

An act to amend Sections 14124.82 and 14124.83 of, to repeal Sections 14124.80, 14124.85, and 14124.88 of, and to repeal and add Sections 14124.81 and 14124.86 of, the Welfare and Institutions Code, relating to Medi-Cal.



170677090404BILL

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 14124.80 of the Welfare and Institutions Code is repealed.

~~14124.80. The Legislature finds and declares that:~~

~~(a) Many instances of potential third-party liability, particularly workers' compensation claims, are not discovered by the department. Similarly, the Legislature finds that there are private nongovernmental sources of potential claim information which is unique to these private sources and not otherwise readily available to the department. This private information is unique in that, although the information may be shared between private claimants, including potential private lienors, the department is not privy to it and includes past adjudicated claims, expired or expiring health policy claims, long-term care and settlement situations where Medi-Cal is not identified in any application or filing for benefits. Additionally, there are applications and other filings made without any identification of potential Medi-Cal rights which become known to private sources because of this information sharing system. Further, there are other miscellaneous claims that have not been and will not be discovered in the ordinary course of administration by the department.~~

~~(b) There is a backlog of potential claims or liens which could result in the recovery of substantial amounts if private sources of information were available to the state.~~

~~(c) A cost-effective manner of recovering these potentially large amounts is through the contracting by the state, on a pilot program basis, with a private organization which possesses the expertise and resources required to rapidly discover and recover the lienable amounts owing by third parties for health care services provided by the~~



~~Medi-Cal program, and which will receive compensation on a contingency fee arrangement, thereby supplementing the ongoing functions of the state in recovering lienable amounts, reducing the cost to the state of the recovery effort, and maximizing the amounts recovered for the Medi-Cal program.~~

~~(d) Attorneys or the beneficiary, his guardian, personal representative, estate or survivors of any of them who are currently mandated under Section 14124.79 to report Medi-Cal involvement are excluded from any further remuneration benefits under this section.~~

SEC. 2. Section 14124.81 of the Welfare and Institutions Code is repealed.

~~14124.81. The State Department of Health Services shall administer the provisions of Sections 14124.82 to 14124.88, inclusive. The department shall establish a pilot project for the discovery and recovery of amounts owing by third parties for health care services provided by the Medi-Cal program.~~

SEC. 3. Section 14124.81 is added to the Welfare and Institutions Code, to read:

14124.81. (a) The department shall administer the provisions of Sections 14124.82 to 14124.86, inclusive.

(b) An attorney or the beneficiary, guardian, personal representative, estate, or survivors of any of those, who are mandated under Section 14124.79 to report Medi-Cal involvement are excluded from any further remuneration benefits under Sections 14124.82 to 14124.86, inclusive.

SEC. 4. Section 14124.82 of the Welfare and Institutions Code is amended to read:



~~14124.82. (a) The department shall enter, by October 1, 1981, into at least two at-risk performance type contracts with private organizations that have access to information on cases with potential for the recovery of amounts owing for services rendered under the Medi-Cal program, and that have access to a substantial backlog period of information on past due Medi-Cal claims, as well as current and future potential claims. At least one contract shall cover northern California claims, and at least one contract shall cover southern California claims. Any contractor, otherwise qualified under this section, may separately contract in each geographical area.~~

14124.82. (a) The department, in its reasonable discretion, may execute one or more at-risk performance contracts to identify, quantify, or recover, or any combination thereof, Medi-Cal payments from responsible third parties and carriers that may be subject to a claim for reimbursement.

(b) Priority, by the terms of the contract or contracts, shall be given to the identification and recovery of claims nearing the statute of ~~limitations, limitation~~, prior adjudicated claims, and prior existing injury claims. However, all claims ~~which that~~ are older, in whole or part, than 12 months, at the time of discovery and notification by the contractor to the department, shall be subject to contractual lien recovery unless departmental personnel have previously identified these claims and have filed appropriate liens, notices, or other payment demands. A claim arises and the 12-month period begins when the department or its fiscal agent has first made payment for medical services related to the personal or workers' compensation action on behalf of a given recipient. The department may waive any time requirement, if it concludes that it will not otherwise discover the claim and be able to effect recovery.



(c) To implement this section, the department may contract with public or private entities. Contracts or amendments entered into under this section may be on an exclusive or nonexclusive basis, and on a noncompetitive bid basis. The contracts and amendments shall be exempt from all of the following:

(1) Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and any policies, procedures, or regulations authorized by that part.

(2) Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

(3) Review or approval of contracts by the Department of General Services.

SEC. 5. Section 14124.83 of the Welfare and Institutions Code is amended to read:

14124.83. The agreement shall include, but is not limited to, the following provisions:

(a) The contractor shall discover and recover agreement shall stipulate when the contractor may identify, quantify, or recover amounts owing by third parties which that may be subject to a claim for reimbursement.

(b) Payment to the contractor shall be based upon a no cost percentage of recovery formula, which shall not exceed 25 percent of the gross recovery upon the claim. It is the intent of the Legislature that “no cost” include all considerations for court costs, legal fees, and the universe of the case processing activity, not including, however, departmental processing.

(c) Payment for amounts determined to be owed to the state by third parties and carriers shall be made directly to the state.



170677090404BILL

(d) A bond in the amount required by the state for collection agencies shall be sufficient.

(e) Contractor's files shall be subject to audit, pursuant to the contract, but shall remain the property of the contractor. At the request of the department, the contractor shall provide copies of any claims related to a particular recovery.

(e)

(f) The contractor shall report periodically to the department concerning its progress in the discovery of cases and the recovery of amounts subject to claim, and shall provide such other information as the department may require, and at a reasonable frequency, to adequately monitor the progress of the contractor. Reports and other information shall be required only at one-month intervals.

SEC. 6. Section 14124.85 of the Welfare and Institutions Code is repealed.

~~14124.85. The contractor, for the duration of the contract period, shall have the powers of the Director of the State Department of Health Services as set forth in this article, except for the power to waive a claim under paragraph (2) of subdivision (b) of Section 14124.71. The contract shall specify the particular means and documentation of the delegation of powers under paragraph (1) of subdivision (b) of Section 14124.71. The contractor shall be subject to the provisions of Section 14100.2 except that those provisions shall not inhibit performance of the contract.~~

SEC. 7. Section 14124.86 of the Welfare and Institutions Code is repealed.

~~14124.86. The pilot project contract entered into by the department pursuant to Section 14124.82 shall not exceed a term of three years from the date of its execution. The contractor shall retain its rights and duties under the contract with respect to any~~



~~claims or liens processed in whole or in part prior to the termination date of the agreement.~~

SEC. 8. Section 14124.86 is added to the Welfare and Institutions Code, to read:

14124.86. The contractor shall retain its rights to compensation upon recovery for completed duties under the contract with respect to any claims or liens processed in whole or in part prior to the termination date of the agreement.

SEC. 9. Section 14124.88 of the Welfare and Institutions Code is repealed.

~~14124.88.—(a) Subsequent to the expiration of the pilot project contract, the department, in its reasonable discretion, may execute a separate, additional agreement for the discovery and recovery of amounts which may be subject to claim pursuant to this article, subject to Sections 14124.81 to 14124.87, inclusive.~~

~~(b) The department, if it receives a competitive qualified offer of such services within the criteria set forth in Sections 14124.80 through 14124.87, shall separately contract for discovery and recovery of workers' compensation claims with one contract to cover areas of northern California and one to cover areas of southern California.~~

~~(c) (1) Priority and inclusion of claims shall be as set forth in subdivision (b) of Section 14124.82 and additionally shall include any matter on file with the Workers' Compensation Appeals Board for a period of more than 12 months unless the department has previously identified these claims and has filed the appropriate lien or liens.~~

~~(2) The contract may include, or may be subsequently amended to include, any or all previously identified claims and any other potential lien claims, identified or not,~~



~~if the department determines that it will not otherwise be able to effectively process recovery. This paragraph shall cease to be operative on January 1, 1995.~~

~~(d) There shall be no cost to the contractor for claim detail reports provided by the fiscal intermediary. In all cases of workers' compensation appeals, payment shall be made directly to the state and a contractor shall not handle or have access to any moneys owing the state. In these cases a bond required by the state for collection agencies shall be sufficient. Contractor's files shall be subject to audit, pursuant to the contract, but shall remain the property of the contractor. At the request of the department, the contractor shall provide copies of any claims related to a particular recovery.~~

~~(e) The contract shall provide that the contractor, with the permission of the Attorney General, may appeal decisions of the Workers' Compensation Appeals Board.~~



LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Medi-Cal: payments: recovery from 3rd parties.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. Existing law authorizes the Director of Health Care Services, as well as the Attorney General, and other specified officials, to bring an action to recover the reasonable value of benefits provided or that will be provided to a Medi-Cal recipient against a 3rd party, including an insurance carrier, because of any injury for which the 3rd party is liable. Existing law contains procedures for the recovery of these amounts, some of which were originally exercised under a specified pilot project.

This bill would delete references to the pilot project and would revise the department's procedures, including authorizing the department to execute one or more at-risk performance contracts to identify, quantify, and recover Medi-Cal payments



from responsible 3rd parties and carriers that may be subject to a claim for reimbursement. The bill would authorize the department to contract with public or private entities for that purpose, as specified. The bill would exempt the contracts from approval by the Department of General Services the State Contract Act and specified provisions relating to personal services contracts. The bill would prescribe the requirements of an agreement between the department and a contractor in that regard. The bill would allow the contractor to retain its rights to compensation upon recovery for completed duties under the contract with respect to any claims or liens processed in whole or in part prior to the termination date of the agreement.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

