

**Department of Health Care Services  
Proposed May Revision Trailer Bill Legislation**

**Medi-Cal Cost Containment Proposal: Institute Copayments for  
Physician/FQHC/RHC Office Visits, Dental Office Visits, Pharmacy,  
Emergency and Nonemergency ER Visits, and Hospital Inpatient Days**

SECTION 1: Section 14134 of the Welfare and Institutions Code is amended to read:

14134. ~~Except for any prescription, refill, visit, service, device, or item for which the program's payment is ten dollars (\$10) or less, in which case no copayment shall be required, a~~ In order to implement changes in the level of funding for health care services, a Medi-Cal beneficiary shall be required to make copayments described in this section. These copayments represent a contribution toward the rate of payment made to providers of Medi-Cal services. ~~recipient of services under this chapter shall be required to make copayments not to exceed the maximum permitted under federal regulations or federal waivers as follows:~~

(a) ~~Copayment of five dollars (\$5)~~ up to fifty dollars (\$50) shall be made for nonemergency services received in an emergency room. For the purposes of this section, "nonemergency services" means any services not required for the alleviation of severe pain or the immediate diagnosis and treatment of unforeseen ~~severe~~ medical conditions which, if not immediately diagnosed and treated, would lead to disability or death.

(b) Copayment of up to fifty dollars (\$50) shall be made for emergency services received in an emergency room. For the purposes of this section, "emergency services" means any services required for the alleviation of severe pain or the

immediate diagnosis and treatment of unforeseen medical conditions which, if not immediately diagnosed and treated, would lead to disability or death.

(c) Copayment of up to one hundred dollars (\$100) shall be made for each hospital inpatient day up to a maximum of \$200 per admission.

~~(b) Copayment of one dollar (\$1) shall be made for each drug prescription or refill.~~ (d) Copayment of up to three dollars (\$3) shall be made for each preferred drug prescription or refill. A copayment of up to five dollars (\$5) shall be made for each non-preferred drug prescription or refill. Except as provided in subdivision (h), preferred drug has the same meaning as referred to in Section 1916A of the Social Security Act (42 U.S.C 1396o-1).

~~(e) Copayment of one dollar (\$1) up to five dollars (\$5) shall be made for each visit for services under subdivisions (a) and (h) of Section 14132.~~

~~(f) The copayment amounts set forth in subdivisions (a), (b), and (c), (d), and (e) may be collected and retained or waived by the provider. The department shall not include the amount of the copayment in the payment the department makes to the provider, whether the copayment is retained, waived, or not collected by the provider.~~

~~(e) The department shall not reduce the reimbursement otherwise due to providers as a result of the copayment. The copayment amounts shall be in addition to any reimbursement otherwise due the provider for services rendered under this program.~~

~~(f) This section does not apply to emergency services, family planning services, or to any services received by:~~

- ~~—(1) Any child in AFDC Foster Care, as defined in Section 11400.~~
- ~~—(2) Any person who is an inpatient in a health facility, as defined in Section 1250 of the Health and Safety Code.~~
- ~~—(3) Any person 18 years of age or under.~~
- ~~—(4) Any woman receiving perinatal care.~~
- ~~—(g) Subdivision (b) does not apply to any person 65 years of age or over.~~

~~(h) (g) Notwithstanding any other provision of law, and only to the extent allowed under federal law, Aa provider of service has no obligation to provide services to a Medi-Cal beneficiary who does not pay at the point of service the copayment assessed in accordance with this section. If the provider provides services without collecting the copayment and has not waived the copayment, the provider may hold the beneficiary liable for any copayment amount owed.~~

~~shall not deny care or services to an individual solely because of that person's inability to copay under this section. An individual shall, however, remain liable to the provider for any copayment amount owed.~~

~~(h)(1) Notwithstanding any other provision of law except as described in paragraph (2), this section shall apply to Medi-Cal beneficiaries enrolled in a health plan contracting with the department pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), Article 2.81 (commencing with Section 14087.96), Article 2.9 (commencing with Section 14088), Article 2.91 (commencing with Section 14089) of Chapter 7 and Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.~~

(2) For the purpose of subdivision (d), copayments assessed against a beneficiary who receives Medi-Cal services via a health plan described in paragraph (1) shall be based on the plan's designation of a drug as preferred or non-preferred.

(3) To the extent provided by federal law, capitation payments will be calculated as if copayments described in this section were collected.

(i) This section shall be implemented only to the extent that federal financial participation is available. The department shall seek and obtain any federal waivers or state plan amendments necessary to implement this section. The provisions for which appropriate federal waivers or state plan amendments are not obtained shall not be implemented, but provisions for which waivers or state plan amendments are either obtained or found to be unnecessary shall be unaffected by the inability to obtain federal waivers for the other provisions.

(j) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-county letters, all-plan letters, provider bulletins, or similar instructions, without taking further regulatory action.

~~The director shall adopt any regulations necessary 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. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general~~

~~welfare. The director shall transmit these emergency regulations directly to the Secretary of State for filing and the regulations shall become effective immediately upon filing. Upon completion of the formal regulation adoption process and prior to the expiration of the 120 day duration period of emergency regulations, the director shall transmit directly to the Secretary of State for filing the adopted regulations, the rulemaking file, and the certification of compliance as required by subdivision (e) of Section 11346.1 of the Government Code.~~

(k)(1) Implementation of the amendments made to this section to conform to the level of funding for health care services for budget year 2010-11, shall not commence until four months after federal approval is obtained.

(2) Upon implementation of these amendments, the director shall execute a declaration that implementation has commenced and the date of such commencement, and shall provide a copy of the declaration to the Joint Legislative Budget Committee chair.

SECTION 2. Section 14134.1 of the Welfare and Institutions Code is amended to read:

14134.1.(a) Except as provided in subdivision (b) of Section 14134, no provider under this chapter may deny care or services to an individual eligible for such care or services under this chapter on account of the individual's inability to pay a copayment, as defined in Section 14134. The requirements of this section shall not extinguish the liability of the individual to whom the care or services were furnished for payment of the copayment.

(b) On the date the amendments made to Section 14134 by the act that adds this subdivision are implemented, this section shall become inoperative and on January 1 of the following year is repealed.

(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-county letters, all-county letters, provider bulletins, or similar instructions, without taking further regulatory action.

SECTION 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make changes necessary for implementation of the Budget Act of 2010, it is necessary that this act take effect immediately.