

State of California

WELFARE AND INSTITUTIONS CODE

Section 12302.25

12302.25. (a) On or before January 1, 2003, each county shall act as, or establish, an employer for in-home supportive service providers under Section 12302.2 for the purposes of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code and other applicable state or federal laws. Each county may utilize a public authority or nonprofit consortium as authorized under Section 12301.6, the contract mode as authorized under Sections 12302 and 12302.1, county administration of the individual provider mode as authorized under Sections 12302 and 12302.2 for purposes of acting as, or providing, an employer under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code, county civil service personnel as authorized under Section 12302, or mixed modes of service authorized pursuant to this article and may establish regional agreements in establishing an employer for purposes of this subdivision for providers of in-home supportive services. Within 30 days of the effective date of this section, the department shall develop a timetable for implementation of this subdivision to ensure orderly compliance by counties. Recipients of in-home supportive services shall retain the right to choose the individuals that provide their care and to recruit, select, train, reject, or change any provider under the contract mode or to hire, fire, train, and supervise any provider under any other mode of service. Upon request of a recipient, and in addition to a county's selected method of establishing an employer for in-home supportive service providers pursuant to this subdivision, counties with an IHSS caseload of more than 500 shall be required to offer an individual provider employer option.

(b) Nothing in this section shall prohibit any negotiations or agreement regarding collective bargaining or any wage and benefit enhancements.

(c) Nothing in this section shall be construed to affect the state's responsibility with respect to the state payroll system, unemployment insurance, or workers' compensation and other provisions of Section 12302.2 for providers of in-home supportive services.

(d) Prior to implementing subdivision (a), a county may establish an advisory committee as authorized by Section 12301.3 and solicit recommendations from the advisory committee on the preferred mode or modes of service to be utilized in the county for in-home supportive services.

(e) If a county establishes an in-home supportive services advisory committee pursuant to Section 12301.3, the county shall take into account the advice and recommendations of the committee prior to making policy and funding decisions about the program on an ongoing basis.

(f) In implementing and administering this section, no county, public authority, nonprofit consortium, contractor, or a combination thereof, that delivers in-home supportive services shall reduce the hours of service for any recipient below the amount determined to be necessary under the uniform assessment guidelines established by the department.

(g) Any agreement between a county and an entity acting as an employer under subdivision (a) shall include a provision that requires that funds appropriated by the state for wage increases for in-home supportive services providers be used exclusively for that purpose. Counties or the state may undertake audits of the entities acting as employers under the terms of subdivision (a) to verify compliance with this subdivision.

(h) On or before January 15, 2003, each county shall provide the department with documentation that demonstrates compliance with the January 1, 2003, deadline specified in subdivision (a). The documentation shall include, but is not limited to, any of the following:

(1) The public authority ordinance and employee relations procedures.

(2) The invitations to bid and requests for proposal for contract services for the contract mode.

(3) An invitation to bid and request for proposal for the operation of a nonprofit consortium.

(4) A county board of supervisors' resolution resolving that the county has chosen to act as the employer required by subdivision (a) either by utilizing county employees, as authorized by Section 12302, to provide in-home supportive services or through county administration of individual providers.

(5) Any combination of the documentation required under paragraphs (1) to (4), inclusive, that reflects the decision of a county to provide mixed modes of service as authorized under subdivision (a).

(i) Any county that is unable to provide the documentation required by subdivision (h) by January 15, 2003, may provide, on or before that date, a written notice to the department that does all of the following:

(1) Explains the county's failure to provide the required documentation.

(2) Describes the county's plan for coming into compliance with the requirements of this section.

(3) Includes a timetable for the county to come into compliance with this section, but in no case shall the timetable extend beyond March 31, 2003.

(j) Any county that fails to provide the documentation required by subdivision (h) and also fails to provide the written notice as allowed under subdivision (i), shall be deemed by operation of law to be the employer of IHSS individual providers for purposes of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code as of January 15, 2003.

(k) Any county that provides a written notice as allowed under subdivision (i), but fails to provide the documentation required under subdivision (h) by March 31, 2003, shall be deemed by operation of law to be the employer of IHSS individual providers

for purposes of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code as of April 1, 2003.

(l) Any county deemed by operation of law, pursuant to subdivision (j) or (k), to be the employer of IHSS individual providers for purposes of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code shall continue to act in that capacity until the county notifies the department that it has established another employer as permitted by this section, and has provided the department with the documentation required under subdivision (h) demonstrating the change.

(Amended by Stats. 2011, Ch. 8, Sec. 34. (SB 72) Effective March 24, 2011. This version became inoperative on September 22, 2012, upon operation of the amendment by Stats. 2012, Ch. 439, and resumed operation on June 27, 2017, when Stats. 2017, Ch. 25, repealed that amended version.)

State of California

WELFARE AND INSTITUTIONS CODE

Section 12301.6

12301.6. (a) Notwithstanding Sections 12302 and 12302.1, a county board of supervisors may, at its option, elect to do either of the following:

(1) Contract with a nonprofit consortium to provide for the delivery of in-home supportive services.

(2) Establish, by ordinance, a public authority to provide for the delivery of in-home supportive services.

(b) (1) To the extent that a county elects to establish a public authority pursuant to paragraph (2) of subdivision (a), the enabling ordinance shall specify the membership of the governing body of the public authority, the qualifications for individual members, the manner of appointment, selection, or removal of members, how long they shall serve, and other matters as the board of supervisors deems necessary for the operation of the public authority.

(2) A public authority established pursuant to paragraph (2) of subdivision (a) shall be both of the following:

(A) An entity separate from the county, and shall be required to file the statement required by Section 53051 of the Government Code.

(B) A corporate public body, exercising public and essential governmental functions and that has all powers necessary or convenient to carry out the delivery of in-home supportive services, including the power to contract for services pursuant to Sections 12302 and 12302.1 and that makes or provides for direct payment to a provider chosen by the recipient for the purchase of services pursuant to Sections 12302 and 12302.2. Employees of the public authority shall not be employees of the county for any purpose.

(3) (A) As an alternative, the enabling ordinance may designate the board of supervisors as the governing body of the public authority.

(B) Any enabling ordinance that designates the board of supervisors as the governing body of the public authority shall also specify that no fewer than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or recipients of services under this article.

(C) If the enabling ordinance designates the board of supervisors as the governing body of the public authority, it shall also require the appointment of an advisory committee of not more than 11 individuals who shall be designated in accordance with subparagraph (B).

(D) Prior to making designations of committee members pursuant to subparagraph (C), or governing body members in accordance with paragraph (4), the board of

supervisors shall solicit recommendations of qualified members of either the governing body of the public authority or of any advisory committee through a fair and open process that includes the provision of reasonable written notice to, and a reasonable response time by, members of the general public and interested persons and organizations.

(4) If the enabling ordinance does not designate the board of supervisors as the governing body of the public authority, the enabling ordinance shall require the membership of the governing body to meet the requirements of subparagraph (B) of paragraph (3).

(c) (1) Any public authority created pursuant to this section shall be deemed to be the employer of in-home supportive services personnel referred to recipients under paragraph (3) of subdivision (e) within the meaning of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code. Recipients shall retain the right to hire, fire, and supervise the work of any in-home supportive services personnel providing services to them.

(2) (A) Any nonprofit consortium contracting with a county pursuant to this section shall be deemed to be the employer of in-home supportive services personnel referred to recipients pursuant to paragraph (3) of subdivision (e) for the purposes of collective bargaining over wages, hours, and other terms and conditions of employment.

(B) Recipients shall retain the right to hire, fire, and supervise the work of any in-home supportive services personnel providing services for them.

(d) A public authority established pursuant to this section or a nonprofit consortium contracting with a county pursuant to this section, when providing for the delivery of services under this article by contract in accordance with Sections 12302 and 12302.1, by direct payment to a provider chosen by a recipient in accordance with Sections 12302 and 12302.2, or by way of a provider of waiver personal care services provided pursuant to Section 14132.97, shall comply with and be subject to, all statutory and regulatory provisions applicable to the respective delivery mode.

(e) Any nonprofit consortium contracting with a county pursuant to this section or any public authority established pursuant to this section shall provide for all of the following functions under this article, but shall not be limited to those functions:

(1) The provision of assistance to recipients in finding in-home supportive services personnel or waiver personal care services authorized pursuant to Section 14132.97 through the establishment of a registry.

(2) (A) (i) The investigation of the qualifications and background of potential personnel. Upon the effective date of the amendments to this section made during the 2009–10 Fourth Extraordinary Session of the Legislature, the investigation with respect to any provider in the registry or prospective registry applicant shall include criminal background checks requested by the nonprofit consortium or public authority and conducted by the Department of Justice pursuant to Section 15660, for those public authorities or nonprofit consortia using the agencies on the effective date of the amendments to this section made during the 2009–10 Fourth Extraordinary Session of the Legislature. Criminal background checks shall be performed no later than July 1, 2010, for any provider who is already on the registry on the effective date of

amendments to this section made during the 2009–10 Fourth Extraordinary Session of the Legislature, for whom a criminal background check pursuant to this section has not previously been provided, as a condition of the provider’s continued enrollment in the IHSS program or the program authorizing waiver personal care services pursuant to Section 14132.97. Criminal background checks shall be conducted at the provider’s expense.

(ii) Upon notice from the Department of Justice notifying the public authority or nonprofit consortium that the prospective registry applicant has been convicted of a criminal offense specified in Section 12305.81, the public authority or nonprofit consortium shall deny the request to be placed on the registry for providing supportive services to any recipient of in-home supportive services or waiver personal care services authorized pursuant to Section 14132.97.

(iii) Commencing 90 days after the effective date of the act that adds Section 12305.87, and upon notice from the Department of Justice that an applicant who is subject to the provisions of that section has been convicted of, or incarcerated following conviction for, an offense described in subdivision (b) of that section, the public authority or nonprofit consortium shall deny the applicant’s request to become a provider of supportive services to any recipient of in-home supportive services or waiver personal care services, subject to the individual waiver and exception processes described in that section. An applicant who is denied on the basis of Section 12305.87 shall be informed by the public authority or nonprofit consortium of the individual waiver and exception processes described in that section.

(B) (i) Notwithstanding any other law, the public authority or nonprofit consortium shall provide an individual with a copy of his or her state-level criminal offender record information search response as provided to the entity by the Department of Justice if the individual has been denied placement on the registry for providing supportive services to any recipient of the In-Home Supportive Services program or waiver personal care services based on this information. The copy of the state-level criminal offender record information search response shall be included with the individual’s notice of denial. Along with the notice of denial, the public authority or public consortium shall also provide information in plain language on how an individual may contest the accuracy and completeness of, and refute any erroneous or inaccurate information in, his or her state-level criminal offender record information search response as provided by the Department of Justice as authorized by Section 11126 of the Penal Code. The state-level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice.

(ii) The department shall develop a written appeal process for the current and prospective providers who are determined ineligible to receive payment for the provision of services in the In-Home Supportive Services program or waiver personal care services. Notwithstanding any other law, the public authority or nonprofit consortium shall provide the department with a copy of the state-level criminal offender record information search response as provided to the entity by the Department of Justice for any individual who has requested an appeal of a denial of placement on

the registry for providing supportive services to any recipient of in-home supportive services or waiver personal care services based on clause (ii) or (iii) of subparagraph (A). The state-level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the department in its written request.

(C) This paragraph does not prohibit the Department of Justice from assessing a fee pursuant to Section 11105 or 11123 of the Penal Code to cover the cost of furnishing summary criminal history information.

(D) As used in this section, “nonprofit consortium” means a nonprofit public benefit corporation that has all powers necessary to carry out the delivery of in-home supportive services or waiver personal care services under the delegated authority of a government entity.

(E) A nonprofit consortium or a public authority authorized to secure a criminal background check clearance pursuant to this section shall accept a clearance for an applicant described in clause (i) of subparagraph (A) who has been deemed eligible by another nonprofit consortium, public authority, or county with criminal background check authority pursuant to either Section 12305.86 or this section, to receive payment for providing services pursuant to this article. Existence of a clearance shall be determined by verification through the case management, information, and payroll system, that another county, nonprofit consortium, or public authority with criminal background check authority pursuant to Section 12305.86 or this section has deemed the current or prospective provider to be eligible to receive payment for providing services pursuant to this article.

(3) Establishment of a referral system under which in-home supportive services personnel or waiver personal care services personnel shall be referred to recipients.

(4) Providing for training for providers and recipients.

(5) (A) Performing any other functions related to the delivery of in-home supportive services or waiver personal care services.

(B) (i) Upon request of a recipient of in-home supportive services pursuant to this chapter, or a recipient of personal care services under the Medi-Cal program pursuant to Section 14132.95, a public authority or nonprofit consortium may provide a criminal background check on a nonregistry applicant or provider from the Department of Justice, in accordance with clause (i) of subparagraph (A) of paragraph (2) of subdivision (e). If the person who is the subject of the criminal background check is not hired or is terminated because of the information contained in the criminal background report, the provisions of subparagraph (B) of paragraph (2) of subdivision (e) shall apply.

(ii) A recipient of in-home supportive services pursuant to this chapter or a recipient of personal care services under the Medi-Cal program may elect to employ an individual as their service provider notwithstanding the individual’s record of previous criminal convictions, unless those convictions include any of the offenses specified in Section 12305.81.

(6) Ensuring that the requirements of the personal care option pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code are met.

(f) (1) Any nonprofit consortium contracting with a county pursuant to this section or any public authority created pursuant to this section shall be deemed not to be the employer of in-home supportive services personnel or waiver personal care services personnel referred to recipients under this section for purposes of liability due to the negligence or intentional torts of the in-home supportive services personnel or waiver personal care services personnel.

(2) A nonprofit consortium contracting with a county pursuant to this section or any public authority created pursuant to this section is not liable for the action or omission of any in-home supportive services personnel or waiver personal care services personnel whom the nonprofit consortium or public authority did not list on its registry or otherwise refer to a recipient.

(3) Counties and the state shall be immune from any liability resulting from their implementation of this section in the administration of the In-Home Supportive Services program or in the administration of waiver personal care services authorized under Section 14132.97. Any obligation of the public authority or consortium pursuant to this section, whether statutory, contractual, or otherwise, shall be the obligation solely of the public authority or nonprofit consortium, and shall not be the obligation of the county or state.

(g) Any nonprofit consortium contracting with a county pursuant to this section shall ensure that it has a governing body that complies with the requirements of subparagraph (B) of paragraph (3) of subdivision (b) or an advisory committee that complies with subparagraphs (B) and (C) of paragraph (3) of subdivision (b).

(h) Recipients of services under this section may elect to receive services from in-home supportive services personnel or waiver personal care services personnel who are not referred to them by the public authority or nonprofit consortium. Those personnel shall be referred to the public authority or nonprofit consortium for the purposes of wages, benefits, and other terms and conditions of employment.

(i) (1) This section does not affect the state's responsibility with respect to the state payroll system, unemployment insurance, or workers' compensation and other provisions of Section 12302.2 for providers of in-home supportive services or for individuals who are employed by a recipient of waiver personal care services authorized under Section 14132.97.

(2) The Controller shall make any deductions from the wages of in-home supportive services personnel or waiver personal care services personnel, who are employees of a public authority pursuant to paragraph (1) of subdivision (c), that are agreed to by that public authority in collective bargaining with the designated representative of the in-home supportive services personnel or waiver personal care services personnel pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code and transfer the deducted funds as directed in that agreement.

(3) Any county that elects to provide in-home supportive services pursuant to this section shall be responsible for any increased costs to the in-home supportive services

case management, information, and payrolling system attributable to that election. The department shall collaborate with any county that elects to provide in-home supportive services pursuant to this section prior to implementing the amount of financial obligation for which the county shall be responsible.

(j) To the extent permitted by federal law, personal care option funds, obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, along with matching funds using the state and county sharing ratio established in subdivision (c) of Section 12306, or any other funds that are obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, may be used to establish and operate an entity authorized by this section.

(k) Notwithstanding any other law, the county, in exercising its option to establish a public authority, shall not be subject to competitive bidding requirements. However, contracts entered into by either the county, a public authority, or a nonprofit consortium pursuant to this section shall be subject to competitive bidding as otherwise required by law.

(l) (1) The department may adopt regulations implementing 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 and safety, or 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.

(2) 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.

(3) Except as otherwise provided for by Section 10554, the Office of Administrative Law shall provide for the printing and publication of these regulations in the California Code of Regulations. Emergency regulations adopted pursuant to this subdivision shall remain in effect for no more than 180 days.

(m) (1) If a county elects to form a nonprofit consortium or public authority pursuant to subdivision (a) before the State Department of Health Care Services has obtained all necessary federal approvals pursuant to paragraph (3) of subdivision (j) of Section 14132.95, all of the following shall apply:

(A) Subdivision (d) shall apply only to those matters that do not require federal approval.

(B) The second sentence of subdivision (h) shall not be operative.

(C) The nonprofit consortium or public authority shall not provide services other than those specified in paragraphs (1), (2), (3), (4), and (5) of subdivision (e).

(2) Paragraph (1) shall become inoperative when the State Department of Health Care Services has obtained all necessary federal approvals pursuant to paragraph (3) of subdivision (j) of Section 14132.95.

(n) (1) One year after the effective date of the first approval by the department granted to the first public authority, the Bureau of State Audits shall commission a study to review the performance of that public authority.

(2) The study shall be submitted to the Legislature and the Governor not later than two years after the effective date of the approval specified in subdivision (a). The study shall give special attention to the health and welfare of the recipients under the public authority, including the degree to which all required services have been delivered, out-of-home placement rates, prompt response to recipient complaints, and any other issue the director deems relevant.

(3) The report shall make recommendations to the Legislature and the Governor for any changes to this section that will further ensure the well-being of recipients and the most efficient delivery of required services.

(o) Commencing July 1, 1997, the department shall provide annual reports to the appropriate fiscal and policy committees of the Legislature on the efficacy of the implementation of this section, and shall include an assessment of the quality of care provided pursuant to this section.

(p) (1) Notwithstanding any other law, and except as provided in paragraph (2), the department shall, no later than January 1, 2009, implement subparagraphs (A) and (B) through an all-county letter from the director:

(A) Subparagraphs (A) and (B) of paragraph (2) of subdivision (e).

(B) Subparagraph (B) of paragraph (5) of subdivision (e).

(2) The department shall, no later than July 1, 2009, adopt regulations to implement subparagraphs (A) and (B) of paragraph (1).

(q) The amendments made to paragraphs (2) and (5) of subdivision (e) made by the act that added this subdivision during the 2007–08 Regular Session of the Legislature shall be implemented only to the extent that an appropriation is made in the annual Budget Act or other statute, except for the amendments that added subparagraph (D) of paragraph (2) of subdivision (e), which shall go into effect January 1, 2009.

(Amended by Stats. 2018, Ch. 35, Sec. 32. (AB 1811) Effective June 27, 2018.)

42 USC 1396: Medicaid and CHIP Payment and Access Commission Text contains those laws in effect on January 12, 2023

From Title 42-THE PUBLIC HEALTH AND WELFARE CHAPTER 7-SOCIAL SECURITY SUBCHAPTER XIX-GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

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§1396. Medicaid and CHIP Payment and Access Commission

(a) Establishment

There is hereby established the Medicaid and CHIP Payment and Access Commission (in this section referred to as "MACPAC").

(b) Duties

(1) Review of access policies for all States and annual reports

MACPAC shall-

(A) review policies of the Medicaid program established under this subchapter (in this section referred to as "Medicaid") and the State Children's Health Insurance Program established under subchapter XXI (in this section referred to as "CHIP") affecting access to covered items and services, including topics described in paragraph (2);

(B) make recommendations to Congress, the Secretary, and States concerning such access policies;

(C) by not later than March 15 of each year (beginning with 2010), submit a report to Congress containing the results of such reviews and MACPAC's recommendations concerning such policies; and

(D) by not later than June 15 of each year (beginning with 2010), submit a report to Congress containing an examination of issues affecting Medicaid and CHIP, including the implications of changes in health care delivery in the United States and in the market for health care services on such programs.

(2) Specific topics to be reviewed

Specifically, MACPAC shall review and assess the following:

(A) Medicaid and CHIP payment policies

Payment policies under Medicaid and CHIP, including-

(i) the factors affecting expenditures for the efficient provision of items and services in different sectors, including the process for updating payments to medical, dental, and health professionals, hospitals, residential and long-term care providers, providers of home and community based services, Federally-qualified health centers and rural health clinics, managed care entities, and providers of other covered items and services;

(ii) payment methodologies; and

(iii) the relationship of such factors and methodologies to access and quality of care for Medicaid and CHIP beneficiaries (including how such factors and methodologies enable such beneficiaries to obtain the services for which they are eligible, affect provider supply, and affect providers that serve a disproportionate share of low-income and other vulnerable populations).

(B) Eligibility policies

Medicaid and CHIP eligibility policies, including a determination of the degree to which Federal and State policies provide health care coverage to needy populations.

(C) Enrollment and retention processes

Medicaid and CHIP enrollment and retention processes, including a determination of the degree to which Federal and State policies encourage the enrollment of individuals who are eligible for such programs and screen out individuals who are ineligible, while minimizing the share of program expenses devoted to such processes.

(D) Coverage policies

Medicaid and CHIP benefit and coverage policies, including a determination of the degree to which Federal and State policies provide access to the services enrollees require to improve and maintain their health and functional status.

(E) Quality of care

Medicaid and CHIP policies as they relate to the quality of care provided under those programs, including a determination of the degree to which Federal and State policies achieve their stated goals and interact with similar goals established by other purchasers of health care services.

(F) Interaction of Medicaid and CHIP payment policies with health care delivery generally

The effect of Medicaid and CHIP payment policies on access to items and services for children and other Medicaid and CHIP populations other than under this subchapter or subchapter XXI and the implications of changes in health care delivery in the United States and in the general market for health care items and services on Medicaid and CHIP.

(G) Interactions with Medicare and Medicaid

Consistent with paragraph (11), the interaction of policies under Medicaid and the Medicare program under subchapter XVIII, including with respect to how such interactions affect access to services, payments, and dual eligible individuals.

(H) Other access policies

The effect of other Medicaid and CHIP policies on access to covered items and services, including policies relating to transportation and language barriers and preventive, acute, and long-term services and supports.

(3) Recommendations and reports of State-specific data

MACPAC shall-

(A) review national and State-specific Medicaid and CHIP data; and

(B) submit reports and recommendations to Congress, the Secretary, and States based on such reviews.

(4) Creation of early-warning system

MACPAC shall create an early-warning system to identify provider shortage areas, as well as other factors that adversely affect, or have the potential to adversely affect, access to care by, or the health care status of, Medicaid and CHIP beneficiaries. MACPAC shall include in the annual report required under paragraph (1)(D) a description of all such areas or problems identified with respect to the period addressed in the report.

(5) Comments on certain secretarial reports and regulations

(A) Certain secretarial reports

If the Secretary submits to Congress (or a committee of Congress) a report that is required by law and that relates to access policies, including with respect to payment policies, under Medicaid or CHIP, the Secretary shall transmit a copy of the report to MACPAC. MACPAC shall review the report and, not later than 6 months after the date of submittal of the Secretary's report to Congress, shall submit to the appropriate committees of Congress and the Secretary written comments on such report. Such comments may include such recommendations as MACPAC deems appropriate.

(B) Regulations

MACPAC shall review Medicaid and CHIP regulations and may comment through submission of a report to the appropriate committees of Congress and the Secretary, on any such regulations that affect access, quality, or efficiency of health care.

(6) Agenda and additional reviews

(A) In general

MACPAC shall consult periodically with the chairmen and ranking minority members of the appropriate committees of Congress regarding MACPAC's agenda and progress towards achieving the agenda. MACPAC may conduct additional reviews, and submit additional reports to the appropriate committees of Congress, from time to time on such topics relating to the program under this subchapter or subchapter XXI as may be requested by such chairmen and members and as MACPAC deems appropriate.

(B) Review and reports regarding Medicaid DSH

(i) In general

MACPAC shall review and submit an annual report to Congress on disproportionate share hospital payments under section 1396r-4 of this title. Each report shall include the information specified in clause (ii).

(ii) Required report information

Each report required under this subparagraph shall include the following:

(I) Data relating to changes in the number of uninsured individuals.

(II) Data relating to the amount and sources of hospitals' uncompensated care costs, including the amount of such costs that are the result of providing unreimbursed or under-reimbursed services, charity care, or bad debt.

(III) Data identifying hospitals with high levels of uncompensated care that also provide access to essential community services for low-income, uninsured, and vulnerable populations, such as graduate medical education, and the continuum of primary through quaternary care, including the provision of trauma care and public health services.

(IV) State-specific analyses regarding the relationship between the most recent State DSH allotment and the projected State DSH allotment for the succeeding year and the data reported under subclauses (I), (II), and (III) for the State.

(iii) Data

Notwithstanding any other provision of law, the Secretary regularly shall provide MACPAC with the most recent State reports and most recent independent certified audits submitted under section 1396r-4(j) of this title, cost reports submitted under subchapter XVIII, and such other data as MACPAC may request for purposes of conducting the reviews and preparing and submitting the annual reports required under this subparagraph.

(iv) Submission deadlines

The first report required under this subparagraph shall be submitted to Congress not later than February 1, 2016. Subsequent reports shall be submitted as part of, or with, each annual report required under paragraph (1)(C) during the period of fiscal years 2017 through 2024.

(7) Availability of reports

MACPAC shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

(8) Appropriate committee of Congress

For purposes of this section, the term "appropriate committees of Congress" means the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate.

(9) Voting and reporting requirements

With respect to each recommendation contained in a report submitted under paragraph (1), each member of MACPAC shall vote on the recommendation, and MACPAC shall include, by member, the results of that vote in the report containing the recommendation.

(10) Examination of budget consequences

Before making any recommendations, MACPAC shall examine the budget consequences of such recommendations, directly or through consultation with appropriate expert entities, and shall submit with any recommendations, a report on the Federal and State-specific budget consequences of the recommendations.

(11) Consultation and coordination with MEDPAC

(A) In general

MACPAC shall consult with the Medicare Payment Advisory Commission (in this paragraph referred to as "MedPAC") established under section 1395b-6 of this title in carrying out its duties under this section, as appropriate and particularly with respect to the issues specified in paragraph (2) as they relate to those Medicaid beneficiaries who are dually eligible for Medicaid and the Medicare program under subchapter XVIII, adult Medicaid beneficiaries (who are not dually eligible for Medicare), and beneficiaries under Medicare. Responsibility for analysis of and recommendations to change Medicare policy regarding Medicare beneficiaries, including Medicare beneficiaries who are dually eligible for Medicare and Medicaid, shall rest with MedPAC.

(B) Information sharing

MACPAC and MedPAC shall have access to deliberations and records of the other such entity, respectively, upon the request of the other such entity.

(12) Consultation with States

MACPAC shall regularly consult with States in carrying out its duties under this section, including with respect to developing processes for carrying out such duties, and shall ensure that input from States is taken into account and represented in MACPAC's recommendations and reports.

(13) Coordinate and consult with the Federal Coordinated Health Care Office

MACPAC shall coordinate and consult with the Federal Coordinated Health Care Office established under section 2081 ¹ of the Patient Protection and Affordable Care Act before making any recommendations regarding dual eligible individuals.

(14) Programmatic oversight vested in the Secretary

MACPAC's authority to make recommendations in accordance with this section shall not affect, or be considered to duplicate, the Secretary's authority to carry out Federal responsibilities with respect to Medicaid and CHIP.

(c) Membership**(1) Number and appointment**

MACPAC shall be composed of 17 members appointed by the Comptroller General of the United States.

(2) Qualifications**(A) In general**

The membership of MACPAC shall include individuals who have had direct experience as enrollees or parents or caregivers of enrollees in Medicaid or CHIP and individuals with national recognition for their expertise in Federal safety net health programs, health finance and economics, actuarial science, health plans and integrated delivery systems, reimbursement for health care, health information technology, and other providers of health services, public health, and other related fields, who provide a mix of different professions, broad geographic representation, and a balance between urban and rural representation.

(B) Inclusion

The membership of MACPAC shall include (but not be limited to) physicians, dentists, and other health professionals, employers, third-party payers, and individuals with expertise in the delivery of health services. Such membership shall also include representatives of children, pregnant women, the elderly, individuals with disabilities, caregivers, and dual eligible individuals, current or former representatives of State agencies responsible for administering Medicaid, and current or former representatives of State agencies responsible for administering CHIP.

(C) Majority nonproviders

Individuals who are directly involved in the provision, or management of the delivery, of items and services covered under Medicaid or CHIP shall not constitute a majority of the membership of MACPAC.

(D) Ethical disclosure

The Comptroller General of the United States shall establish a system for public disclosure by members of MACPAC of financial and other potential conflicts of interest relating to such members. Members of MACPAC shall be treated as employees of Congress for purposes of applying title I of the Ethics in Government Act of 1978 (Public Law 95–521) [5 U.S.C. App.].

(3) Terms

(A) In general

The terms of members of MACPAC shall be for 3 years except that the Comptroller General of the United States shall designate staggered terms for the members first appointed.

(B) Vacancies

Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in MACPAC shall be filled in the manner in which the original appointment was made.

(4) Compensation

While serving on the business of MACPAC (including travel time), a member of MACPAC shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5; and while so serving away from home and the member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of MACPAC. Physicians serving as personnel of MACPAC may be provided a physician comparability allowance by MACPAC in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, and for such purpose subsection (i) of such section shall apply to MACPAC in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of MACPAC) and employment benefits, rights, and privileges, all personnel of MACPAC shall be treated as if they were employees of the United States Senate.

(5) Chairman; Vice Chairman

The Comptroller General of the United States shall designate a member of MACPAC, at the time of appointment of the member ² as Chairman and a member as Vice Chairman for that term of appointment, except that in the case of vacancy of the Chairmanship or Vice Chairmanship, the Comptroller General of the United States may designate another member for the remainder of that member's term.

(6) Meetings

MACPAC shall meet at the call of the Chairman.

(d) Director and staff; experts and consultants

Subject to such review as the Comptroller General of the United States deems necessary to assure the efficient administration of MACPAC, MACPAC may-

- (1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General of the United States) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5 governing appointments in the competitive service);
- (2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal and State departments and agencies;
- (3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of MACPAC (without regard to section 6101 of title 41);
- (4) make advance, progress, and other payments which relate to the work of MACPAC;
- (5) provide transportation and subsistence for persons serving without compensation; and
- (6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of MACPAC.

(e) Powers

(1) Obtaining official data

MACPAC may secure directly from any department or agency of the United States and, as a condition for receiving payments under sections 1396b(a) and 1397ee(a) of this title, from any State agency responsible for administering Medicaid or CHIP, information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to MACPAC on an agreed upon schedule.

(2) Data collection

In order to carry out its functions, MACPAC shall-

- (A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section;
- (B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate; and
- (C) adopt procedures allowing any interested party to submit information for MACPAC's use in making reports and recommendations.

(3) Access of GAO to information

The Comptroller General of the United States shall have unrestricted access to all deliberations, records, and nonproprietary data of MACPAC, immediately upon request.

(4) Periodic audit

MACPAC shall be subject to periodic audit by the Comptroller General of the United States.

(f) Funding

(1) Request for appropriations

MACPAC shall submit requests for appropriations (other than for fiscal year 2010) in the same manner as the Comptroller General of the United States submits requests for appropriations, but amounts appropriated for MACPAC shall be separate from amounts appropriated for the Comptroller General of the United States.

(2) Authorization

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(3) Funding for fiscal year 2010**(A) In general**

Out of any funds in the Treasury not otherwise appropriated, there is appropriated to MACPAC to carry out the provisions of this section for fiscal year 2010, \$9,000,000.

(B) Transfer of funds

Notwithstanding section 1397dd(a)(13) of this title, from the amounts appropriated in such section for fiscal year 2010, \$2,000,000 is hereby transferred and made available in such fiscal year to MACPAC to carry out the provisions of this section.

(4) Availability

Amounts made available under paragraphs (2) and (3) to MACPAC to carry out the provisions of this section shall remain available until expended.

(Aug. 14, 1935, ch. 531, title XIX, §1900, as added Pub. L. 111–3, title V, §506(a), Feb. 4, 2009, 123 Stat. 91 ; amended Pub. L. 111–148, title II, §2801(a), Mar. 23, 2010, 124 Stat. 328 ; Pub. L. 113–93, title II, §221(b), Apr. 1, 2014, 128 Stat. 1076 .)

Editorial Notes**References in Text**

Section 2081 of the Patient Protection and Affordable Care Act, referred to in subsec. (b)(13), probably means section 2602 of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 315 , which is classified to section 1315b of this title. Section 2602 of Pub. L. 111–148 established the Federal Coordinated Health Care Office, and Pub. L. 111–148 does not contain a section 2081.

The Ethics in Government Act of 1978, referred to in subsec. (c)(2)(D), is Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1824 . Title I of the Act is set out in the Appendix to Title 5, Government Organization and Employees. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95–521 in the Appendix to Title 5 and Tables.

Codification

In subsec. (d)(3), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes (41 U.S.C. 5)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854 , which Act enacted Title 41, Public Contracts.

Prior Provisions

A prior section 1396, act Aug. 14, 1935, ch. 531, title XIX, §1901, as added Pub. L. 89–97, title I, §121(a), July 30, 1965, 79 Stat. 343 ; amended Pub. L. 93–233, §13(a)(1), Dec. 31, 1973, 87 Stat. 960 ; Pub. L. 98–369, div. B, title VI, §2663(j)(3)(C), July 18, 1984, 98 Stat. 1171 , which related to appropriations, was transferred to section 1396–1 of this title.

Amendments

2014-Subsec. (b)(6). Pub. L. 113–93 designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

2010-Subsec. (b)(1). Pub. L. 111–148, §2801(a)(1)(A)(i), inserted "for all States" before "and annual" in heading.

Subsec. (b)(1)(A). Pub. L. 111–148, §2801(a)(1)(A)(ii), struck out "children's" before "access".

Subsec. (b)(1)(B). Pub. L. 111–148, §2801(a)(1)(A)(iii), inserted ", the Secretary, and States" after "Congress".

Subsec. (b)(1)(C). Pub. L. 111–148, §2801(a)(1)(A)(iv), substituted "March 15" for "March 1".

Subsec. (b)(1)(D). Pub. L. 111–148, §2801(a)(1)(A)(v), substituted "June 15" for "June 1".

Subsec. (b)(2)(A)(i). Pub. L. 111–148, §2801(a)(1)(B)(i)(I), inserted "the efficient provision of" after "expenditures for" and substituted "payments to medical, dental, and health professionals, hospitals, residential and long-term care providers, providers of home and community based services, Federally-qualified health centers and rural health clinics, managed care entities, and providers of other covered items and services" for "hospital, skilled nursing facility, physician, Federally-qualified health center, rural health center, and other fees".

Subsec. (b)(2)(A)(iii). Pub. L. 111–148, §2801(a)(1)(B)(i)(II), inserted "(including how such factors and methodologies enable such beneficiaries to obtain the services for which they are eligible, affect provider supply, and affect providers that serve a disproportionate share of low-income and other vulnerable populations)" after "CHIP beneficiaries".

Subsec. (b)(2)(B) to (H). Pub. L. 111–148, §2801(a)(1)(B)(ii)–(v), added subpars. (B) to (E) and (G), redesignated former subpars. (B) and (C) as (F) and (H), respectively, and, in subpar. (H), inserted "and preventive, acute, and long-term services and supports" after "barriers".

Subsec. (b)(3). Pub. L. 111–148, §2801(a)(1)(D), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 111–148, §2801(a)(1)(C), (E), redesignated par. (3) as (4) and substituted ", as well as other factors that adversely affect, or have the potential to adversely affect, access to care by, or the health care status of, Medicaid and CHIP beneficiaries. MACPAC shall include in the annual report required under paragraph (1)(D) a description of all such areas or problems identified with respect to the period addressed in the report." for "or any other problems that threaten access to care or the health care status of Medicaid and CHIP beneficiaries." Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 111–148, §2801(a)(1)(C), (F), redesignated par. (4) as (5), inserted "and regulations" after "reports" in heading, designated existing provisions as subpar. (A) and inserted heading, inserted "and the

Secretary" after "appropriate committees of Congress" in subpar. (A), and added subpar. (B). Former par. (5) redesignated (6).

Subsec. (b)(6) to (10). Pub. L. 111–148, §2801(a)(1)(C), (G), redesignated pars. (5) to (9) as (6) to (10), respectively, and inserted ", and shall submit with any recommendations, a report on the Federal and State-specific budget consequences of the recommendations" in par. (10) before period at end.

Subsec. (b)(11) to (14). Pub. L. 111–148, §2801(a)(1)(H), added pars. (11) to (14).

Subsec. (c)(2)(A), (B). Pub. L. 111–148, §2801(a)(2)(A), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which related to MACPAC membership qualifications.

Subsec. (d)(2). Pub. L. 111–148, §2801(a)(3), inserted "and State" after "Federal".

Subsec. (e)(1). Pub. L. 111–148, §2801(a)(4), inserted "and, as a condition for receiving payments under sections 1396b(a) and 1397ee(a) of this title, from any State agency responsible for administering Medicaid or CHIP," after "United States".

Subsec. (f). Pub. L. 111–148, §2801(a)(5), substituted "Funding" for "Authorization of appropriations" in heading, inserted "(other than for fiscal year 2010)" before "in the same manner" in par. (1), and added pars. (3) and (4).

Statutory Notes and Related Subsidiaries

Effective Date

Pub. L. 111–3, §3, Feb. 4, 2009, 123 Stat. 10 , provided that:

"(a) General Effective Date.-Unless otherwise provided in this Act [enacting this section and sections 247d–9, 1320b–9a, 1396e–1, 1396w–2, and 1397kk to 1397mm of this title and section 657p of Title 15, Commerce and Trade, transferring former section 1396 of this title to section 1396–1 of this title, amending sections 300gg, 1308, 1320b–9, 1320b–9a, 1396a, 1396b, 1396r–1, 1396r–4, 1396u–7, 1397bb to 1397ee, and 1397gg to 1397jj of this title, section 1514 of Title 19, Customs Duties, sections 5701 to 5703, 5712, 5713, 5721 to 5723, 5741, 6103, and 9801 of Title 26, Internal Revenue Code, and sections 1022, 1132, and 1181 of Title 29, Labor, enacting provisions set out as notes under this section and sections 1305, 1396a, 1396b, 1396d, 1396u–7, 1396u–8, 1396w–2, 1397bb to 1397ee, 1397gg, and 1397hh of this title, section 1514 of Title 19, sections 5701 to 5703, 5711, 5712, 6103, and 6655 of Title 26, and section 1181 of Title 29, amending provisions set out as a note under section 1397gg of this title, and repealing provisions set out as notes under sections 1397aa and 1397ee of this title], subject to subsections (b) through (d), this Act (and the amendments made by this Act) shall take effect on April 1, 2009, and shall apply to child health assistance and medical assistance provided on or after that date.

"(b) Exception for State Legislation.-In the case of a State plan under title XIX [42 U.S.C. 1396 et seq.] or State child health plan under [title] XXI [42 U.S.C. 1397aa et seq.] of the Social Security Act, which the Secretary of Health and Human Services determines requires State legislation in order for the respective plan to meet one or more additional requirements imposed by amendments made by this Act, the respective plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such an additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act [Feb. 4, 2009]. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

"(c) Coordination of CHIP Funding for Fiscal Year 2009.-Notwithstanding any other provision of law, insofar as funds have been appropriated under section 2104(a)(11), 2104(k), or 2104(l) of the Social Security Act [42 U.S.C. 1397dd(a)(11), (k), (l)], as amended by section 201 of Public Law 110–173, to provide allotments to States under CHIP for fiscal year 2009-

"(1) any amounts that are so appropriated that are not so allotted and obligated before April 1, 2009 are rescinded; and

"(2) any amount provided for CHIP allotments to a State under this Act (and the amendments made by this Act) for such fiscal year shall be reduced by the amount of such appropriations so allotted and obligated before such date.

"(d) Reliance on Law.-With respect to amendments made by this Act (other than title VII) [enacting this section and sections 1320b–9a, 1396e–1, 1396w–2, and 1397kk to 1397mm of this title, amending sections 300gg, 1308, 1320b–9, 1320b–9a, 1396a, 1396b, 1396r–1, 1396r–4, 1396u–7, 1397bb to 1397ee, and 1397gg to 1397jj of this title, section 9801 of Title 26, Internal Revenue Code, and sections 1022, 1132, and 1181 of Title 29, Labor, amending provisions set out as a note under section 1397gg of this title, and repealing provisions set out as notes under sections 1397aa and 1397ee of this title] that become effective as of a date-

"(1) such amendments are effective as of such date whether or not regulations implementing such amendments have been issued; and

"(2) Federal financial participation for medical assistance or child health assistance furnished under title XIX or XXI, respectively, of the Social Security Act [42 U.S.C. 1396 et seq., 1397aa et seq.] on or after such date by a State in good faith reliance on such amendments before the date of promulgation of final regulations, if any, to carry out such amendments (or before the date of guidance, if any, regarding the implementation of such amendments) shall not be denied on the basis of the State's failure to comply with such regulations or guidance."

Purpose

Pub. L. 111–3, §2, Feb. 4, 2009, 123 Stat. 10 , provided that: "It is the purpose of this Act [see Effective Date note above] to provide dependable and stable funding for children's health insurance under titles XXI and XIX of the Social Security Act [42 U.S.C. 1397aa et seq., 1396 et seq.] in order to enroll all six million uninsured children who are eligible, but not enrolled, for coverage today through such titles."

Model of Interstate Coordinated Enrollment and Coverage Process

Pub. L. 111–3, title II, §213, Feb. 4, 2009, 123 Stat. 56 , provided that:

"(a) In General.-In order to assure continuity of coverage of low-income children under the Medicaid program and the State Children's Health Insurance Program (CHIP), not later than 18 months after the date of the enactment of this Act [Feb. 4, 2009], the Secretary of Health and Human Services, in consultation with State Medicaid and CHIP directors and organizations representing program beneficiaries, shall develop a model process for the coordination of the enrollment, retention, and coverage under such programs of children who, because of migration of families, emergency evacuations, natural or other disasters, public health emergencies, educational needs, or otherwise, frequently change their State of residency or otherwise are temporarily located outside of the State of their residency.

"(b) Report to Congress.-After development of such model process, the Secretary of Health and Human Services shall submit to Congress a report describing additional steps or authority needed to make further improvements to coordinate the enrollment, retention, and coverage under CHIP and Medicaid of children described in subsection (a)."

Improved Accessibility of Dental Provider Information to Enrollees Under Medicaid and CHIP

Pub. L. 111–3, title V, §501(f), Feb. 4, 2009, 123 Stat. 88 , provided that: "The Secretary [of Health and Human Services] shall-

"(1) work with States, pediatric dentists, and other dental providers (including providers that are, or are affiliated with, a school of dentistry) to include, not later than 6 months after the date of the enactment of this Act [Feb. 4, 2009], on the Insure Kids Now website (<http://www.insurekidsnow.gov/>) and hotline (1–877–KIDS–NOW) (or on any successor websites or hotlines) a current and accurate list of all such dentists and providers within each State that provide dental services to children enrolled in the State plan (or waiver) under Medicaid or the State child health plan (or waiver) under CHIP, and shall ensure that such list is updated at least quarterly; and

"(2) work with States to include, not later than 6 months after the date of the enactment of this Act, a description of the dental services provided under each State plan (or waiver) under Medicaid and each State child health plan (or waiver) under CHIP on such Insure Kids Now website, and shall ensure that such list is updated at least annually."

Deadline for Initial Appointments

Pub. L. 111–3, title V, §506(b), Feb. 4, 2009, 123 Stat. 95 , provided that: "Not later than January 1, 2010, the Comptroller General of the United States shall appoint the initial members of the Medicaid and CHIP Payment and Access Commission established under section 1900 of the Social Security Act [42 U.S.C. 1396] (as added by subsection (a))."

Annual Report

Pub. L. 111–3, title V, §506(c), Feb. 4, 2009, 123 Stat. 95 , provided that: "Not later than January 1, 2010, and annually thereafter, the Secretary [of Health and Human Services], in consultation with the Secretary of the Treasury, the Secretary of Labor, and the States (as defined for purposes of Medicaid), shall submit an annual report to Congress on the financial status of, enrollment in, and spending trends for, Medicaid for the fiscal year ending on September 30 of the preceding year."

No Federal Funding for Illegal Aliens; Disallowance for Unauthorized Expenditures

Pub. L. 111–3, title VI, §605, Feb. 4, 2009, 123 Stat. 100 , as amended by Pub. L. 111–148, title II, §2102(a)(2), Mar. 23, 2010, 124 Stat. 288 , provided that: "Nothing in this Act [see Effective Date note above] allows Federal payment for individuals who are not lawfully residing in the United States. Titles XI, XIX, and XXI of the Social Security Act [42 U.S.C. 1301 et seq., 1396 et seq., 1397aa et seq.] provide for the disallowance of Federal financial participation for erroneous expenditures under Medicaid and under CHIP, respectively."

Definitions

Pub. L. 111–3, §1(c), Feb. 4, 2009, 123 Stat. 8 , provided that: "In this Act [see Effective Date note above]:

"(1) CHIP.-The term 'CHIP' means the State Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

"(2) Medicaid.-The term 'Medicaid' means the program for medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

"(3) Secretary.-The term 'Secretary' means the Secretary of Health and Human Services."

State of California

GOVERNMENT CODE

Section 53684

53684. (a) Unless otherwise provided by law, if the treasurer of any local agency, or other official responsible for the funds of the local agency, determines that the local agency has excess funds which are not required for immediate use, the treasurer or other official may, upon the adoption of a resolution by the legislative or governing body of the local agency authorizing the investment of funds pursuant to this section and with the consent of the county treasurer, deposit the excess funds in the county treasury for the purpose of investment by the county treasurer pursuant to Section 53601 or 53635, or Section 20822 of the Revenue and Taxation Code.

(b) The county treasurer shall, at least quarterly, apportion any interest or other increment derived from the investment of funds pursuant to this section in an amount proportionate to the average daily balance of the amounts deposited by the local agency and to the total average daily balance of deposits in the investment pool. In apportioning and distributing that interest or increment, the county treasurer may use the cash method, the accrual method, or any other method in accordance with generally accepted accounting principles.

Prior to distributing that interest or increment, the county treasurer may deduct the actual costs incurred by the county in administering this section in proportion to the average daily balance of the amounts deposited by the local agency and to the total average daily balance of deposits in the investment pool.

(c) The county treasurer shall disclose to each local agency that invests funds pursuant to this section the method of accounting used, whether cash, accrual, or other, and shall notify each local agency of any proposed changes in the accounting method at least 30 days prior to the date on which the proposed changes take effect.

(d) The treasurer or other official responsible for the funds of the local agency may withdraw the funds of the local agency pursuant to the procedure specified in Section 27136.

(e) Any moneys deposited in the county treasury for investment pursuant to this section are not subject to impoundment or seizure by any county official or agency while the funds are so deposited.

(f) This section is not operative in any county until the board of supervisors of the county, by majority vote, adopts a resolution making this section operative in the county.

(g) It is the intent of the Legislature in enacting this section to provide an alternative procedure to Section 51301 for local agencies to deposit money in the county treasury for investment purposes. Nothing in this section shall, therefore, be construed as a

limitation on the authority of a county and a city to contract for the county treasurer to perform treasury functions for a city pursuant to Section 51301.

(Amended by Stats. 2011, Ch. 369, Sec. 2. (AB 1090) Effective January 1, 2012.)

Regulations	MANAGEMENT AND OFFICE PROCEDURES PURCHASE OF SERVICE	23-650 (Cont.)
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23-650 PROCUREMENT BY NEGOTIATION 23-650

This section contains policies and procedures which shall be observed by counties in procurements by negotiation, as distinguished from formal advertising, and the limitations upon its use.

- .1 Contracts may be negotiated without formal advertising when one or more of the following exists:
 - .11 When a public emergency exists and the urgency is such that time is not available for formal advertising. This should be applied only in emergencies caused by circumstances outside of the county's control and not for delays caused by county inaction.
 - .12 If rates established by the state are to be used for payments and CDSS has notified the counties that formal advertising is not necessary for a particular program.
 - .13 If the aggregate annual amount involved does not exceed \$100,000. However, qualifications and price must still be solicited through a manner consistent with the county's own procurement policies. Selection shall be made using the criteria set forth in Section 23-650.2.
 - .14 For any service to be rendered by any federal, state, or local government agency, public university, public college or other public educational institution. CDSS may require formal advertising when contracts with government agencies or public educational institutions are considered excessive in price when compared to similar services provided through competition, or where competition between public and private agencies is necessary to accomplish program purposes.