

**California Department of Health Care Services
Proposed Trailer Bill Language**

Medi-Cal Drug Rebate Fund

FACT SHEET

Issue Title: Medi-Cal Drug Rebate Fund. This proposal would establish a special fund in which to deposit Medi-Cal drug rebates.

Background: The Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) requires drug manufacturers to enter into a rebate agreement with the federal government in order for their drugs to be covered and reimbursed under the federal Medicaid program. The drug rebates collected by Medi-Cal include the Federal Rebates, as well as some additional rebates negotiated by the Department of Health Care Services (DHCS), known as State Supplemental Rebates.

Currently, when drug manufacturers provide rebates to DHCS, the rebates immediately offset the state General Fund (GF) and federal fund expenditures as they are received. However, there have been considerable variations in the amounts of rebates budgeted and received. The Rebate Accounting Information System (RAIS) determines the rebate amounts and identifies the appropriate funding split for the payments received. When rebates are first received, the funding split between the General Fund and the Federal Trust Fund is unknown. Accordingly, the initial funding is credited back at 50 percent GF and 50 percent Federal Trust Fund until the corrected adjustments are calculated by RAIS. The timing of these later adjustments have varied, and has shifted from one fiscal year to another. For example, funding adjustments in Fiscal Year 2016-2017 and Fiscal Year 2017-2018 were required due to changes in the RAIS to incorporate higher Federal Medical Assistance Percentage for the Affordable Care Act Optional Expansion pharmacy expenditures. This resulted in additional payments to the federal government and significant impact to the General Fund. Due to the uncertainty of when drug rebates are received and adjusted, fiscal management can be a challenge.

Justification for the Change: DHCS proposes to establish a special fund for drug rebates to manage the impact on the GF when drug rebates are received and/or funding adjustments are calculated. GF offsets now occur when the rebates are received. Instead, the special fund would allow for a specific amount to be budgeted and transferred to offset GF expenditures. If additional rebates are received, the Department would be able to validate the rebates and have increased flexibility on the timing of the impact to the General Fund. As such, this proposal would reduce volatility in Medi-Cal GF spending.

Specifically, this proposal would:

- Create the Medi-Cal Drug Rebate Fund in the State Treasury to hold the state share of federal and state supplemental drug rebates collected by DHCS, including all interest and dividends earned.
- Continuously appropriate the funds, without regard to fiscal year.

- Use the funds specifically for purposes of providing ongoing support towards health care services for beneficiaries in the Medi-Cal program.
- Authorize the State Controller to use the funds for cash flow loans to the GF, as specified.

Summary of Arguments in Support: The special drug rebate fund will allow the Department to manage the impact of drug rebates on the GF and provide a management tool that will help alleviate the GF volatility resulting from rebates. The fund will enhance transparency, as the State Controller's monthly reports will show the amount of rebates.

BCP: 4260-023-BCP Strengthening Fiscal Estimates and Cash Flow Monitoring

PC: PC 202 Medi-Cal Drug Rebate Fund