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**WELFARE AND INSTITUTIONS CODE - WIC**

**DIVISION 9. PUBLIC SOCIAL SERVICES [10000 - 18999.98]** ( *Division 9 added by Stats. 1965, Ch. 1784.* )

**PART 4.7. HEALTH CARE FOR INDIGENTS [16900 - 16996.2]** ( *Heading for Part 4.7 added by Stats. 1990, Ch. 50, Sec. 10.5.* )

**CHAPTER 5. California Healthcare for Indigents Program [16940 - 16995.1]** ( *Chapter 5 added by Stats. 1989, Ch. 1331, Sec. 9.* )

**ARTICLE 2. Hospital Services [16943 - 16949]** ( *Article 2 added by Stats. 1990, Ch. 50, Sec. 17.* )

**16943.** (a) Of those allocations made pursuant to Section 16941 for the 1989–90 fiscal year, 59.5 percent shall be used to support uncompensated services provided by county and noncounty hospitals.

(b) For allocations under Section 16941 for the 1990–91 fiscal year and each fiscal year thereafter, the department shall establish that percentage of the total fiscal year appropriation to the CHIP Account which derives from the Hospital Services Account of the fund.

(c) The percentages established in subdivisions (a) and (b), when applied to the amount of each MISP county's annual allocation pursuant to Section 16941, constitute the minimum amount of the allocation which is reserved for payment or support of uncompensated services provided by hospitals licensed pursuant to subdivision (a) of Section 1250 of the Health and Safety Code.

(d) The amount of funds calculated in subdivision (c) shall be referred to as the hospital services funding portion of each county's allocation made pursuant to Section 16941.

(e) (1) For purposes of calculating county and noncounty hospital allocations pursuant to this article for the 1991–92 fiscal year and each fiscal year thereafter, the sum of eighteen million dollars (\$18,000,000) shall be added proportionately to each county's hospital services funding allocation calculated in subdivision (c).

(2) The amount added pursuant to paragraph (1) shall be distributed within each county's allocation according to subdivisions (a), (b), and (c) of Section 16946.

(f) (1) For purposes of calculating county and hospital allocations pursuant to this article for the 1991–92 fiscal year and each fiscal year thereafter, the sum of one million six hundred fifty thousand dollars (\$1,650,000) shall be added proportionately to the allocations calculated in subdivision (c) for each county with no county hospital.

(2) The share for each county with no county hospital of the amount specified in paragraph (1) shall be determined by dividing the county's allocation calculated pursuant to subdivisions (c) and (e) by the total of all allocations for counties with no county hospital times the sum of one million six hundred fifty thousand dollars (\$1,650,000).

(3) The amounts added pursuant to paragraphs (1) and (2) shall be divided into two equal amounts.

(A) The first amount shall be allocated to each eligible noncounty hospital within a county pursuant to paragraph (1) of subdivision (b) of Section 16946.

(B) The second amount shall be distributed to eligible hospitals pursuant to paragraph (2) of subdivision (b) of Section 16946.

(4) In future fiscal years, the amount specified in paragraph (1) shall be adjusted proportionately to reflect any augmentation or reduction in funding available for this article pursuant to Section 43 of Chapter 278 of the Statutes of 1991.

(Amended by Stats. 1991, Ch. 1170, Sec. 27. Effective October 14, 1991.)

**16945.** (a) The department shall annually verify and transmit to each MISP county and each CMSP county the figures specified in subdivision (c), using data supplied by the office.

(b) (1) For purposes specified in subdivision (c), the office shall use data from the quarterly reports required by Section 128740 of the Health and Safety Code.

(2) For the 1989–90 fiscal year computations, the office shall use the 1988 calendar year data, as adjusted by the office, existing on the statewide file on September 1, 1989.

(3) For the computations for fiscal years after the 1989–90 fiscal year, the office shall use the data from the quarterly reports for the calendar year preceding the computational fiscal year, as adjusted by the office, existing on the statewide file on April 15 immediately preceding the computational fiscal year.

(4) (A) Except as provided in subparagraphs (B), (C), and (D), the definitions, procedures, and data elements specified in Chapter 3 (commencing with Section 16920) shall be used in all computations required in subdivision (c).

(B) For the 1991–92 fiscal year, the following definitions shall be used in all computations required in subdivision (c):

(i) "Uncompensated care charges" means the sum of the charges related to patients falling within the charity-other category in the 1990 calendar year and 25 percent of the charges related to patients falling within the bad debts category in the first two quarters of the 1990 calendar year, as both categories of charges are reported quarterly to the office pursuant to Section 128740 of the Health and Safety Code.

(ii) "Uncompensated care costs" means that amount calculated by applying an overall hospital cost-to-charge ratio, calculated by dividing gross operating expenses by gross inpatient and outpatient revenue, as reported quarterly to the office, to uncompensated care charges.

(C) For the 1992–93 fiscal year, the following definitions shall be used in all computations required in subdivision (c):

(i) "Uncompensated care charges" means the charges related to patients falling within charity-other, as reported quarterly to the office pursuant to Section 128740 of the Health and Safety Code.

(ii) "Uncompensated care costs" means that amount calculated by applying an overall hospital cost-to-charge ratio, calculated by dividing gross operating expenses by gross inpatient and outpatient revenue, as reported quarterly to the office, to uncompensated care charges.

(D) For the 1993–94, 1994–95, 1995–96, 1996–97 and subsequent fiscal years, the following definitions shall be used in all computations required in subdivision (c):

(i) (I) For county hospitals and for all hospitals operating in counties with no county hospital, "uncompensated care charges" means the charges related to patients falling within charity-other, gross inpatient revenue-county indigent programs and gross outpatient revenue-county indigent programs, as reported quarterly to the office pursuant to Section 128740 of the Health and Safety Code.

(II) For noncounty hospitals operating in a county with a county hospital, "uncompensated care charges" means the charges related to patients falling within charity-other and county indigent programs contractual adjustments, as reported quarterly to the office pursuant to Section 128740 of the Health and Safety Code.

(ii) "Uncompensated care costs" means that amount calculated by applying an overall hospital cost-to-charge ratio, calculated by dividing gross operating expenses less other operating revenue by gross inpatient and outpatient revenue, as reported quarterly to the office, to uncompensated care charges.

(c) The office shall compute the following data on uncompensated care costs reported by hospitals located within each MISP county and each CMSP county:

(1) The sum of uncompensated care costs for all hospitals.

(2) The sum of uncompensated care costs for all noncounty hospitals.

(3) The sum of uncompensated care costs for all county hospitals.

(4) The uncompensated care costs of each hospital within the county.

(5) The percentage derived from dividing the result of paragraph (2) by the result of paragraph (1).

(6) The percentage derived from dividing the result of paragraph (3) by the result of paragraph (1).

(7) The percentage for each individual hospital derived from dividing each noncounty hospital's uncompensated care cost in paragraph (4) by the amount in paragraph (2).

(d) The office shall transmit to the department the data specified in subdivision (c) within 30 days of the dates specified in paragraph (2) of subdivision (b) and paragraph (3) of subdivision (b) of this section.

*(Amended by Stats. 1997, Ch. 294, Sec. 81. Effective August 18, 1997.)*

**16946.** (a) The Hospital Services Account portion of each county's allocation pursuant to Sections 16932 and 16941 shall be divided into two amounts by:

(1) Multiplying the Hospital Services Account funding portion by the percentage specified in paragraph (5) of subdivision (c) of Section 16945.

(2) Multiplying the amount of the Hospital Services Account funding portion by the percentage specified in paragraph (6) of subdivision (c) of Section 16945.

(b) The amount of each county's Hospital Services Account funding portion calculated in paragraph (1) of subdivision (a) shall be used for payment or support of services provided on or after July 1, 1989, by noncounty hospitals. Beginning in the 1991–92 fiscal year and annually thereafter, these amounts shall be reduced by dividing each county's amount by the total amount for all counties, multiplied by the sum of twelve million dollars (\$12,000,000). This amount for each county shall be further divided into two equal parts, as follows:

(1) (A) The first part shall be allocated to each noncounty hospital within a county in amounts determined by multiplying the percentages specified in paragraph (7) of subdivision (c) of Section 16945 by the amount of the first part, and may be used for payment or support of services provided by noncounty hospitals to any eligible patient treated at any time during the fiscal year of the allocation.

(B) Funds distributed during fiscal years subsequent to the 1989–90 fiscal year shall be accounted for on a quarterly basis.

(C) For the 1989–90 fiscal year, noncounty hospitals shall provide the demographic data specified in paragraph (2) of subdivision (b) of Section 16918 on a minimum of 5 percent of patients for whom services are paid for in whole or in part by funds allocated pursuant to this paragraph, in addition to any other requirements specified in Section 16918.

(D) For the 1990–91 fiscal year and fiscal years thereafter, noncounty hospitals shall provide data pursuant to the reporting requirements specified in Section 16918 and shall provide posted and individual notices pursuant to Section 16818 for the duration of any quarter during which funds allocated pursuant to this paragraph are used.

(E) Amounts calculated pursuant to this paragraph shall not be reduced or utilized to offset the costs of administering the Hospital Services Account.

(2) (A) (i) The remaining 50 percent of the funds from the Hospital Services Account shall be distributed by the county to hospitals, including those under contract with the county, to maintain access to emergency care and to purchase other necessary hospital services provided during the fiscal year of the allocation.

(ii) In contracting for emergency care with hospitals in neighboring counties, the county shall not impose conditions to accept transfers that it does not impose on hospitals within its own boundaries.

(B) (i) Prior to distributing funds to hospitals, each county shall consult with the hospitals and consider the historic and projected patterns of care provided by hospitals, by geographic catchment areas within both urban and nonurban areas, unique costs associated with treating disproportionate numbers of severely ill indigent patients, and disproportionate losses sustained by hospitals in the provision of care.

(ii) The county shall also consider the patterns of care of its residents provided by Level I trauma care hospitals in contiguous counties and may make proportionate allocations to those trauma centers.

(c) (1) The amount of each county's Hospital Services Account funding portion calculated in paragraph (2) of subdivision (a) may be used for the payment or support of services provided in county hospitals or noncounty hospitals as determined by each county during the fiscal year of the allocation.

(2) Beginning in the 1991–92 fiscal year and annually thereafter, the amount of each county's funding portion calculated pursuant to paragraph (2) of subdivision (a) shall be reduced by an amount that shall be calculated as follows:

(A) Divide each county's amount of funding under paragraph (2) of subdivision (a) by the total amount of funding under that paragraph for all counties.

(B) Multiply the quotient calculated pursuant to subparagraph (A) by the sum of six million dollars (\$6,000,000).

(d) As a condition of receiving funds under this section and Section 16932, each county shall require each county and noncounty hospital to do all of the following:

(1) (A) Maintain the same number and classification of emergency room permits and trauma facility designations as existed on January 1, 1990.

(B) (i) Any hospital that maintained two special permits for basic emergency service on the effective date of this part shall be deemed to have met the requirements of paragraph (1) of subdivision (d), if each of the emergency rooms was located on separate campuses of the hospital and was located not more than two miles from the other emergency room.

(ii) Clause (i) shall apply even if one of the emergency room permits is surrendered after the effective date of this part.

(2) Provide data and reports on the use and expenditure of all funds received. This information shall be in a form and according to procedures specified by the county and the department.

(3) Assure that funds received pursuant to this section are used only for services for persons who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

(e) (1) If a county or noncounty hospital does not comply with this section, the county shall recover funds received by the hospital as follows:

(A) For any violation of paragraph (1) of subdivision (d), the county shall recover that portion of the funds received which equal the ratio of the number of months not in compliance to 12 months.

(B) For any violation of paragraph (2) of subdivision (d), the county shall recover all funds received.

(C) For any violation of paragraph (3) of subdivision (d), the county shall recover the difference between the amount received and the amount for which the hospital can document that the funds were used only for services for persons who cannot afford to pay for those services and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

(2) The county may deny further payments required by this section until the hospital demonstrates compliance.

(f) Funds withheld or recovered pursuant to this section may be reallocated and distributed by the county pursuant to paragraph (2) of subdivision (b).

(g) (1) Except as provided in paragraph (2), funds allocated pursuant to paragraph (1) or (2) of subdivision (b) which are not expended because a hospital does not participate shall be redistributed pursuant to paragraph (2) of subdivision (b).

(2) If no noncounty hospitals remain to participate, the county may distribute those unexpended funds pursuant to subdivision (c).

(h) (1) In any county that comprises not more than one-half percent of the total state population and in which there are a county hospital and a noncounty hospital with emergency room permits located within two miles of each other, the county hospital may surrender its emergency room permit without any penalty for violation of paragraph (1) of subdivision (d) if, in the alternative, all of the following occur:

(A) The county shall enter into a contractual arrangement with the noncounty hospital.

(B) The county and noncounty hospital shall provide for the availability of at least the same level of emergency services and specialty backup which the county hospital and noncounty hospital provided prior to the surrendering of the emergency room permit.

(C) The county shall establish sufficient capacity, including evening and weekend coverage, in its urgent care clinic and other outpatient clinics to provide for the same or greater level of urgent care and nonemergency visits that were provided in the county hospital emergency department in the calendar year prior to the surrendering of the emergency room permit.

(D) The county shall provide for adequate initial public hearings and ongoing public notification and information, in Spanish and English, on the availability of emergency, urgent care, and nonurgent clinic services and how to obtain those services. The county shall provide for, as part of the ongoing public notification, an outreach program to ensure that the medically indigent community, particularly migrant and seasonal farmworkers, and cultural and linguistic minority patients, are effectively made aware of the alternative system of care and the ways to access it.

(E) The county ensures that there are adequate Spanish translation services and referral services on a 24-hour basis at the noncounty hospital emergency department, and at the county hospital clinics, during their hours of operation.

(F) The county shall ensure, in planning for an alternative delivery system as provided for in paragraph (C), participation of those existing agencies providing health care services to the uninsured and working poor medically indigent, including federally qualified health centers and nonprofit community-based rural health clinics.

(G) The county shall ensure that its alternative delivery system includes medical providers who are culturally and linguistically competent to service the diverse medically indigent populations and have been serving uninsured persons seeking care at the county hospital prior to closing. These providers shall include, among others, nonprofit community-based safety net and traditional providers currently serving both the uninsured and medically indigent populations.

(H) The county shall ensure that its alternative delivery system does not provide less health care services and resources than that being made available to the medically indigent and uninsured prior to the closing of the county hospital.

(2) The department shall annually review the county's compliance with this subdivision. If the department determines that the county is not in compliance with this subdivision, it shall require the county to recover funds and deny further payments pursuant to subdivision (e) until compliance is resumed.

(3) Any county that is permitted under paragraph (1) to surrender its emergency room permit shall continue to fulfill its duties and obligations to provide indigent care according to Section 17000.

(i) Any county of the 20th class or the 24th class that discontinues the provision of acute inpatient care services may surrender its emergency room permit without any penalty for violation of paragraph (1) of subdivision (d), provided that the county shall enter into a contractual arrangement with at least one noncounty hospital meeting the requirements of subdivision (d) and all of the requirements of subparagraphs (A) to (H), inclusive, of paragraph (1) of subdivision (h) are met by the county and the contracting noncounty hospital, in which case paragraphs (2) and (3) of subdivision (h) shall apply to that county.

(j) Notwithstanding any other provision of law, any county of the 20th class or the 24th class that meets the requirements and conditions of subdivision (i) shall be eligible to receive funds distributed pursuant to any provision of this section equal to that amount received by the county for the fiscal year immediately preceding the year in which it discontinues the provision of acute inpatient care services. The amount calculated pursuant to this subdivision shall be adjusted annually based upon the funding available from the Hospital Services Account in the Cigarette and Tobacco Products Surtax Fund.

*(Amended by Stats. 1999, Ch. 741, Sec. 1. Effective January 1, 2000.)*

**16947.** (a) Any hospital which receives funds pursuant to this chapter or Chapter 4 (commencing with Section 16930) shall, within 90 days of the receipt of those funds, cease all current and waive all future collection efforts, by itself and by its agents, to obtain any payment from the patient with respect to whom the services funded under this chapter were rendered.

(b) This section shall not be interpreted or applied so as to prevent the hospital from doing either of the following:

(1) Seeking demographic, financial, or other information necessary for the patient to qualify for Medi-Cal program benefits under Chapter 14 (commencing with Section 14000) of Part 3 or for the reimbursement for services through any other third-party payer.

(2) (A) Seeking payment from a responsible third-party payer or, subject to subparagraph (B), continuing collection on a repayment schedule for the cost of services rendered.

(B) Collection on a repayment schedule shall be based on the patient's ability to pay.

(c) If a hospital receives payment from a patient or responsible third-party payer, the hospital shall notify the county and reimburse the county in an amount equal to the amount collected from the patient or third-party payer, but not more than the amount of the payment received from the county for the patient's care.

*(Amended by Stats. 1991, Ch. 278, Sec. 18.5. Effective July 30, 1991.)*

**16948.** (a) Commencing with the 1990–91 fiscal year, within 10 working days of receipt of funds allocated pursuant to Section 16941 and Section 16932, the county shall distribute to each noncounty hospital that hospital's share of the funds pursuant to paragraph (1) of subdivision (b) of Section 16946.

(b) Each noncounty hospital which receives funds pursuant to paragraph (1) of subdivision (b) of Section 16946 shall report to the county within 30 days after the receipt of the funds, information on patients for whom the distributions were used, pursuant to Section 16918.

(c) The county shall suspend distribution of funds to any noncounty hospital which fails to provide the information required pursuant to subdivision (b) until the hospital provides the required information.

*(Amended by Stats. 1994, Ch. 195, Sec. 44. Effective July 12, 1994.)*

16949. (a) The Legislature recognizes that in the context of hospital services rendered as a result of emergency medical conditions, the application of the supplemental services requirement of Section 30125 of the Revenue and Taxation Code and Section 13 of Chapter 1331 of the Statutes of 1989 includes certain unique considerations, including, but not limited to, all of the following:

(1) Hospital emergency room patient loads generally are not controlled by the facility.

(2) The facility is obligated, as a condition of licensure, to take all patients in need of emergency treatment, if it is within the capacity of the facility to do so.

(3) It is the policy of the Legislature to provide less expensive alternative methods of care, rather than continue present patterns of overutilization of emergency facilities.

(b) Hospitals which provide appropriate treatment to patients who present in the emergency department and which do not impose any barriers to patients' receipt of that treatment shall be deemed to satisfy the requirements of Section 30125 of the Revenue and Taxation Code and Section 13 of Chapter 1331 of the Statutes of 1989.

(c) Each county, as part of its plan for distribution of funds under paragraph (2) of subdivision (b) of Section 16946, shall consider the use of those funds to meet emergency room patient needs and followup treatment, including the need for special hospital services.

(d) Any hospital which contracts with a county under paragraph (2) of subdivision (b) of Section 16946 shall report to the county and to the office on any reduction in hospital emergency room specialist capability below the level which was provided at that facility on October 2, 1989.

(e) This section shall not be construed to alter or amend any hospital's obligation under Sections 1317 to 1317.9a, inclusive, of the Health and Safety Code.

*(Added by Stats. 1990, Ch. 51, Sec. 35.5. Effective April 18, 1990.)*