, and shall weigh the conference team's arguments in support of its decision in reaching his or her own determination.

This section shall not change eligibility criteria for the California Children's Services programs as described in Sections 123830 and 123860.

This section shall not apply to children diagnosed as specific learning disabled, unless they otherwise meet the eligibility criteria of the California Children's Services.

**123880. Continued eligibility; receipt of treatment services under teaching program**

The department and designated agencies shall not deny eligibility or aid under the California Children's Services Program because an otherwise eligible person is receiving treatment services under a teaching program at an accredited medical school facility or accredited school or college of podiatric medicine, whether or not all or part of the treatment services are performed by the staff at the facility, school, or college, provided that treatment services at the facility, school, or college are under the general supervision of a California Children's Services Program panel physician and surgeon, including a family physician, and podiatrist.

**123885. Panel members; qualifications**

Panel members as set forth in Section 123880 shall be board-certified and have expertise in the care of children.

**123890. Burn victims; treatment in hospital without separate facilities for children**

(a) The state department shall not deny a hospital's request to provide treatment to burn victims who are eligible under the California Children's Services Program solely on the basis that the hospital does not have separate facilities for child and adult burn victims, provided that the hospital has approval from the department to operate a burn center pursuant to Section 1255.

(b) Subdivision (a) shall only be applied to burn units located in hospitals where there are no regional burn centers, or any other existing burn center, within an 85-mile radius of the hospital.

(c) Subdivision (a) shall only apply if the hospital seeking the exemption had a state-approved burn center in operation as of January 1, 1982, and if there is no hospital specializing in children's services within an 85-mile radius of the hospital seeking the subdivision (a) exemption.

(d) Hospitals having qualified and received a subdivision (a) exemption, shall demonstrate, at the request of the department, that the nursing staff providing burn care to children victims have satisfactorily completed post-graduate training in pediatrics.

123895. Determination of eligibility; certification for care

The designated agency shall determine the financial eligibility of the family according to standards established by the department. The agency will also determine if the parents are residents of the county, if the guardian of the child is a resident of the county, or if the emancipated minor is a resident of the county where application for services is made. If the agency finds that the family, guardian, or emancipated minor is a resident of the county and financially eligible for services, it shall make a record of the facts and shall certify this child for care under the program.

123900. Annual enrollment; exceptions; one time start up fee; accounting

(a) Beginning September 1, 1991, in addition to any other standards of eligibility pursuant to this article, each family with a child otherwise eligible to receive services under this article shall pay an annual enrollment fee as a requirement for eligibility for services, except as specified in subdivision (f).

(b) The department shall determine the annual enrollment fee, that shall be a sliding fee scale based upon family size and income, and shall be adjusted by the department to reflect changes in the federal poverty level.

(c) "Family size" shall include the child, his or her natural or adoptive parents, siblings, and other family members who live together and whose expenses are dependent upon the family income.

(d) "Family income" for purposes of this article, shall include the total gross income, or their equivalents, of the child and his or her natural or adoptive parents.

(e) Payment of the enrollment fee is a condition of program participation. The enrollment fee is independent of any other financial obligation to the program.

(f) The enrollment fee shall not be charged in any of the following cases:

(1) The only services required are for diagnosis to determine eligibility for services, or are for medically necessary therapy pursuant to Section 123875.

(2) The child is otherwise eligible to receive services and is eligible for full Medi-Cal benefits at the time of application or reapplication.

(3) The family of the child otherwise eligible to receive services under this article has a gross annual income of less than 200 percent of the federal poverty level.

(4) The family of a child otherwise eligible to receive services under this article who is enrolled in the Healthy Families Program (Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code).

(g) Failure to pay or to arrange for payment of the enrollment fee within 60 days of the due date shall result in disenrollment and ineligibility for coverage of treatment services 60 days after the due date of the required payment.

(h) The county shall apply the enrollment fee scale established by the department and shall collect the enrollment fee. The county may arrange with the family for periodic payment during the year if a lump-sum payment will be a hardship for the family. The agency director of California Children's Services may, on a case-by-case basis, waive or reduce the amount of a family's enrollment fee if, in the director's judgment, payment of the fee will result in undue hardship.

(i) By thirty days after the effective date of this section or August 1, 1991, whichever is later, the department shall advance to each county, as a one-time startup amount, five dollars and fifty cents (\$5.50) for each county child who was receiving services under this article on June 30, 1990, and who was not a Medi-Cal beneficiary. This one-time payment shall be in

addition to the 4.1 percent of the gross total expenditures for diagnoses, treatment, and therapy by counties allowed under subdivision (c) of Section 123955.

(j) Each county shall submit to the state, as part of its quarterly claim for reimbursement, an accounting of all revenues due and revenues collected as enrollment fees.

123905. Certification of eligibility; authorization and payment for services; reimbursement

A county of under 200,000 population, administering its county program jointly with the department, shall forward to the department a statement certifying the family of the handicapped child as financially eligible for treatment services. The department shall authorize necessary services within the limits of available funds. Payment for services shall be made by the department, with reimbursement from the county for its proportionate share as specified in this article.

123910. Payment for services without certification; furnishing services; gifts and legacies

The department may, without the possession of a county certification, pay the expenses for services required by any physically handicapped child out of any funds received by it through gift, devise, or bequest or from private, state, federal, or other grant or source.

The department may authorize or contract with any person or institution properly qualified to furnish services to handicapped children. It may pay for services out of any funds appropriated for the purpose or from funds it may receive by gift, devise, or bequest.

The department may receive gifts, legacies, and bequests and expend them for the purpose of this article, but not for administrative expense.

123915. Direct arrangement for services; agreements with parents for payment of enrollment fees

When the department provides, or arranges for the provision of, services to physically handicapped children directly, as in the case of nonresident physically handicapped children, it shall enter into an agreement with parents, guardians or persons responsible for the care of handicapped children for payment of the enrollment fee.

123920. Payment of services for non resident children; special grants or allotments for costs

Upon the request of another state or of a federal agency, the department may pay the expenses of services required by any physically handicapped child who is not a resident of the state; provided, that the cost of the services is fully covered by special grants or allotments received from the state or federal agency for that purpose.

123925. Supervision over services; records

The department and designated agencies shall maintain surveillance and supervision over the services provided handicapped children under authorization by the program to assure a high quality of service and shall cause a record to be kept showing the condition and improvement of these handicapped children.

123930. Consent of parent or guardian; exception

This article does not authorize any treatment service without the written consent of a parent or guardian except as a person under 18 years of age is an emancipated minor.

123935. Effect of mental retardation

A handicapped child shall not be denied services pursuant to this article because he or she is mentally retarded.

123940. County appropriations and expenditures; state matching

(a) (1) Annually, the board of supervisors shall appropriate a sum of money for services for handicapped children of the county, including diagnosis, treatment, and therapy services for physically handicapped children in public schools, equal to 25 percent of the actual expenditures for the county program under this article for the 1990-91 fiscal year, except as specified in paragraph(2).

(2) If the state certifies that a smaller amount is needed in order for the county to pay 25 percent of costs of the county's program from this source. The smaller amount certified by the state shall be the amount that the county shall appropriate.

(b) In addition to the amount required by subdivision (a), the county shall allocate an amount equal to the amount determined pursuant to subdivision (a) for purposes of this article from revenues allocated to the county pursuant to Chapter 6 (commencing with Section 17600) of Division 9 of the Welfare and Institutions Code.

(c) (1) The state shall match county expenditures for this article from funding provided pursuant to subdivisions (a) and (b).

(2) County expenditures shall be waived for payment of services for children who are eligible pursuant to paragraph (2) of subdivision (a) of Section 123870.

(d) The county may appropriate and expend moneys in addition to those set forth in subdivision (a) and (b) and the state shall match the expenditures, on a dollar-for-dollar basis, to the extent that state funds are available for this article.

(e) Nothing in this section shall require the county to expend more than the amount set forth in subdivision (a) plus the amount set forth in subdivision (b) nor shall it require the state to expend more than the amount of the match set forth in subdivision (c).

123945. State emergency aid

For those counties with a total appropriation of county funds not exceeding one hundred twenty-five thousand dollars(\$125,000), and upon the expenditure of the county funds equivalent to a county appropriation pursuant to Section 123940, the department may, to the extent funds are available from state appropriated funds for the California Children's Services Program and upon certification of the county that there are insufficient revenues from the account established pursuant to Chapter 6 (commencing with Section 17600) of Division 9 of the Welfare and Institutions Code, pay for services for cases deemed by the department to represent emergencies or cases where medical care cannot be delayed without great harm to the child.

123950. Administration of medical-therapy program; cost; standards; regulations

The designated county agency shall administer the medical-therapy program in local public schools for physically handicapped children. As provided in Section 123940, the state and counties will share in the cost of support of therapist salaries in these schools in the ratio of one dollar (\$1) of state or federal funds reimbursed quarterly to one dollar (\$1) of county funds. The director shall establish standards for the maximum number of therapists employed in the schools eligible for state financial support in this program, the services to be provided, and the county administrative services subject to reimbursement by the state.

The department may adopt regulations to implement this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law.

Notwithstanding any other provision of law, if the department determines that emergency regulations are necessary to implement any part of this article, there shall be deemed to be good cause for the regulations to take effect prior to public notice and hearing.

Notwithstanding subdivision (h) of Section 11346.1 and Section 11349.6 of the Government Code, the department shall transmit these regulations directly to the Secretary of State for filing. The regulations shall become effective immediately upon filing by the Secretary of State.

The Office of Administrative Law shall provide for the printing and publication of these regulations in the California Code of Regulations. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these regulations shall not be repealed by the Office of Administrative Law and shall remain in effect until revised or repealed by the department.

123955. California children's services program; sharing costs; standards

(a) The state and the counties shall share in the cost of administration of the California Children's Services Program at the local level.

(b) (1) The director shall adopt regulations establishing minimum standards for the administration, staffing, and local implementation of this article subject to reimbursement by the state.

(2) The standards shall allow necessary flexibility in the administration of county programs, taking into account the variability of county needs and resources, and shall be developed and revised jointly with state and county representatives.

(c) The director shall establish minimum standards for administration, staffing and local operation of the program subject to reimbursement by the state.

(d) Until July 1, 1992, reimbursable administrative costs, to be paid by the state to counties, shall not exceed 4.1 percent of the gross total expenditures for diagnosis, treatment and therapy by counties as specified in Section 123940.

(e) Beginning July 1, 1992, this subdivision shall apply with respect to all of the following:

(1) Counties shall be reimbursed by the state for 50 percent of the amount required to meet state administrative standards for that portion of the county caseload under this article that

is ineligible for Medi-Cal to the extent funds are available in the state budget for the California Children's Services Program.

(2) On or before September 15 of each year, each county program implementing this article shall submit an application for the subsequent fiscal year that provides information as required by the state to determine if the county administrative staff and budget meet state standards.

(3) The state shall determine the maximum amount of state funds available for each county from state funds appropriated for CCS county administration. If the amount appropriated for any fiscal year in the Budget Act for county administration under this article differs from the amounts approved by the department, each county shall submit a revised application in a form and at the time specified by the department.

(f) The department and counties shall maximize the use of federal funds for administration, of the programs implemented pursuant to this article, including using state and county funds to match funds claimable under Title 19 of the Social Security Act.

123960. Program data; purposes

The department shall require of participating local governments the provision of program data including, but not limited to, the number of children treated, the kinds of disabilities, and the costs of treatment, to enable the department, the Department of Finance, and the Legislature to evaluate in a timely fashion and to adequately fund the California Children's Services Program.

123965. Placement of handicapped children for adoption; entitlement to services

A handicapped child placed for adoption, determined to be financially eligible for care at the time of placement, shall not be denied services pursuant to this article based upon the income of the adopting parents, nor shall the adopting parents be required to enter into any agreement to pay toward the costs of services authorized for the care. This section shall only apply to physical handicaps present, and diagnosed, at the time of adoption. Residence, for the purposes of this section, shall be that of the adopting parents.

123970. Notification of prospective adopting parents; termination of program funds

The department and the placing adoption agency at the time of placement shall notify all prospective adopting parents in writing, that funds received under the California Children's Services Program shall terminate if the adopting parents move out of the state. However, the department and the placing adoption agency shall advise the prospective adopting parents that they may be eligible for the funds in the new state, subject to any applicable qualifications.

123975. Screening newborn infants for deafness; follow up and assessment

(a) The department, in consultation with selected representatives of participating neonatal intensive care units, shall establish a system to screen all newborns and infants for hearing loss as defined in subdivision (e) of Section 124116 and create and maintain a system of assessment and followup services for newborns and infants identified by the screening in approved neonatal intensive care units participating in the California Children's Services Program. Screening, assessment and followup services and reporting of these services shall be provided in a manner consistent with Article 6.5 (commencing with Section 124115) of Chapter

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This section shall not be applicable to a newborn child whose parent or guardian objects to the tests on the ground that the tests conflict with his or her religious beliefs or practices.

(b) It is the intent of the Legislature, in enacting this section, to ensure the establishment and maintenance of protocols and quality of standards.

(c) The department shall implement this section for newborns and infants in neonatal intensive care units participating in the California Children's Services Program.

123980.           Actions against third persons liable for injury; notice

If the recipient of services provided by the California Children's Services Program, his or her guardian, conservator, personal representative, estate, or survivors, or any of them brings an action against a third person who may be liable for the injury, notice of institution of legal proceedings, notice of settlement, and all other notices required by this code shall be given to the State Director of Health Services in Sacramento and to the county-managed California Children's Services Program. The director may provide notice to the Attorney General. All of these notices shall be given by the attorney retained to assert the beneficiary's claim, or by the injured party beneficiary, his or her guardian, conservator, personal representative, estate, or survivors, if no attorney is retained.

123982.           Treatment provided under children's services program; claim against judgement, award or settlement received against third party; liens

Except as otherwise provided by law, the amount of any judgment, award, or settlement relating to a medical condition for which treatment services have been provided under the California Children's Services Program shall be subject to a claim by the state department and the designated county agency for reimbursement of the costs of the benefits provided, and to any lien filed against that judgment, award, or settlement. The department or the county designated agency, through its civil legal adviser, may, to enforce this right, institute and prosecute legal proceedings against the person who has received benefits under this article, his or her guardian, conservator, or other personal representative, or his or her estate. In the event of a judgment, award, or settlement in a suit or claim against a third person who is liable for the medical condition for which treatment services have been provided under the California Children's Services Program, the court or other agency shall first order paid from the judgment, award, or settlement the actual costs of the care and treatment furnished, or to be furnished, under the California Children's Services Program.

123985.           Bone marrow transplant; reimbursement; conditions

(a) A bone marrow transplant for the treatment of cancer shall be reimbursable under this article, when all of the following conditions are met:

(1) The bone marrow transplant is recommended by the recipient's attending physician.

(2) The bone marrow transplant is performed in a hospital that is approved for participation in the California Children's Services program.

(3) The bone marrow transplant is a reasonable course of treatment and is approved by the appropriate hospital medical policy committee.

(4) The bone marrow transplant has been deemed appropriate for the recipient by the program's medical consultant. The medical consultant shall not disapprove the bone marrow transplant solely on the basis that it is classified as experimental or investigational.

(b) The program shall provide reimbursement for both donor and recipient surgery.

(c) Any county that has a population of not more than 600,000, as determined by the most recent decennial census conducted by the United States Bureau of the Census, shall be exempt from complying with the 25-percent matching requirement provided for under this article, for any bone marrow transplant reimbursable under this section.

123990. Adoption of regulations; authority of department

The department shall adopt regulations to implement the amendments of this article in 1991. The adoption of the regulations shall be deemed to be an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare.

123995. Medi-Cal application requirements

(a) The department shall require all applicants to the program who may be eligible for cash grant assistance or for Medi-Cal benefits to apply for Medi-Cal.

(b) This section shall not be interpreted to prohibit the coverage of services in emergency cases.

## MEDI-CAL PROGRAM

### STATUTES

#### MEDI-CAL MANAGED CARE CONTRACTS

#### WELFARE AND INSTITUTIONS CODE SECTIONS 14093, 14093.05, 14094 - 14094.3

##### 14093. Purpose

The purpose of this article is to ensure quality of care and to provide increased access to health care services in the most cost-effective and efficient manner possible, to persons who are eligible to receive medical benefits under publicly supported programs other than Medi-Cal.

##### 14093.05. Establishment of contract; amendment of existing Medi-Cal managed care contracts; agreement to hold beneficiaries of publicly supported programs harmless; managed care contractors serving children; standards of care; report of expenditures and savings; reduction in benefits

(a) The director shall enter into contracts with managed care plans under this chapter and Chapter 8 (commencing with Section 14200), including, but not limited to, health maintenance organizations, prepaid health plans, and primary care case management plans; counties, primary care providers, independent practice associations, private foundations, children's hospitals, community health centers, rural health centers, community clinics, and university medical center systems, or other entities for the provision of medical benefits to all persons who are eligible to receive medical benefits under publicly supported programs. The director may also amend existing Medi-Cal managed care contracts to include the provision of medical benefits to persons who are eligible to receive medical benefits under publicly supported programs. Contracts may be on an exclusive or nonexclusive basis.

(b) Contractors pursuant to this article and participating providers acting pursuant to subcontracts with those contractors, shall agree to hold harmless the beneficiaries of the publicly supported programs if the contract between the sponsoring government agency and the contractor does not ensure sufficient funding to cover program benefits.

(c) Any managed care contractor serving children with conditions eligible under the California Children's Services (CCS) program shall maintain and follow standards of care established by the program, including use of paneled providers and CCS-approved special care centers and shall follow treatment plans approved by the program, including specified services and providers of services. If there are insufficient paneled providers willing to enter into contracts with the managed care contractor, the program shall seek to establish new paneled providers willing to contract. If a paneled provider cannot be found, the managed care contractor shall seek program approval to use a specific nonpaneled provider with appropriate qualifications.

(d) (1) Any managed care contractor serving children with conditions eligible under the CCS program shall report expenditures and savings separately for CCS covered services and CCS eligible children.

(2) If the managed care contractor is paid according to a capitated or risk-based payment methodology, there shall be separate actuarially sound rates for CCS eligible children.

(3) Notwithstanding paragraph (2), a managed care pilot project may, if approval is

obtained from the State CCS program director, utilize an alternative rate structure for CCS eligible children.

(e) This article is not intended to and shall not be interpreted to permit any reduction in benefits or eligibility levels under the CCS program. Any medically necessary service not available under the managed care contracts authorized under this article shall remain the responsibility of the state and county.

(f) To assure CCS benefits are provided to enrollees with a CCS eligible condition according to CCS program standards, there shall be oversight by the state and local CCS program agencies for both services covered and not covered by the managed care contract.

(g) Any managed care contract which will affect the delivery of care to CCS eligible children shall be approved by the state CCS program director prior to execution. The state CCS program shall continue to be responsible for selection of CCS paneled providers and monitoring of contractors to see that CCS state standards are maintained.

#### 14094. CCS

For purposes of this article "CCS" means California Children's Services.

##### 14094.1. Managed care contractors; Standards of care; use of panel providers; report of expenditures and savings; payment according to capitated payment methodology

(a) The director shall investigate and to the extent feasible require any managed care contractor serving children with conditions eligible under the CCS program, to maintain and follow standards of care established by the program, including use of paneled providers and CCS approved special care centers and to follow treatment plans approved by the program, including specified services and providers of services. If there are insufficient paneled providers willing to enter into contracts with the managed care contractor, the program shall seek to establish new paneled providers willing to contract. If a paneled provider cannot be found, the managed care contractor shall seek program approval to use a specific nonpaneled provider with appropriate qualifications.

(b) The director shall investigate and to the extent feasible require any managed care contractor serving children with conditions eligible under the CCS program, to report expenditures and savings separately for CCS covered services and CCS eligible children.

(c) (1) If the managed care contractor is paid according to a capitated or risk-based payment methodology, there shall be a separate actuarially sound rate for CCS eligible children.

(2) Notwithstanding paragraph (1), a managed care pilot project may, if approval is obtained from the state CCS program director, utilize an alternative rate structure for CCS eligible children.

##### 14094.2. Medically necessary services not available under managed care contracts; state and county responsibility

(a) This article is not intended, and shall not be interpreted, to permit any reduction in benefits or eligibility levels under the CCS program. Any medically necessary service not available under the managed care contracts authorized under this article shall remain the responsibility of the state and county.

(b) In order to ensure that CCS benefits are provided to enrollees with a CCS eligible condition according to CCS program standards, there shall be oversight by the state and local

CCS program agencies for both services covered and not covered by the managed care contract.

14094.3. Incorporation of CCS covered services into Medi-Cal managed care contracts; time; fee-for-service billing prior to incorporation; pilot projects

(a) Notwithstanding this article or Section 14093.05 or 14094.1, CCS covered services shall not be incorporated into any Medi-Cal managed care contract entered into after August 1, 1994, pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), Article 2.9 (commencing with Section 14088), Article 2.91 (commencing with Section 14089), Article 2.95 (commencing with Section 14092); or either Article 2 (commencing with Section 14200), or Article 7 (commencing with Section 14490) of Chapter 8, until August 1, 2005, except for contracts entered into for county organized health systems in the Counties of San Mateo, Santa Barbara, Solano and Napa.

(b) Notwithstanding any other provision of this chapter, providers serving children under the CCS program who are enrolled with a Medi-Cal managed care contractor but who are not enrolled in a pilot project pursuant to subdivision (c) shall continue to submit billing for CCS covered services on a fee-for-service basis until CCS covered services are incorporated into the Medi-Cal managed care contracts described in subdivision (a).

(c) (1) The department may authorize a pilot project in Solano County in which reimbursement for conditions eligible under the CCS program may be reimbursed on a capitated basis pursuant to Section 14093.05, and provided all CCS program's guidelines, standards, and regulations are adhered to, and CCS program's case management is utilized.

(2) During the time period described in subdivision (a), the department may approve, implement, and evaluate limited pilot projects under the CCS program to test alternative managed care models tailored to the special health care needs of children under the CCS program. The pilot projects may include, but need not be limited to, coverage of different geographic areas, focusing on certain subpopulations, and the employment of different payment and incentive models. Pilot project proposals from CCS program-approved providers shall be given preference. All pilot projects shall utilize CCS program-approved standards and providers pursuant to Section 14094.1.

(d) (1) The department shall submit to the appropriate committees of the Legislature an evaluation of pilot projects established pursuant to subdivision (c) based on at least one full year of operation.

(2) The evaluation required by paragraph (1) shall address the impact of the pilot projects on outcomes as set forth in paragraph (4) and, in addition, shall do both of the following:

(A) Examine the barriers, if any, to incorporating CCS covered services into the Medi-Cal managed care contracts described in subdivision (a).

(B) Compare different pilot project models with the fee-for-service system. The evaluation shall identify, to the extent possible, those factors that make pilot projects most effective in meeting the special needs of children with CCS eligible conditions.

(3) CCS covered services shall not be incorporated into the Medi-Cal managed care contracts described in subdivision (a) before the evaluation process has been completed.

(4) The pilot projects shall be evaluated to determine if:

(A) All children enrolled with a Medi-Cal managed care contractor described in subdivision (a) identified as having a CCS eligible condition are referred in a timely fashion for appropriate healthcare.

(B) All children in the CCS program have access to coordinated care that includes

primary care services in their own community.

(C) CCS program standards are adhered to.

(e) For purposes of this section, CCS covered services include all program benefits administered by the program specified in Section 123840 of the Health and Safety Code regardless of the funding source.

(f) Nothing in this section shall be construed to exclude or restrict CCS eligible children from enrollment with a managed care contractor or from receiving from the managed care contractor with which they are enrolled primary and other health care unrelated to the treatment of the CCS eligible condition.

## EXCERPTS FROM OTHER CALIFORNIA LAWS

Note: The following sections of state laws impact many California Children's Services (CCS) families and they may be helpful in the CCS case management process. These selected sections have been extracted from California's Health and Safety Code and Government Code. Not included are other state laws, federal laws, state and federal regulations, or provisions of the CCS Manual of Procedures or Numbered (policy) Letters.

### HEALTH AND SAFETY CODE

#### IMMUNIZATION REACTIONS

120455. Liability for act or omission in administration of immunizing agent to minor

No person shall be liable for any injury caused by an act or omission in the administration of a vaccine or other immunizing agent to a minor, including the residual effects of the vaccine or immunizing agent, if the immunization is either required by state law, or given as part of an outreach program pursuant to Sections 120400 through 120415, inclusive, and the act or omission does not constitute willful misconduct or gross negligence.

### GOVERNMENT CODE SECTIONS

#### SPECIAL EDUCATION/THERAPY SERVICES

7570. Maximum utilization of resources

Ensuring maximum utilization of all state and federal resources available to provide a child with a disability, as defined in paragraph (3) of Section 1401 of Title 20 of the United States Code, with a free appropriate public education, the provision of related services, as defined in paragraph (22) of Section 1401 of Title 20 of the United States Code, and designated instruction and services, as defined in Section 56363 of the Education Code, to a child with a disability, shall be the joint responsibility of the Superintendent of Public Instruction and the Secretary of Health and Welfare. The Superintendent of Public Instruction shall ensure that this chapter is carried out through monitoring and supervision.

7571. Assumption of responsibilities; department and county agencies to be designated

The Secretary of Health and Welfare may designate a department of state government to assume the responsibilities described in Section 7570. The secretary, or his or her designee, shall also designate a single agency in each county to coordinate the service responsibilities described in Section 7572.

7572. Assessments; provision of related services or designated instruction and services

(a) A child shall be assessed in all areas related to the suspected disability by those qualified to make a determination of the child's need for the service before any action is taken with respect to the provision of related services or designated instruction and services to a child, including, but not limited to, services in the areas of, occupational therapy, physical therapy, psychotherapy, and other mental health assessments. All assessments required or conducted pursuant to this section shall be governed by the assessment procedures contained in Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of the Education Code.

(b) Occupational therapy and physical therapy assessments shall be conducted by qualified medical personnel as specified in regulations developed by the State Department of Health Services in consultation with the State Department of Education.

(c) Psychotherapy and other mental health assessments shall be conducted by qualified mental health professionals as specified in regulations developed by the State Department of Mental Health, in consultation with the State Department of Education, pursuant to this chapter.

(d) A related service or designated instruction and service shall only be added to the child's individualized education program by the individualized education program team, as described in Part 30(commencing with Section 56000) of the Education Code, if a formal assessment has been conducted pursuant to this section, and a qualified person conducting the assessment recommended the service in order for the child to benefit from special education. In no case shall the inclusion of necessary related services in a pupil's individualized education plan be contingent upon identifying the funding source. Nothing in this section shall prevent a parent from obtaining an independent assessment in accordance with subdivision(b) of Section 56329 of the Education Code, which shall be considered by the individualized education program team.

(1) Whenever an assessment has been conducted pursuant to subdivision (b) or (c), the recommendation of the person who conducted the assessment shall be reviewed and discussed with the parent and with appropriate members of the individualized education program team prior to the meeting of the individualized education program team. When the proposed recommendation of the person has been discussed with the parent and there is disagreement on the recommendation pertaining to the related service, the parent shall be notified in writing and may require the person who conducted the assessment to attend the individualized education program team meeting to discuss the recommendation. The person who conducted the assessment shall attend the individualized education program team meeting if requested. Following this discussion and review, the recommendation of the person who conducted the assessment shall be the recommendation of the individualized education program team members who are attending on behalf of the local educational agency.

(2) If an independent assessment for the provision of related services or designated instruction and services is submitted to the individualized education program team, review of that assessment shall be conducted by the person specified in subdivisions (b) and(c). The recommendation of the person who reviewed the independent assessment shall be reviewed and discussed with the parent and with appropriate members of the individualized education program team prior to the meeting of the individualized education program team. The parent shall be notified in writing and may request the person who reviewed the independent assessment to attend the individualized education program team meeting to discuss the recommendation. The person who reviewed the independent assessment shall attend the individualized education program team meeting if requested. Following this review and discussion, the recommendation of the person who reviewed the independent assessment shall be the recommendation of the individualized education program team members who are attending on behalf of the local agency.

(3) Any disputes between the parent and team members representing the public

agencies regarding a recommendation made in accordance with paragraphs (1) and (2) shall be resolved pursuant to Chapter 5 (commencing with Section 56500) of Part 30 of the Education Code.

(e) Whenever a related service or designated instruction and service specified in subdivision (b) or (c) is to be considered for inclusion in the child's individualized educational program, the local education agency shall invite the responsible public agency representative to meet with the individualized education program team to determine the need for the service and participate in developing the individualized education program. If the responsible public agency representative cannot meet with the individualized education program team, then the representative shall provide written information concerning the need for the service pursuant to subdivision (d). Conference calls, together with written recommendations, are acceptable forms of participation. If the responsible public agency representative will not be available to participate in the individualized education program meeting, the local educational agency shall ensure that a qualified substitute is available to explain and interpret the evaluation pursuant to subdivision (d) of Section 56341 of the Education Code. A copy of the information shall be provided by the responsible public agency to the parents or any adult pupil for whom no guardian or conservator has been appointed.

7573. Special education and related services

The Superintendent of Public Instruction shall ensure that local education agencies provide special education and those related services and designated instruction and services contained in a child's individualized education program that are necessary for the child to benefit educationally from his or her instructional program. Local education agencies shall be responsible only for the provision of those services which are provided by qualified personnel whose employment standards are covered by the Education Code and implementing regulations.

7575. Occupational therapy and physical therapy

(a) (1) Notwithstanding any other provision of law, the State Department of Health Services, or any designated local agency administering the California Children's Services, shall be responsible for the provision of medically necessary occupational therapy and physical therapy, as specified by Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, by reason of medical diagnosis and when contained in the child's individualized education program.

(2) Related services or designated instruction and services not deemed to be medically necessary by the State Department of Health Services, that the individualized education program team determines are necessary in order to assist a child to benefit from special education, shall be provided by the local education agency by qualified personnel whose employment standards are covered by the Education Code and implementing regulations.

(b) The department shall determine whether a California Children's Services eligible pupil, or a pupil with a private medical referral needs medically necessary occupational therapy or physical therapy. A medical referral shall be based on a written report from a licensed physician and surgeon who has examined the pupil. The written report shall include the following:

(1) The diagnosed neuromuscular, musculoskeletal, or physical disabling condition prompting the referral.

(2) The referring physician's treatment goals and objectives.

(3) The basis for determining the recommended treatment goals and objectives, including how these will ameliorate or improve the pupil's diagnosed condition.

(4) The relationship of the medical disability to the pupil's need for special education and related services.

(5) Relevant medical records.

(c) The department shall provide the service directly or by contracting with another public agency, qualified individual, or a state-certified nonpublic nonsectarian school or agency.

(d) Local education agencies shall provide necessary space and equipment for the provision of occupational therapy and physical therapy in the most efficient and effective manner.

(e) The department shall also be responsible for providing the services of a home health aide when the local education agency considers a less restrictive placement from home to school for a pupil for whom both of the following conditions exist:

(1) The California Medical Assistance Program provides a life-supporting medical service via a home health agency during the time in which the pupil would be in school or traveling between school and home.

(2) The medical service provided requires that the pupil receive the personal assistance or attention of a nurse, home health aide, parent or guardian, or some other specially trained adult in order to be effectively delivered.

7582.           **Assessment and therapy treatment services; exemption from financial eligibility standards**

Assessments and therapy treatment services provided under programs of the State Department of Health Services or the State Department of Mental Health, or their designated local agencies, rendered to a child referred by a local education agency for an assessment or a disabled child or youth with an individualized education program, shall be exempt from financial eligibility standards and family repayment requirements for these services when rendered pursuant to this chapter.

## **INSURANCE CODE**

### **HEALTHY FAMILIES**

#### **“CCS Carve-out related to HF Health Benefits”**

12693.62.       **California Children's Services Program; plan responsibility for services to eligible subscribers; referral of children; case management**

Notwithstanding any other provision of law, for a subscriber who is determined by the California Children's Services Program to be eligible for benefits under the program pursuant to Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, a participating plan shall not be responsible for the provision of, or payment for, the particular services authorized by the California Children's Services Program for the particular subscriber for the treatment of a California Children's Services Program eligible medical condition. Participating plans shall refer a child who they reasonably suspect of having a medical condition that is eligible for services under the California Children's Services Program to the California Children's Services Program. The California Children's Services Program shall

provide case management and authorization of services if the child is found to be medically eligible for the California Children's Services Program. Diagnosis and treatment services that are authorized by the California Children's Services Program shall be performed by paneled providers for that program and approved special care centers of that program in accordance with treatment plans approved by the California Children's Services Program. All other services provided under the participating plan shall be available to the subscriber.

**"CCS Carve-out related to HF Dental Benefits"**

12693.64. California Children's Services Program; plan responsibility for services to eligible subscribers

Notwithstanding any other provision of law, for a subscriber who is determined by the California Children's Services Program to be eligible for benefits under the program pursuant to Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, a participating plan shall not be responsible for the provision of, or payment for, the particular services authorized by the California Children's Services Program for the particular subscriber for the treatment of a California Children's Services Program eligible medical condition. All other services provided under the participating plan shall be available to the subscriber.

**"CCS Carve-out related to HF Vision Benefits"**

12693.66. California Children's Services Program; plan responsibility for services to eligible subscribers

Notwithstanding any other provision of law, for a subscriber who is determined by the California Children's Services Program to be eligible for benefits under the program pursuant to Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, a participating plan shall not be responsible for the provision of, or payment for, the particular services authorized by the California Children's Services Program for the particular subscriber for the treatment of a California Children's Services Program eligible medical condition. All other services provided under the participating plan shall be available to the subscriber.

**"CCS County Expenditure Exemption"**

12693.69. Child enrolled in Health Families Program; eligibility for services under California Children's Services Program

A child enrolled in the Healthy Families Program who has a medical condition that is eligible for services pursuant to the California Children's Services Program, and whose family is not financially eligible for the California Children's Services Program, shall have the medically necessary treatment services for their California Children's Services Program eligible medical condition authorized and paid for by the California Children's Services Program. County expenditures for the payment of services for the child shall be waived and these expenditures shall be paid for by the state from Title XXI funds that are applicable and state general funds.

# CHILD HEALTH AND DISABILITY PREVENTION PROGRAM

## STATUTES

### HEALTH AND SAFETY CODE SECTIONS 124025-124110

#### 124025. Legislative finding and declaration

The Legislature finds and declares that many physical and mental disabilities can be prevented, or their impact on an individual lessened, when they are identified and treated before they become chronic and irreversible damage occurs. The Legislature finds and declares that a community-based program of early identification and referral for treatment of potential handicapping conditions will be effective in reducing the incidence of the conditions and will benefit the health and welfare of the citizens of his state.

It is the intent of the Legislature in enacting this article and Section 120475 to establish child health and disability prevention programs, that shall be financed and have standards established at the state level and that shall be operated at the local level, for the purpose of providing early and periodic assessments of the health status of children. It is further intended that child health and disability prevention programs shall make maximum use of existing health care resources and shall utilize, as the first source of screening, the child's usual source of health care so that health screening programs are fully integrated with existing health services, that health care professionals be appropriately represented and utilized in these programs, that outreach programs be developed to stimulate the use of preventive health services, and that services offered pursuant to this article be efficiently provided and be of the highest quality.

#### 124030. Definitions

As used in this article and Section 120475:

- (a) "State board" means the State Maternal, Child, and Adolescent Health Board.
- (b) "Department" means the department.
- (c) "Director" means the director.
- (d) "Governing body" means the county board of supervisors or boards of supervisors in the case of counties acting jointly.
- (e) "Local board" means local maternal, child, and adolescent health board.
- (f) "Local health jurisdiction" means county health department or combined health department in the case of counties acting jointly or city health department within the meaning of Section 101185.

#### 124035. Administration; minimum standards for approval; rules and regulations; state plan

The department shall administer this article and Section 120475 and shall adopt minimum standards for the approval of community child health and disability prevention programs and regulations as necessary. The standards shall allow necessary flexibility in the administration of county programs, taking into account the variability of county needs and resources. However, the standards, rules, and regulations may be adopted only with the advice and written recommendations of the board. Standards shall be adopted for:

- (a) Education and experience requirements for directors of community child health and disability prevention programs.
- (b) Health screening, evaluation, and diagnostic procedures for child health and

disability prevention programs.

(c) Public and private facilities and providers that may participate in community child health and disability prevention programs.

The department shall adopt a five-year state plan for child health and disability prevention services by October 1, 1977. The plan shall include a method for allocating child health and disability prevention funds to counties. The plan shall be reviewed and revised as necessary to provide a basis for allocating state child health and disability prevention program funds throughout the state.

Nothing in this section shall be construed as prohibiting programs provided pursuant to this article from being conducted in public and private school facilities; provided that, with respect to private school facilities, no services provided thereon pursuant to this article and financed by public funds shall result in any material benefit to, or be conducted in a manner that furthers any educational or other mission of, such a school or any person or entity maintaining the school.

**124040. Establishment of programs; plan requirements standards for procedures; record system**

The governing body of each county or counties shall establish a community child health and disability prevention program for the purpose of providing early and periodic assessments of the health status of children in the county or counties by July 1, 1974. However, this shall be the responsibility of the department for all counties that contract with the state for health services. Contract counties, at the option of the board of supervisors, may provide services pursuant to this article in the same manner as other county programs, provided the option is exercised prior to the beginning of each fiscal year. Each plan shall include, but is not limited to, the following requirements:

(a) Outreach and educational services.

(b) Agreements with public and private facilities and practitioners to carry out the programs.

(c) Health screening and evaluation services including, for all children eligible for Medi-Cal, a physical examination, immunizations appropriate for their age and health history, and laboratory procedures appropriate for their age and population group.

(d) Referral for diagnosis or treatment when needed, including, for all children eligible for Medi-Cal, referral for treatment by a provider participating in the Medi-Cal program of the conditions detected, and methods for assuring referral is carried out.

(e) Recordkeeping and program evaluations.

The health screening and evaluation part of each community child health and disability prevention program plan shall include, but is not limited to, the following for each child:

(a) A health and development history.

(b) An assessment of physical growth.

(c) An examination for obvious physical defects.

(d) Ear, nose, mouth, and throat inspection, including inspection of teeth and gums, and for all children three years of age and older who are eligible for Medi-Cal, referral to a dentist participating in the Medi-Cal program.

(e) Screening tests for vision, hearing, anemia, tuberculosis, diabetes, and urinary tract conditions.

(f) An assessment of nutritional status.

(g) An assessment of immunization status.

(h) Where appropriate, testing for sickle cell trait, lead poisoning, and other tests that

may be necessary to the identification of children with potential disabilities requiring diagnosis and possibly treatment.

(i) For all children eligible for Medi-Cal, necessary assistance with scheduling appointments for services and with transportation.

(j) The department shall report to the Legislature, by April 15, 1986, on all necessary steps to improve access to preventive dental care for children eligible for Medi-Cal, such as streamlining reimbursement procedures, increasing fees for specific preventive dental procedures, or increasing fees in specific geographic areas.

(k) Dentists receiving referrals of children eligible for Medi-Cal under this section shall employ procedures to advise the child's parent or parents of the need for and scheduling of annual appointments.

Standards for procedures to carry out health screening and evaluation services and to establish the age at which particular tests should be carried out shall be established by the director, with review and recommendation by the board. However, a governing body may include additional health screening and evaluation procedures in its program if approved by the director and the board.

Each community child health and disability prevention program shall, pursuant to standards set by the director, establish a record system that contains a health case history for each child so that costly and unnecessary repetition of screening, immunization and referral will not occur and appropriate health treatment will be facilitated as specified in Section 124085.

#### 124045. Services by city; election; powers

A city that operates an independent health agency may elect to provide the services described in this article with the approval of the department. In this instance, the powers granted a governing body of a county shall be vested in the governing body of the city.

#### 124050. Directors of community programs

Each community child health and disability program shall have a director meeting qualification standards by the department, appointed by the governing body, except for counties contracting with the state for health services.

#### 124055. Intercounty service contracts

Any community child health and disability prevention program may contract to furnish services to any other county if the contract is approved by the director.

#### 124060. Budget update; community child health and disability prevention plan; requirements; multi-year base plan

(a) On or before September 15 of each year, each county program director shall submit a budget update for the subsequent fiscal year that provides the following information:

(1) A summary of the previous year's activity, including the number of children screened, the number of children referred for diagnosis and treatment, by condition, and the cost of screening services.

(2) A summary description of the results of cases in that a treatable disability was identified and referral made.

(3) A projection and cost estimates of the number of children to be screened for the

fiscal year for which the budget is being submitted.

(b) The multiyear base community child health and disability prevention plan shall include the following:

(1) An assessment of the adequacy and availability of the facilities and providers to provide health screening diagnostic and treatment services.

(2) A description of the child health and disability prevention program to be offered, including expected participating providers and outreach mechanisms to be utilized.

(3) A summary description of the current year's activity, including the number of children screened, the number of children referred for diagnosis and treatment, by condition, and the cost of screening services.

(4) A description of how existing school health resources, including school health personnel, are to be utilized for outreach and other services.

(5) Budget estimates, including all sources of revenue, for the budget.

(c) On or before September 15 of each year each governing board shall submit an update to the multiyear base community child health and disability prevention plan.

The director shall determine the amount of state funds available for each county for specified services under an approved multiyear base community child health and disability prevention plan, as updated, from state funds appropriated for child health and disability prevention services.

If the amount appropriated in the Budget Act for the fiscal year as enacted into law differs from the amount in the budget submitted by the Governor for the fiscal year, each governing board shall submit an additional revised update in the form and at the time specified by the department.

Notwithstanding any other provision of this article, no new community child health and disability prevention plan shall be submitted by a county until September 15, 1983. Each county plan and budget approved for the 1981-82 fiscal year shall be updated on or before September 15 by the governing body of each county for the 1982-83 and 1983-84 fiscal years pursuant to regulations adopted by the department. On or before September 15, 1983, the governing body of each county shall prepare and submit to the department a multiyear base plan and budget for the 1984-85 fiscal year that shall be annually updated on or before September 15 of each subsequent year pursuant to regulations adopted by the department.

The department shall develop and implement the format and procedures for the preparation and submission of a multiyear base plan update in order for the counties to have sufficient time prior to September 15, 1983, to prepare and submit their multiyear base plan by September 15, 1983.

For the purposes of simplifying and reducing plan requirements, the Legislature intends that the annual update shall not duplicate any of the material in the multiyear base plan, but serve as a progress report both evaluating what has been accomplished over the past year and describing in more detail what will be accomplished in relation to each of the elements in the base plan during the coming year.

#### 124065. State reimbursement

Counties shall be reimbursed for the amount required by the county to carry out its community child health and disability prevention program in accordance with the approved community child health and disability prevention plan. Claims for state reimbursement shall be made in the manner as the director shall provide. Each claim for state reimbursement shall be payable from the appropriation made for the fiscal year when the expenses upon which the claim is based are incurred.

There shall be no reimbursement for expenditures for the treatment of disabilities identified as a result of the program or for capital improvements or the purchase or construction of buildings, except for the equipment items and remodeling expenses as may be allowed by regulations adopted by the director.

124070. State reimbursement

Counties shall be reimbursed for the amount required by the county to carry out its community child health and disability prevention program in accordance with the approved community child health and disability prevention plan. Claims for state reimbursement shall be made in a manner as the director shall provide. Each claim for state reimbursement shall be payable from the appropriation made for the fiscal year in which the expenses upon which the claim is based are incurred.

There shall be no reimbursement for expenditures for the treatment of disabilities identified as a result of the program, except for the costs of immunizations necessary to bring the child current in his or her immunization status as provided for by regulations of the department, or for capital improvements or the purchase or construction of buildings, except for the equipment items and remodeling expenses as may be allowed by regulations adopted by the director.

124075. Schedule and method of reimbursement; use of federal funds

(a) In order to ensure the maximum utilization of the California Medical Assistance Program and other potential reimbursement sources, the department shall develop a schedule and method of reimbursement at reasonable rates for services rendered pursuant to this article. The reimbursement schedule shall include provision for well child examinations as well as for administrative expenses incurred by providers pursuant to meeting this article. Inquiry shall be made of all recipients of services under this article as to their entitlement for third-party reimbursement for medical services. Where an entitlement exists it shall be billed. Notwithstanding subdivision (c) of Section 14000 of the Welfare and Institutions Code and Section 14005 of that code, the California Medical Assistance Program shall be billed for services rendered pursuant to this article for every Medi-Cal eligible beneficiary.

(b) The department and counties shall maximize the use of federal funds for carrying out this article, including using state or county funds to match funds claimable under Title 19 of the Social Security Act. Services and administrative support costs claimable under federal law shall include, but not be limited to, outreach, health education, case management, resource development, and training at state and local levels. Any federal funds received shall augment and not replace funds appropriated from the General Fund for carrying out the purposes of this article.

124080. Contracts for claims processing

The department may contract with a private entity for the performance of processing claims for state reimbursement, so long as the cost of the contract is no more than 85 percent of the cost of the service if performed in state service and there is compliance with other applicable provisions of the Government Code including, but not limited to, Sections 19130 to 19132, inclusive.

**124085. Certificate of receipt; health screening and evaluation services; waiver by parent or guardian**

On and after July 1, 1976, each child eligible for services under this article shall, within 90 days after entrance into the first grade, provide a certificate approved by the department to the school where the child is to enroll documenting that within the prior 18 months the child has received the appropriate health screening and evaluation services specified in Section 124040. A waiver signed by the child's parents or guardian indicating that they do not want or are unable to obtain the health screening and evaluation services for their children shall be accepted by the school in lieu of the certificate. If the waiver indicates that the parent or guardian was unable to obtain the services for the child, then the reasons why should be included in the waiver.

**124090. Eligibility for services; rules and regulations specifying age groups for screening tests and recommendations for referral; sources of referral**

Any child between birth and 90 days after entrance into the first grade and all persons under 21 years of age who are eligible for the California Medical Assistance Program shall be eligible for services from the child health and disabilities prevention program in the county where they are a resident. The department, with review and recommendation by the board, shall adopt regulations specifying age groups that shall be given certain types of screening tests and recommendations for referral.

The first source of referral shall be the child's usual source of health care. If referral is required and no regular source of healthcare can be identified, the facility or provider providing health screening and evaluation services shall provide a list of three qualified sources of care, without prejudice for or against any specific source.

**124095. Copy of results of screening and evaluation; reference for further diagnosis and treatment**

Each community child health and disability prevention program shall provide the child or his or her parent or guardian with a copy of the results of the health screening and evaluation, as well as an explanation of the meaning of the results, and shall, where the need indicates, refer the child for further diagnosis and treatment.

**124100. School districts and private schools; information to parents or guardians of kindergarten children; withholding of average daily-attendance funds**

(a) In cooperation with the county child health and disability prevention program, the governing body of every school district or private school that has children enrolled in kindergarten shall provide information to the parents or guardians of all children enrolled in kindergarten of this article and Section 120475. Every school district or private school that has children enrolled in the first grade shall report by January 15 of each year to the county child health and disability prevention program, the department, and the Department of Education the following information:

- (1) The total number of children enrolled in first grade.
- (2) The number of children who have had a health screening examination, as evidenced by the certificate required by Section 124085.
- (3) The number of children whose parents or guardian have given written waiver

pursuant to Section 124085 that they do not want their child to receive a health screening examination.

(b) Each county child health and disability prevention program shall reimburse school districts for information provided pursuant to this section. The Superintendent of Public Instruction may withhold state average daily attendance funds to any school district for any child for whom a certification or parental waiver is not obtained.

124105. Health screening; school districts; exclusion of enrolled pupils from school; short title; legislative intent

(a) This section shall be known and may be cited as the "Hughes Children's Health Enforcement Act."

(b) The Legislature recognizes the importance of health to learning and to a successful academic career. The Legislature also recognizes the important role of schools in ensuring the health of pupils through health education and the maintenance of minimal health standards among the pupil population. Therefore, it is the intent of the Legislature that schools ensure that pupils receive a health screening before the end of the first grade.

(c) The department shall compile district information, using the information reported pursuant to Section 124100, and report to the Legislature the percentage levels of compliance with Section 124085 on an annual basis commencing January 1, 1994, utilizing data from the prior school year.

(d) The governing board of each school district shall exclude from school, for not more than five days, any first grade pupil who has not provided either a certificate or a waiver, as specified in Section 124085, on or before the 90th day after the pupil's entrance into the first grade. The exclusion shall commence with the 91<sup>st</sup> calendar day after the pupil's entrance into the first grade, unless school is not in session that day, then the exclusion shall commence on the next succeeding school day. A child shall not be excluded under this section if the pupil's parent or guardian provides to the district either a certificate or a waiver as specified in Section 124085.

(e) The governing board of a school district may exempt any pupil from the exclusion described in subdivision (d) if, at least twice between the first day and the 90th day after the pupil's entrance into the first grade, the district has contacted the pupil's parent or guardian and the parent or guardian refuses to provide either a certificate or a waiver as specified in Section 124085. The number of exemptions from exclusion granted by a school district pursuant to this subdivision may not exceed 5 percent of a school district's first grade enrollment. It is the intent of the Legislature that exemptions from exclusion be used in extraordinary circumstances, including, but not limited to, family situations of great dysfunction or disruption, such as substance abuse by parents or guardians, child abuse, or child neglect.

(f) It is the intent of the Legislature that, upon a pupil's enrollment in kindergarten or first grade, the governing board of the school district notify the pupil's parent or guardian of the obligation to comply with Section 124085 and of the availability for low-income children of free health screening for up to 18 months prior to entry into first grade through the Child Health Disabilities Prevention Program.

(g) It is the intent of the Legislature that school districts provide information to parents regarding the requirements of Section 124085 within the notification of immunization requirements. Moreover, the Legislature intends that the information sent to parents encourage parents to obtain health screenings simultaneously with immunizations.

124110. Confidentiality of information and results; health screening and evaluation; release; professional interpretation of results

All information and results of the health screening and evaluation of each child shall be confidential and shall not be released without the informed consent of a parent or guardian of the child. The results of the health screening and evaluation shall not be released to any public or private agency, even with the consent of a parent or guardian, unless accompanied by a professional interpretation of what the results mean.

#### **CHDP ANNUAL REPORT**

120475. Immunization of children; report to legislature

On or before March 15, 1991, and on or before March 15 of each year thereafter, the department shall submit a report to the Legislature on all of the following issues:

- (a) The immunization status of young children in the state, based on available data.
- (b) The steps taken to strengthen immunization efforts, particularly efforts through the Child Health and Disability Prevention Program.
- (c) The steps taken to improve immunization levels among currently underserved minority children, young children in family day care and other child care settings, and children with no health insurance coverage.
- (d) The improvements made in ongoing methods of immunization outreach and education in communities where immunization levels are disproportionately low.
- (e) Its recommendations for a comprehensive strategy for fully immunizing all California children and its analysis of the funding necessary to implement the strategy.

#### **CHDP PROGRAM EXPANSION**

104395. Child Health and Disability Prevention (CHDP) Program expansion

The department shall expand the Child Health and Disability Prevention (CHDP) Program contained in Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106 as follows:

- (a) Any child between birth and 90 days after entrance into first grade, all persons under 21 years of age who are eligible for the California Medical Assistance Program, and any person under 19 years of age whose family income is not more than 200 percent of the federal poverty level shall be eligible for services under the program in the county of which they are a resident. The department shall adopt regulations specifying which age groups shall be given certain types of screening tests and recommendations for referral.
- (b) The first source of referral under the program shall be the child's usual source of health care. If referral is required and no regular source of health care can be identified, the facility or provider providing health screening and evaluation services shall provide a list of three qualified sources of care, without prejudice for or against any specific source.
- (c) The department shall issue protocols for an antitobacco education component of the child health and disability prevention medical examination. The protocols shall include the following: dissuading children from beginning to smoke, encouraging smoking cessation, and providing information on the health effects of tobacco use on the user, children, and nonsmokers. The protocols shall also include a focus on health promotion, disease prevention, and risk reduction, utilizing a "wellness" perspective that encourages self-esteem and positive

decision making techniques, and referral to an appropriate community smoking cessation program.

(d) Notwithstanding any other provision of law, the department shall ensure that a portion of the funds in the Child Health Disability Prevention Program budget is used to facilitate the integration of the medical and dental components of all aspects of that program.

(e) The department shall expand its support and monitoring of county child health and disability prevention program efforts to provide all of the following:

(1) Review of a representative, statistically valid, randomly selected sample of child health and disability prevention health assessments, including, but not limited to, dental assessments, which result in the discovery of conditions which require followup diagnosis and treatment, including but not limited to dental treatment, and which qualify for services under this section. The purpose of the survey and followup reviews of local programs is to determine whether necessary diagnosis and treatment services are being provided, and the degree to which those services comply with the intent of the act that added this subdivision. These survey reviews shall include all counties and shall be conducted at least three times a year.

(2) At least once a year, as part of regular visits to county child health and disability prevention programs to provide technical assistance, support services and monitoring and evaluation of program performance, department staff shall review the effectiveness of the mandated treatment program. The purpose of this review is to assure that the county is providing appropriate followup services for conditions discovered during child health and disability prevention health assessments. This review shall be done in conjunction with the ongoing survey activity of the Child Health and Disability Prevention Branch of the department and shall utilize data resulting from that activity.

(3) If the department establishes that a county has failed to provide treatment services mandated by the act that added this subdivision, the department shall require the county to submit a plan of correction within 90 days. If the department finds that substantial correction has not occurred within 90 days following receipt of the correction plan, it may require the county to enter into a contract pursuant to Section 16934.5 of the Welfare and Institutions Code for the remainder of the fiscal year and the following fiscal year, and for this purpose shall withhold the same percentage of funds as are withheld from other counties participating in the program pursuant to Section 16934.5 of the Welfare and Institutions Code.

## RELATIONSHIP TO THE CHILDHOOD LEAD POISONING PREVENTION PROGRAM

### 105300. Regulatory Authority

Notwithstanding Section 124130, the department shall have broad regulatory authority to fully implement and effectuate the purposes of this chapter. The authority shall include, but is not limited to, the following:

(a) The development of protocols to be utilized in screening and the procedures for changing those protocols when more accurate or efficient technologies become available.

(b) The designation of laboratories which are qualified to analyze whole blood specimens for concentrations of lead and the monitoring of those laboratories for accuracy.

(c) The development of reporting procedures by laboratories.

(d) Reimbursement for state-sponsored services related to screening and appropriate case management.

(e) Establishment of lower concentrations of lead in whole blood than those specified by

the United States Centers for Disease Control for the purpose of determining the existence of lead poisoning.

(f) Establishment of lower acceptable levels of the concentration of lead in whole blood than those specified by the United States Centers for Disease Control for the purpose of determining the need to provide appropriate case management for lead poisoning.

(g) Development of appropriate case management protocols.

(h) Notification to the child's parent or guardian of the results of blood lead testing and environmental assessment.

(i) The establishment of a periodicity schedule for evaluation for childhood lead poisoning.

#### 105305. Program funding

The program implemented pursuant to this chapter shall be fully supported from the fees collected pursuant to Section 105310. Notwithstanding the scope of activity mandated by this chapter, in no event shall this chapter be interpreted to require services necessitating expenditures in any fiscal year in excess of the fees, and earnings therefrom, collected pursuant to Section 105310. This chapter shall be implemented only to the extent fee revenues pursuant to Section 105310 are available for expenditure for purposes of this chapter.

### INSURANCE CODE

### HEALTHY FAMILIES

#### 12693.41. Providers in Child Health and Disability Prevention Program; payment; reimbursements; exceptions

(a) Upon the effective date of coverage of a child eligible for the program, the board shall arrange for payment of providers who participate in the Child Health and Disability Prevention Program pursuant to Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, for well-child health assessments, immunizations, and initial treatment provided up to 90 days prior to the effective date of coverage.

(b) The board shall pay only for those services that are eligible for federal financial participation under Section 2105 of Title XXI of the Social Security Act and that are approved in the required state plan under that title, except as specified in Section 12693.76.

(c)(1) Child Health and Disability Prevention Program providers shall submit charges for the services under subdivision (a) on the form or in the format specified by the department for the Child Health and Disability Prevention Program. Those providers shall be reimbursed at the rates established for these services by the Child Health and Disability Prevention Program once coverage under the program is established.

(2) Those providers shall submit charges for services reimbursable under Medi-Cal on the form or in the format specified by the department for Medi-Cal. Those providers shall be reimbursed at the rates established for these services by Medi-Cal once coverage under Medi-Cal is established.

(d)(1) The board may use the state fiscal intermediary for medicaid to process the payments authorized in subdivision (a).

(2) The board shall be exempt from the requirements of Chapter 7(commencing with

Section 11700) of Division 3 of Title 2 of the Government Code and Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code as those requirements apply to the use of contractual claims processing services by the state fiscal intermediary.

# CALIFORNIA NEWBORN HEARING SCREENING PROGRAM

## STATUTES

### HEALTH AND SAFETY CODE SECTIONS 124115-124120.5

#### 124115. Short title

This article shall be known, and may be cited as, the Newborn and Infant Hearing Screening, Tracking and Intervention Act.

#### 124115.5. Legislative finding and declarations; purpose

(a) The Legislature finds and declares all of the following:

(1) Hearing loss occurs in newborns more frequently than any other health condition for which newborn screening is currently required.

(2) Early detection of hearing loss, early intervention, and followup services before six months of age, have been demonstrated to be highly effective in facilitating the development of a child's health and communication and cognitive skills.

(3) The State of California supports the National Healthy People 2000 goals, which promote early identification of children with hearing loss.

(4) Children of all ages can receive reliable and valid screening for hearing loss in a cost-effective manner.

(5) Appropriate screening and identification of newborns and infants with hearing loss will facilitate early intervention during this critical time for development of communication, and may, therefore, serve the public purposes of promoting the healthy development of children and reducing public expenditure for healthcare and special education and related services.

(b) The purposes of this article shall be to do all of the following:

(1) Provide early detection of hearing loss in newborns, as soon after birth as possible, to enable children who fail a hearing screening and their families and other caregivers to obtain needed confirmatory tests or multidisciplinary evaluation, or both, and intervention services, at the earliest opportunity.

(2) Prevent or mitigate delays of language and communication development that could lead to academic failures associated with late identification of hearing loss.

(3) Provide the state with the information necessary to effectively plan, establish, and evaluate a comprehensive system of appropriate services for parents with newborns and infants who have a hearing loss.

#### 124116. Definitions

As used in this article:

(a) "Birth admission" means the time after birth that the newborn remains in the hospital nursery prior to discharge.

(b) "CCS" means the California Children's Services program administered through the State Department of Health Services.

(c) "Department" means the State Department of Health Services.

(d) "Followup services" means all of the following:

(1) All services necessary to diagnose and confirm a hearing loss.

(2) Ongoing audiological services to monitor hearing.

(3) Communication services, including, but not limited to, aural rehabilitation, speech, language, social, and psychological services.

(4) Necessary support of the infant and family.

(e) "Hearing loss" means a hearing loss of 30 decibels or greater in the frequency region important for speech recognition and comprehension in one or both ears (from 500 through 4000 Hz). However, as technology allows for changes to this definition through the detection of less severe hearing loss, the department may modify this definition by regulation.

(f) "Infant" means a child 29 days through 12 months old.

(g) "Intervention services" means the early intervention services described in Part C of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1475 et seq.).

(h) "Newborn" means a child less than 29 days old.

(i) "Newborn hearing screening services" means those hearing screening tests that are necessary to achieve the identification of all newborns and infants with a hearing loss.

(j) "Parent" means a natural parent, adoptive parent, or legal guardian of a child.

#### 124116.5. Hearing screening program for newborns; specified hospitals

(a) (1) Every CCS-approved general acute care hospital with licensed perinatal services in this state shall offer all parents of a newborn, upon birth admission, a hearing screening test for the identification of hearing loss, using protocols approved by the department or its designee. The department shall begin phasing in implementation of a comprehensive hearing screening program by CCS-approved general acute care hospitals with licensed perinatal services on or after July 1, 1999, and a 100 percent participation shall be achieved by December 31, 2002.

(2) In order to meet the department's certification criteria, a hospital shall be responsible for developing a screening program that provides competent hearing screening, utilizes appropriate staff and equipment for administering the testing, completes the testing prior to the newborn's discharge from a newborn nursery unit, refers infants with abnormal screening results, maintains and reports data as required by the department, and provides physician and family-parent education.

(b) A hearing screening test provided for pursuant to subdivision (a) shall be performed by a licensed physician, licensed registered nurse, licensed audiologist, or an appropriately trained individual who is supervised in the performance of the test by a licensed healthcare professional.

#### 124117. Approval of hospitals for participation; payment

The department or its designee shall approve hospitals for participation as newborn hearing screening providers. These facilities shall then receive payment from the department for the newborn hearing screening services provided to newborns and infants eligible for the Medi-Cal or CCS programs in accordance with this article.

#### 124118. Written information; technical assistance and consultation

The department or its designee shall provide every CCS-approved acute care hospital that has licensed perinatal services or a CCS-approved neonatal intensive care unit (NICU), or both, as specified in Section 123975, written information on the current and most effective means available to screen the hearing of newborns and infants, and shall provide technical assistance and consultation to these hospitals in developing a system of screening each

newborn and infant receiving care at the facility. The information shall also include the mechanism for referral of newborns and infants with abnormal test results.

**124118.5. Early hearing detection and intervention centers; establishment of system; duties**

(a) The department shall establish a system of early hearing detection and intervention centers that shall provide technical assistance and consultation to hospitals in the startup and ongoing implementation of a facility screening program and followup system.

(b) The early hearing detection and intervention centers shall be chosen by the department according to standards and criteria developed by the California Children's Services Program (CCS). Each center shall be responsible for a separate geographic catchment area as determined by the program.

(c) Each center shall be required to develop a system that shall provide outreach and education to hospitals in its catchment area, approve hospitals on behalf of the department for participation as newborn hearing screening providers, maintain a data base of all newborns and infants screened in the catchment area, ensure appropriate follow up for newborns and infants with an abnormal screen including diagnostic evaluation and referral to intervention service programs if the newborn or infant is found to have a hearing loss, and provide coordination with the CCS and local early intervention programs as defined in Title 14 (commencing with Section 95000) of the Government Code.

**124119. Reporting and tracking system; development and implementation**

(a) The department shall develop and implement a reporting and tracking system for newborns and infants tested for hearing loss.

(b) The system shall provide the department with information and data to effectively plan, establish, monitor, and evaluate the Newborn and Infant Hearing Screening, Tracking and Intervention Program, including the screening and followup components, as well as the comprehensive system of services for newborns and infants who are deaf or hard-of-hearing and their families.

(c) Every CCS-approved acute care hospital with licensed perinatal services or CCS approved NICU, or both, in this state shall report to the department or the department's designee information as specified by the department to be included in the department's reporting and tracking system.

(d) All providers of audiological follow up and diagnostic services provided under this article shall report to the department or the department's designee information as specified by the department to be included in the department's reporting and tracking system.

(e) The information compiled and maintained in the tracking system shall be kept confidential in accordance with Chapter 5 (commencing with Section 10850) of Part 1 of Division 9 of the Welfare and Institutions Code, the Information Practices Act of 1977 (Chapter 1(commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), and the applicable requirements and provisions of Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1475 et seq.).

(f) Data collected by the tracking system obtained directly from the medical records of the newborn or infant shall be for the confidential use of the department and for the persons or public or private entities that the department determines are necessary to carry out the intent of the reporting and tracking system.

(g) A health facility, clinical laboratory, audiologist, physician, registered nurse, or any

other officer or employee of a health facility or laboratory or employee of an audiologist or physician, shall not be criminally or civilly liable for furnishing information to the department or its designee pursuant to the requirements of this section.

**124119.5. Information on community resources and services; provision of information to parents**

Parents of all newborns and infants diagnosed with a hearing loss shall be provided written information on the availability of community resources and services for children with hearing loss, including those provided in accordance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), through the reporting and tracking system followup procedures.

Information shall include listings of local and statewide nonprofit deaf and hard-of-hearing consumer-based organizations, parent support organizations affiliated with deafness, and programs offered through the State Department of Social Services, Office of Deaf Access, State Department of Developmental Services, and the State Department of Education.

**124120. Community outreach and awareness campaign**

The department shall conduct a community outreach and awareness campaign to inform medical providers, pregnant women, and the families of newborns and infants on the availability of the newborn hearing screening program and the value of early hearing testing. The outreach and awareness campaign shall be conducted by an independent contractor.

**124120.5. Written consent of parent**

A newborn hearing screening test shall not be performed without the written consent of the parent.

# THE GENETICALLY HANDICAPPED PERSONS PROGRAM

## STATUTES

### HEALTH AND SAFETY CODE SECTIONS 125125-125180

#### 125125. Citation of Article

This article shall be known and may be cited as the Holden-Moscone-Garamendi Genetically Handicapped Person's Program.

#### 125130. Establishment and administration; medical and social support services; rules and regulations; priorities

The Director of Health Services shall establish and administer a program for the medical care of persons with genetically handicapping conditions, including cystic fibrosis, hemophilia, sickle cell disease, Huntington's disease, Friedreich's Ataxia, Joseph's disease, Von Hippel-Landau syndrome, and the following hereditary metabolic disorders: phenylketonuria, homocystinuria, branched chain amino acidurias, disorders of propionate and methylmalonate metabolism, urea cycle disorders, hereditary oroticaciduria, Wilson's Disease, galactosemia, disorders of lactate and pyruvate metabolism, tyrosinemia, hyperornithinemia, and other genetic organic acidemias that require specialized treatment or service available from only a limited number of program-approved sources.

The program shall also provide access to social support services, that may help ameliorate the physical, psychological, and economic problems attendant to genetically handicapping conditions, in order that the genetically handicapped person may function at an optimal level commensurate with the degree of impairment.

The medical and social support services may be obtained through physicians and surgeons, genetically handicapped person's program specialized centers, and other providers that qualify pursuant to the regulations of the department to provide the services. "Medical care," as used in this section, is limited to noncustodial medical and support services.

The director, with the guidance of the Advisory Committee on Genetically Handicapped Person's Program, may, by regulation, expand the list of genetically handicapping conditions covered under this article. The director shall adopt regulations that are necessary for the implementation of this article. The director, with the approval of the advisory committee, shall establish priorities for the use of funds and provision of services under this article.

#### 125135. Genetically handicapping condition

As used in this article, "genetically handicapping condition" shall mean a disease that is accepted as being genetic in origin by the American Society of Human Genetics.

#### 125140. Inclusions in program; medical and social support services

The program established under this article shall include any or all of the following medical and social support services:

- (a) Initial intake and diagnostic evaluation.
- (b) The cost of blood transfusion and use of blood derivatives, or both.
- (c) Rehabilitation services, including reconstructive surgery.

- (d) Expert diagnosis.
- (e) Medical treatment.
- (f) Surgical treatment.
- (g) Hospital care.
- (h) Physical and speech therapy.
- (i) Occupational therapy.
- (j) Special treatment.
- (k) Materials.
- (l) Appliances and their upkeep, maintenance, and care.
- (m) Maintenance, transportation, or care incidental to any other form of services.
- (n) Respite care or other existing resources (e.g., sheltered workshops).
- (o) Genetic and long-term psychological counseling.
- (p) Appropriate administrative staff resources to carry out this article. The staff shall include, but not be limited to, at least one case manager per each 350 clients.

125145.           Advisory committee

The director shall appoint an 11-member Advisory Committee on Genetically Handicapped Person's Program composed of professional and consumer representatives who shall serve without compensation and at the discretion of the director. The director shall seek the advice of the advisory committee with respect to regulations to be adopted pursuant to this article.

125150.           Reimbursement rate structure

The director shall establish the rate structure for reimbursement of physicians and supportive services. The rates shall not be less than the amounts paid for provider services under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

125155.           Reimbursement restrictions; exceptions; construction

Reimbursement under this article shall not be made for any services that are available to the recipient under any other private, state, or federal programs or under other contractual or legal entitlements, except for those instances where the department determines that prolonged use of employer health insurance would jeopardize the recipient's employment. However, no provision in this article shall be construed as limiting in any way state participation in any federal governmental program for medical care of persons with genetically handicapping conditions.

125160.           Receipt and disbursement of funds

The department shall receive and expend all funds made available to it by the federal government, the state, its political subdivisions or from other sources for the purposes of this article. Payment for genetically handicapped person's program shall be made by the department.

125165. Enrollment fee; schedule; exceptions; use of fee

(a) The department shall determine and establish an enrollment fee for the services provided pursuant to this article.

(b) Beginning July 1, 1993, each client eligible for services shall pay an annual enrollment fee to the department, except as provided in subdivision (f).

(c) (1) The annual enrollment fee schedule shall be a sliding scale based upon family size and income and shall be identical to the fee schedule established under Section 123900. The department shall adjust the scale to reflect changes in the federal poverty level. Family size shall be based upon the number of persons living with the applicant who are dependent upon the family income. Family income shall include the total gross income of the applicant and other individuals living with the applicant.

(3) Until July 1, 1995, the annual enrollment fee for eligible participants who use the Genetically Handicapped Persons Program but receive only case management services provided by the program shall be determined by using 50 percent of the amount specified in the sliding scale. On or before July 1, 1995, the department shall evaluate the revenue enhancement resulting from the use of this reduced enrollment fee schedule for persons who receive only case management services. After July 1, 1995, all eligible participants shall pay the enrollment fee established pursuant to paragraph (1).

(d) Notwithstanding any other subdivision, those persons whose family income exceeds forty thousand dollars (\$40,000) per year and whose cost of care is 20 percent or less of the family's adjusted gross income shall pay either the enrollment fee or the cost of care, whichever is greater. Those persons whose family income exceeds forty thousand dollars (\$40,000) per year and whose cost of care exceeds 20 percent of the family's adjusted gross income shall pay the enrollment fee.

(e) Payment of the enrollment fee is a condition of program participation and is independent of any other outstanding obligations to the program. The department may arrange for periodic payment during the year if it determines a lump-sum payment will be a hardship for the family. The director, on a case-by-case basis, may waive or reduce the amount of an enrollment fee if the director determines payment of the fee will result in undue hardship. Otherwise, failure to pay or arrange for payment of the enrollment fee within 60 days of the due date shall result in disenrollment and ineligibility for coverage of treatment services effective 60 days after the due date of the fee.

(f) The enrollment fee shall not be charged in the following cases:

(1) The client is eligible for the full scope of Medi-Cal benefits, without being required to pay a share of cost, at the time of enrollment fee determination.

(2) The family of the client otherwise eligible to receive services has a gross annual income of less than 200 percent of the federal poverty level.

(g) Upon determination of program eligibility, the department shall enter into an agreement with the applicant or client legally responsible for that applicant for payment of the enrollment fee.

(h) All enrollment fees shall be used in support of the program for services established under this article.

125170. Staff

The department shall maintain sufficient, appropriate staff to carry out this article.

125175.       **Priorities**

The health care benefits and services specified in this article, to the extent that the benefits and services are neither provided under any other federal or state law nor provided nor available under other contractual or legal entitlements of the person, shall be provided to any patient who is a resident of this state and is made eligible by this article. After the patient has utilized the contractual or legal entitlements, the payment liability under Section 125165 shall then be applied to the remaining cost of genetically handicapped person's services.

125180.       **Prerequisite to participation in program; application for Medi-Cal benefits**

The department shall require all applicants to the program who may be eligible for cash grant public assistance or for Medi-Cal to apply for Medi-Cal eligibility prior to becoming eligible for funded services.